BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO PUBLIC UTILITIES COMMISSION, )
Complainant, ) CASE NO. U-1038-11
) )
VS. ) )
SILVER STAR TELEPHONE COMPANY, ) ORDER NO. 20184
Respondent. )
)

The Commission in the above entitled matter does hereby enter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I. PROCEDURAL HISTORY

A. Introduction.

Silver Star Telephone Company, Inc. (Silver Star; Company), a Wyoming corporation qualified to do business in the State of Idaho, was granted Certificate of Public Convenience and Necessity No. 207 on July 6, 1953. As subsequent successor in interest to Swan Valley Tel. Co. and Grays Lake Tel. Co., its certificate was twice amended to enlarge its certificated area. Its customer base in Idaho lies within Bonneville and Caribou Counties, and is primarily served out of two Idaho exchanges, Irwin and Wayan. A small number of Idaho residents are on the Alpine and Freedom Exchanges in Wyoming.
B. Complaint U-1038-11.

On March 22, 1985, the Idaho Public Utilities Commission (Commission) received a petition from a group of Silver Star customers from the Grays Lake and Henry areas on the Wayan Exchange. The petition criticized the quality of the Company's service and customer relations and requested Commission intervention. The resultant Complaint, U-1038-11, was filed on April 18, 1985, and addressed what the Commission considered to be a continuous and serious problem. It served as notice to Silver Star that the Commission would be investigating the adequacy and quality of service and customer relations, the need for improvement and related economic impact, and any existing basis for the rescission of its certificate. The filing framed four issues:

1. Is Silver Star now providing adequate service with its current facilities and maintaining good customer relations?

2. If not, is Silver Star capable of providing adequate service by upgrading its facilities at a reasonable cost, improving its customer relations policies, or performing any other necessary actions?

3. If not, should Silver Star's Certificate of Public Convenience and Necessity be rescinded and another telephone corporation allowed to provide service to the Wayan and Irwin exchanges now served by Silver Star?
4. If so, what payment or compensation is due the shareholders of Silver Star for the transfer of its certificate, service and facilities in the Wayan and Irwin Exchanges to another telephone corporation?

In developing objective criteria for assessment of Silver Star's performance, the Commission deems it appropriate to set out the statutory duty of utilities to maintain adequate service, I.C. §61-302.

Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable.

C. Proceedings and Appearances.

Public hearing in U-1038-11 was held on October 9, 1985 at Wayan School, Wayan, Idaho, and on October 10, 1985, at Irwin School, Irwin, Idaho. Commissioner Richard High presided over both hearings. Silver Star was represented by Larry C. Walker and Mark B. Clark. Lower Valley Power & Light, Inc. (LVP&L) which was previously granted the right to intervene, was represented by Ted Frome. The Commission Staff (Staff) was represented by Scott D. Woodbury, Deputy Attorney General.

D. Silver Star--Recent History.

The Commission apprised Silver Star in the U-1038-11 Complaint that it would take notice of the records in recent Silver Star cases U-1038-7, -8, -9, and -10 and that it would
consider them for all purposes in this proceeding. We have reviewed the transcripts and Commission files in those cases and incorporate them by reference in this Order as if set forth in their entirety. We find it appropriate to review those cases in order to put the current case in proper perspective.

1. **U-1038-7 12/29/80--7/23/82.**

This was initiated by Silver Star's application for a general rate increase for customers of the Irwin Exchange. In this case the Commission heard complaints and criticism of an unprecedented nature about the quality of service and customer relations provided by Silver Star. The public testimony showed the quality of service provided by Silver Star Telephone Company to be unacceptably poor and inadequate. Witness after witness described telephones that would not ring, calls that were interrupted or terminated, telephones that would not produce a dial tone, and poor transmission during telephone calls. (IPUC Order No. 16579)

It was related in public testimony that the Irwin volunteer fire department raised $3,500 for a communication system for emergency services. Their motto was "would you trust your life to the Silver Star Telephone Company."

