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Via Hand Delivery

November 27, 2006

Ms. Jean Jewel
Executive Secretary
Idaho Public Utilities Commission
472 W. Washington Street
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and Washington DC

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IDAHO PUBLIC
UTILITIES COMMISSION

Re: Idaho Telephone Association's Comments
Case No. INC-T-06-02
Our File: 1233-196

Dear Jean:

I am enclosing the original and eight copies of Idaho Telephone Association's Comments regarding Case No. INC-T-06-02. Please file the original and return a conformed copy in the self-addressed stamped envelope.

Should you have any concerns, please feel free to contact me.

Sincerely,



Lori Anderson, Assistant

Enclosures

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2006 NOV 27 PM 4:30
IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Telephone Association

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF
INLAND CELLULAR FOR DESIGNATION
AS ELIGIBLE TELECOMMUNICATIONS
CARRIERS UNDER 47 U.S.C. § 214(e)(2)

Case No: INC-T-06-02

**IDAHO TELEPHONE ASSOCIATION'S
COMMENTS**

The Idaho Telephone Association ("ITA"), by and through its attorneys Givens Pursley LLP, files these Comments in response to the Petition of Inland Cellular for Designation as an Eligible Telecommunications Carrier ("Petition"). For the reasons stated below, the ITA respectfully submits that the Commission must deny Inland Cellular's Petition for eligible telecommunications carrier ("ETC") status within the service territories of three rural telephone companies, Citizens Telephone Co. of Idaho ("Citizens"), Potlatch Telephone Company ("Potlatch"), and Inland Telephone Company ("Inland").

As the Petition readily admits, the primary purpose of Inland Cellular's filing is to gain eligibility for distributions from the federal Universal Service Fund ("USF"). Petition Supplement at 1. In the case of competitive ETC applications in areas served by rural telephone companies, federal provides that the Commission must deny such application unless it "shall find the designation is in the public interest." 47 U.S.C. Sec. 214(e)(2). This Commission has

previously established the criteria to be used in its public interest analysis in such cases in Order No. 29841, issued on August 4, 2005. That order wisely reserves to the Commission the right to examine all relevant factors in ETC cases, Order No. 29841 at 16, but it also sets forth a number of clear tests that must be met before a competitive ETC application will be granted for rural study areas. The ITA submits that Inland Cellular's Petition fails to meet Order No. 29841's standards in at least two respects.

One of Order No. 29841's requirements is designed to insure that incumbent rural telephone companies are protected from a form of unfair competition known as "cream skimming," in which the competitive ETC serves only the most profitable or attractive parts of an incumbent's service territory. Order No. 29841 states:

In instances where an ETC applicant seeks designation below the study level of a rural telephone company, the Commission shall also conduct a cream skimming analysis that compares the population density of each wire center in which the applicant seeks designation against the wire centers in the study area in which the ETC does not seek designation.

Order No. 29841 at 16.

In the present case, it is unclear whether the Petition proposes to serve the entirety of the Inland and Potlatch study areas. But it is quite clear that the Petition does not propose coverage of the entirety of Citizens service territory. In fact, the Petition admits that it will only be able to provide service in a portion of the two Citizens wire centers in which it seeks ETC status. This is cream skimming almost by definition, and in any case there is no evidence in the record that would enable the Commission to conduct the cream skimming analysis required by Order No. 29841.

More important is the Petition's failure to meet Order No. 29841's requirements that are designed to insure that USF support is in fact "necessary to preserve and advance universal

service,” as required by federal law. *See* 47 U.S.C. Sec. 253(b). To that end, Order No. 29841 requires applicants for ETC status in rural telephone company service areas to provide a two year network improvement plan that explains exactly how USF support will be spent and how those expenditures will advance universal service.

The two year network improvement plan must describe in specificity proposed improvements or upgrades to the applicant’s network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic area where the improvements will be made; and the estimated population that will be served as a result of the improvements.

Order No. 29841 at 9.

The ITA can find nothing in Inland Cellular’s Petition that constitutes even colorable compliance with this portion of the Commission’s Order. The original Petition contained little more than a general allegation that Inland Cellular projects an estimated total 2006-2007 investment of \$2,100,000 at a handful of Idaho sites, together with the bald assertion that these improvements “will increase the availability of service for rural Idaho. . . .” Petition, Paragraph 26. A supplemental filing on September 26, 2006 explained that some of the items budgeted for 2006 have been postponed until 2007, and it added a brief paragraph describing budgeted operation and maintenance expenditures for 2007 and 2008, together with an acknowledgement that “the capital improvement budget for 2008 has yet to be completed and approved.” Petition Supplement at 7.

Even with the inclusion of the supplementary material, the Petition contains only about a page and a half of generalized narrative about budgeted improvements, and a considerable portion of that is devoted to descriptions of data and broadband data services, which are not

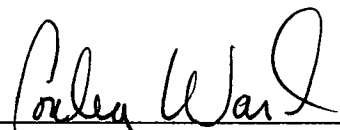
supported services under current USF rules,¹ and projected operation and maintenance expenses, which are largely irrelevant. There is no wire center by wire center list of improvements or upgrades, no wire center by wire center cost estimates, no explanation of how these projects will improve “signal quality, coverage or capacity,” no projected start and completion date for individual projects, no explanation of the portion to be funded by high cost support, and no estimate of the population to be served. In fact, as of late 2006, Inland Cellular has no capital improvement budget for 2008, which makes any sort of two year plan literally impossible. Furthermore, the Company specifically refuses to commit to any specific improvements on the grounds that it normally redirects funds as needed, and “the Company must have this flexibility in order to remain competitive.” Petition Supplement at 6-7.

It would be one thing if the ITA’s objections quibbled over the details of Inland Cellular’s “two year plan,” but this is blatant non-compliance with a clear Commission directive. If the Commission accepts this filing, the public interest finding required by statute and Order No. 29841 is effectively meaningless.

WHEREFORE, the ITA respectfully requests that the Commission deny Inland Cellular’s Application for ETC status in the areas served by rural telephone companies.

Respectfully submitted this 27th day of November, 2006.

GIVENS PURSLEY LLP

By: 
Conley E. Ward

*Attorneys for Idaho Telephone
Association*

¹ In fact, the Petition can be read to imply that some portion of the \$2,100,000 in claimed universal service improvements will actually be used to provide data capabilities.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of November, 2006, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Ms. Jean Jewel	_____	U.S. Mail
Executive Secretary	_____	Facsimile
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Boise, ID 83720		

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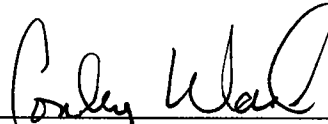
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