The Company in its response to criticism attributed the instances of poor service to Mountain Bell's equipment
rather than that of Silver Star. The Commission ordered Mountain Bell to check its equipment to determine what possible effect it would have upon Silver Star's telephone service. Silver Star was ordered to take advantage of the technical assistance and advice of Mountain Bell in an attempt to effect the immediate upgrade, protection and maintenance of its line and central office equipment and improvement of its service. The Commission further provided Staff assistance to Silver Star in establishing a precise set of technical standards for service improvements and upgrade. Further orders were issued to effect changes in customer relations and improvements in service on the Irwin Exchange. Silver Star was put on notice that it would be held responsible for improving service to acceptable levels.

Public testimony in Irwin on April 29, 1982, indicated substantial improvement in the quality of service and customer relations. It was no longer at an unacceptably low level. The customers attributed the improvement to Commission orders. The Commission noted that the quality of service and customer relations did not improve as a result of the Company's independent desire to improve its customer relations and quality of service. The Commission further noted:

It appears that one year ago in Irwin and this year in Wayan the Company was content to maintain an adversarial relationship with its customers, a relationship which only a monopoly can sustain and in which profit for the Company would be
impossible if it had competition. This relationship still exists in Grays Lake (Wayan), but the experience in Irwin shows the Company's ability to improve its customer relations if it so chooses. The Company's experience in Irwin is not lost upon us; we hope it will not be lost upon the Company as it responds to the concerns of its customers on the Wayan Exchange. (IPUC Order No. 17411)

The scope of the case expanded in 1982 to address complaints of Silver Star customers on the Wayan Exchange. The customers testifying at the Grays Lake (Wayan) hearing recited a litany of poor quality of service and poor customer relations similar to those of the customers who testified in Irwin a year before, but surpassing them in severity of their criticism. In commenting on the Company's refusal to restore former telephone numbers to seasonal customers, the Commission stated:

Mr. Hoopes' defense of Silver Star's policy is indicative of its indifference to its customer relations, its insistence on needlessly maintaining an adversarial relationship with its customers, and its deliberate denigration of the interests of the community it serves.

The Commission cited the Company with failure to take appropriate steps to ensure against disproportionate use of service by other customers on the same party line; failure to explore with its customers what can be done in cooperation with them rather than hiring outside consultants to testify what cannot be done, and; failure to be sensitive to the need for adequate public telephones.

The Commission found that improvements were necessary in service to minimize deterioration of line quality, to insure
that bells rang properly, to ensure that proper connections were made by the switching equipment, and that all conditions affecting quality of service within Silver Star's control be placed in the best condition possible with existing equipment. Silver Star was cautioned that neither it nor the Commission could safely ignore a community consensus on the need for service improvements.

The Commission ultimately found that the Company's rates should be reduced by 33.3% and that the quality of service which it gives to its customers should be upgraded. It was emphasized that the reasonableness of rates must necessarily be related to the quality of service provided.

2. U-1038-8 12/16/82--3/22/83.

In response to Silver Star's request for authority to unbundle its tariff rates and increase rates 50% for the Irwin customer base, the Commission received a Petition from 56 Silver Star customers in Irwin who alleged that the Company's service had remained inadequate or had worsened since its last rate case. The Petition cited numerous complaints of service inadequacy including disconnection or interruption of service, excessive noise or static on lines, and inability to complete both long distance calls and local calls within the Exchange.

Silver Star subsequently withdrew its Application to increase its rates and charges. A complete and revised tariff
was submitted by Silver Star and approved by the Commission with amendments. Among its many provisions was a grant of authority to increase its service connection charges.


In this case the Commission instituted a formal proceeding on its own to address the complaint of a Silver Star customer, who was a door to door saleswoman of Avon Products. Silver Star had summarily changed her telephone number and forced her to pay a business rate for her home telephone number rather than a residential rate simply because her home telephone number appeared on the pamphlets or cards that she distributed to her customers in her door to door sales. Silver Star's interpretation of its tariff which itself defined business and residential service in terms of actual or obvious predominant uses or primary uses was determined to be unreasonable as applied to the facts of the case.


Silver Star in this filing applied for authority to increase its rates and charges by $19,105 with respect to the Irwin Exchange. Public hearing was held in Idaho Falls. There was considerable concern expressed that the hearing was being held 50 miles from the area serviced by the Irwin Exchange, thereby inconveniencing and prohibiting the attendance of many
customers. Although service had improved, it was felt by many that it had not improved to the point of justifying the increase in rates requested. The Company was authorized by the Commission to generate additional revenues of approximately $9,900 to cover higher operating costs, increased taxes and additional depreciation of its plant and equipment.

Noting extraordinary differences in data contained in Silver Star's annual report to the Commission from the data shown in its rate case, Silver Star was put on notice that its obligation to file annual reports under Idaho Code §61-405 includes an obligation to file accurate annual reports and that the failure to do so in the future would result in appropriate sanctions.

The Company's tariffs concerning disconnection and connection were also reviewed in this case.

II. SYSTEM ANALYSIS

Engineering and technical analysis of service, instrumentalities, equipment and facilities of the Silver Star system was conducted by Silver Star (James C. Taylor, Wesley Bull & Associates), LVP&L (Lesley A. Bell, Jr.) and Commission Staff (Donald R. Macken). Both exchanges were assessed with particular focus and attention directed to the potential or probable causes of system complaints.
A. Wayan Exchange.

The system complaints of public witnesses relating to technical efficiency of telephone service on the Wayan Exchange were as follows:

1. Excessive noise and static on lines; high pitch squeal (transient) at Henry Marina; irritating dial tone.

"It's been really awful noisy for several years now."

Tr. 92, line 19.

"If I am calling someone on my own line, I must shout to get over the loud static."

Tr. 98, line 3.

2. Disconnection or interruption of service; transmission dropout--long distance.

"And you get to talking to somebody long distance, and they will just whack you off right in the middle of it."

Tr. 63, line 11.

3. Multiple party line--disproportionate use; business/residential mix.

"It's often very difficult to get a line. I have also had people cutting in and talking when we were trying to talk."

Tr. 113, line 22.

4. Frequent signals that all toll circuits are busy.

"Often you get the all-circuits busy as people have mentioned, it's impossible to tell whether the line is out."

Tr. 114, line 15.
5. Calls not ringing through--long distance and local.

"Long distance calls coming in, we never receive them."

Tr. 64, line 24.

6. Reaching a wrong number--incoming and outgoing.

"I tried to call one night from Soda Springs, I got four different people in this valley calling the same number."

Tr. 114, line 1.

7. Calls ringing through on disconnected numbers.

"When someone's phone is disconnected or they do not have any phone any more, you call their number and it still rings like it's ringing into their home."

Tr. 95, line 19.

8. System deficiencies have terribly inconvenienced and frustrated Wayan customers, have endangered lives and property and have resulted in loss of business opportunity.

"My mother became very ill. I spent quite a bit of time trying to get through to the hospital in Soda Springs and could not; finally loaded her in the car and drove 85 mph to Soda, and the doctor said "five minutes more, and she probably couldn't have made it.""

Tr. 110, line 21.

"We had a fire last summer . . . and the first thing we did was run for our telephone and it didn't work."

Tr. 244, line 21.
"It was easier to drive out here than it was to try and do business over the telephone to the Wayan Exchange from California."

Tr. 76, line 22.

Physical measurements of system noise level were made at a variety of locations together with comparative samplings of other telephone systems. Macken (Staff) found the noise level on the Wayan Exchange to be excessive and unacceptable (a mean value of 77 decibels (dB) and a maximum value of 85 dB). It was reported that excessive system noise can result in failure of electrical and electronic circuits to remain engaged and may result in transmission dropouts or disconnect. Taylor (Silver Star) found eight of nine open wire lines to have excessive noise, noting that the noise level at times was particularly irritating, often making it difficult or impossible to carry on normal conversations. It was the consensus of all with technical expertise that an acceptable system noise level would be 26 dBrnC or less for rural areas under Rural Electrification Administration (REA) specifications and guidelines.

Most of the communication circuits that comprise Silver Star's Wayan Exchange are open wire aerial lines and are located on the same pole line with or on the opposite side of the same road from LVP&L's power circuits. There was general agreement that noise was being introduced into the telephone system from a source external to the central office. Although
Silver Star management was adamant in its position that the source of the noise was conveyed by the power lines, power spectral analysis by Staff and LVP&L testings were unable to detect any discernable power line harmonics radiating from LVP&L lines. A contributing source of interference was identified within the electrical system of an LVP&L customer. However, testing revealed that elimination of the identified source would still fail to bring the system noise level to within acceptable limits. It was agreed by all parties that open wire lines are more susceptible to induced noise and maintenance problems than buried filled cable. Mel Hoopes, president of Silver Star, in recognition of the problem, committed to installing buried filled plastic insulated cable and providing individual cable pairs or private lines to all customers on the Wayan Exchange by spring of 1986. Burying cable and providing single-party service will resolve to a great degree many problems on the Wayan Exchange: the unacceptable system noise level, outside plant maintenance, incidence of outage, the inconvenience of multiple-party lines, and incidence of transmission dropout or disconnect. It will reduce the induction of noise into the telephone system and increase the immunity of that system to that noise which is induced.

Although well maintained, the central office switching equipment at Wayan was found by Staff to be badly dated and unsuited for upgrading. Replacement of the switch with a
modern digital unit would improve the service, would facilitate isolation of customer lines for trouble shooting purposes, would enhance call completion within, into and out of the system and would allow modern features such as call forwarding, call waiting and touch tone calling. The present system only permits rotary dialing. Although rotary dial phones can be used with a digital switch, they are not as compatible as touch tone. The dial tone generator in the central office was found to emit an extremely irritating sound. If the present switch is to be maintained, it was recommended by both Silver Star and Staff that the generator be replaced with a more pleasant sounding tone plant.

Upgrading of toll facilities would require interface with a connecting company and is not within the sole province or capabilities of Silver Star to effect.

An isolated problem existing on the Wayan Exchange is a severe transient accompanying the dial tone present on line 220 serving Henry at the General Store and Marina. The transient, a high level burst of noise, occurs each time the telephone goes off hook and was measured by Staff to be 115 decibels. Although unable to isolate the source, it was generally agreed that this problem should be addressed and remedied.
B. Irwin Exchange.

The system complaints of public witnesses relating to the technical efficiency of telephone service on the Irwin Exchange were as follows:

1. Intermittent noise on line.

"It's slow, it's noisy, it sounds like you are talking in a barrel."

Tr. 290, line 16.

2. Disconnection or interruption of service; transmission dropout--long distance.

"When you get these disconnects, you go to line battery. You cannot break it without hanging the telephone up for ten to fifteen seconds (to get dial tone back)."

Tr. 282, line 16.

"The phone will fade in and out."

Tr. 278, line 14.

3. Calls not ringing through--long distance and local.

"My husband tried to call me and received a recording that our own number was disconnected."

Tr. 257, line 24.

4. Frequent signals that all toll circuits are busy.

"Recently long distance access has been unavailable. I can't get out of the valley."

Tr. 264, line 20.
The buried filled cable and single-party service on the Irwin Exchange has eliminated to a great degree the system noise which was previously experienced. Although initial Staff testing in June found the system noise level in Irwin to be excessive and unacceptable (a mean value of 63 dB and a maximum value of 66 dB), August and October testing found the system noise level to be within acceptable limits. There was no consensus as to the cause for the earlier unacceptable readings.

The central office switching equipment in Irwin was found to be badly dated, nearly filled to capacity, unsuited for upgrading and in need of immediate replacement. The Company indicated a willingness, ability and commitment to put in a digital switch. Replacement of the switch would provide benefits similar to those which would be experienced in Wayan.

There were some technical problems, common to both exchanges, the source or cause of which have yet to be isolated. Silver Star indicated a willingness to pursue these problems until resolved.

It was further recommended that Rural Electrification Administration (REA) and National Electric Safety Code (NESC) specifications and guidelines be used as references in system hardware replacements upgrade and new construction.

C. Required Upgrade and Improvements.

To provide adequate, efficient, just and reasonable service the Commission finds that the following upgrade or improvements are necessary:
Wayan Exchange:

a. replacement of aerial and open wire lines with buried filled insulated cable
b. providing private one-party service to all customers
c. replacement of existing switch with digital switch
d. replacement of dial tone generator
e. elimination of transient at Henry Marina and General Store
f. installation of public pay telephone at Henry Marina area

Irwin Exchange:

a. replacement of existing switch with digital switch

A program should be implemented on both exchanges to identify and eliminate system disfunctions. REA and NESC specifications and guidelines should be used as references in system hardware replacements upgrade and new construction. The system noise level should be brought to within five decibels of 26 dBrnC under REA specifications and guidelines. Additionally, a program should be instituted which would enhance maintenance of public pay telephones.

III. PUBLIC OR CUSTOMER RELATIONS

A. Molly Hess, Utility Compliance Investigator for the Idaho Public Utilities Commission, testified that Silver Star has the highest complaint per customer ratio of any small utility within the State of Idaho. She characterized Silver
Star management's attitude toward its customers to be adversarial and one of indifference. The public relations of Silver Star management with its customers can be best exemplified by a representative sampling of public testimony, to wit:

"I feel that the public relations that Silver Star maintains is non-existent. My husband and I have been treated very rudely by Silver Star and I've resented it badly."

Tr. 301, line 23.

"We are always in the situation where we are dealing with something that's being devious and convoluted always. Why can't we get a straight answer for a straight question?"

Tr. 296, line 15.

"Every time I call, they are, to say the least, not very courteous. They make you feel like you are imposing upon their time. They make me feel like two cents looking for change and that I'm a blithering idiot because they talk to me very nastily when you even ask a question."

Tr. 277, line 18.

"There is only one thing we can be assured of, and that is we will continue to receive our phone bill on the first of the month and a final disconnect notice on the fifteenth."

Tr. 85, line 19.

"I don't know how sincere they (Silver Star) are."

Tr. 101, line 8.

"If the future record is anything like the past on promises, we just as well disconnect our phones."

Tr. 103, line 5.
"I have tried to get a hold of Mr. Hoopes, and the Company has taken messages, and said he would call me back, which he has never done. The communication was very poor."

Tr. 111, line 6.

"You get a lot of flack when you call their office, and the people are discourteous."

Tr. 224, line 4.

Ms. Hess perceived an unwillingness on the part of Company management to accept responsibility for system problems. The policy of the Company has been to attribute the cause of system complaints and disfunction to customer error, to Mountain Bell, or to Lower Valley Power & Light. Exonerating itself of responsibility it has felt no urgency or obligation to remedy or facilitate an improvement in the quality of service provided. Mel Hoopes indicated at hearing that he was not satisfied with the quality of service being provided and represented that he has the financial ability and was committed to do everything necessary to upgrade the system. Ardell Hoopes represented that she is committed to incorporating a different customer relations attitude within the Company, one of cooperation and courtesy and helpfulness. The Commission having heard similar overtures in the past and seeing little improvement is not convinced of the sincerity of Silver Star management.
B. There was considerable public testimony addressing the issue of line extension, service access and tariff compliance, to wit:

"I asked for a written estimate which I never received."
Tr. 293, line 6.

"Just call and tell them that you are going to write a letter to the PUC and they'll cut the price."
Tr. 285, line 8.

"After dickering on the phone and calling the PUC and threatening, the installation price came down."
Tr. 288, line 12.

"We had to have our signature notarized so that we could get the telephone installed. I sent my money and I figured that my money would certainly be good enough."
Tr. 295, line 5.

"We were never able to get anything in writing."
Tr. 300, line 11.

Ardell Hoopes stated that although the Company has not been in the habit of giving out written estimates, it would be willing to institute a policy of providing itemized estimates of equipment and labor and an indication of which work the customer may elect to perform on his own.

C. The existing procedure for the reporting and handling of customer complaint and inquiries regarding service outages, equipment malfunction, etc., does not in all instances provide
timely and satisfactory response. Although Ms. Hoopes indicated that there was always someone (a live person) they could call, it was apparent that not all of the customers were aware of this.

"If you have trouble on weekends, you can forget it. You are out of service until they go back to the business on Monday. The answering service (recorder) wouldn't take our collect call."

Tr. 265, line 23.

Many feel that short of calling the Freedom office during business hours or paying a toll charge the only option available is a recorder device in the unattended switching stations. It was apparent that many customers regarded filing complaints with the recording device as falling upon deaf ears. Ms. Hoopes indicated that the Company would be willing to provide written response to all complaints and inquiries.

D. One additional concern of customers was the availability and reliability of public telephones for purpose of emergency and medical assistance.

"We have sometimes as many as 400 people living in the Henry Marina area, lots of them elderly and retired. If we don't leave our grocery store unlocked, then it's physically impossible to get a telephone at 2:00 in the morning if you are suffering from a heart attack or from any other number of problems. We need a payphone desperately. We get no response from Silver Star."

Tr. 244, line 8.
"There's one payphone here in the valley. Sometimes it works and sometimes it doesn't."

Tr. 69, line 9.

Mr. Hoopes indicated that a pay telephone could be provided for the Henry Marina area.

E. Ms. Hess found the Company to be in substantial compliance with tariff. She recommended elimination of the tariff relating to mileage charges outside of base rate area because it was not being uniformly applied in the Wayan and Irwin Exchanges. The Commission takes note that we directed the Company to withdraw its tariffs for mileage changes to customers in Case No. U-1038-7, Order No. 16579.

F. Required Policy Changes.

To eliminate the possibility of misunderstanding and confusion, the Commission believes that written estimates should be provided for all requests for new service, change in service, line extensions, etc. The estimates should be sufficiently detailed and itemized to facilitate appropriate reference to tariff enabling provisions. Additionally, an estimate should clearly indicate which labor or materials can be performed or provided by the customer. In an effort to mend broken fences, timely and written response should be provided to all customer complaints and inquiries.
IV. ECONOMICS

Mel Hoopes of Silver Star indicated that he has the commitment and financial ability to upgrade service on the Wayan and Irwin Exchanges. We believe that he has the financial ability but as previously stated we have reason to doubt the sincerity of his commitment.

Terri Carlock, Staff Auditor for the Public Utilities Commission, although unable to obtain appropriate figures and verification to accurately assess retirement, toll effects and other variants for the Company related to proposed upgrade, nevertheless has estimated that replacement of aerial lines with buried cable in the Wayan Exchange (estimated cost $119,516; estimated retirement and cost of removal $26,000) will in all probability not result in any need for revenue enhancement or increase in local rates for Silver Star customers. Staff was unable to assess the economic impact of switch replacement on the basis of available information and must necessarily defer any assessment until such time as Company or its successor in interest chooses to make application for rate increase and is willing to provide reliable figures.

V. CONCLUSION

Although indications are that the system may be technically upgraded at a cost that is feasible and not unduly
burdensome to the customer base, and also that Silver Star has the present ability to perform the upgrade, we find that the Company's failure to take appropriate steps to remedy a persistent and chronic system deficiency and make technical upgrade to date is indicative of a fundamental attitude of neglect and a breach of statutory duty to provide adequate service under Idaho Code Section 61-302. Adequate and efficient service should be provided by utilities without the necessity of customer solicited Commission intervention. A Certificate of Public Convenience and Necessity is subject to and contingent upon statutory conditions, regulations and restrictions. The nature of the grant is such that it is always subject to review. The grant of a Certificate of Public Convenience and Necessity entails a reciprocal acceptance of responsibility and duties by the regulated utility. Failure to perform those duties makes it fair, just and reasonable for the Commission to revoke its privilege to provide service. Breach of condition whether express or implied upon which the grant depends is grounds for termination or recision.

The Commission agrees with the characterization of Silver Star's customer relations policy as being adversarial and one of indifference. The Commission has rarely encountered such unified and hostile criticism of a utility by a customer base. A sense of helplessness at the hands of this telephone utility, pervasive in the transcript of this proceeding and of
recent Silver Star cases that preceded it, appeared in the unrehearsed responses of the customers and carries at least equal weight in our findings with the written complaints. The Commission believes that customer relations have deteriorated to such an extent that successful rehabilitation by present management would be a Herculean task.

The Commission is extremely sensitive to the plight of Idaho's rural citizenry. Without a reliably consistent and dependable means of communication, those in more remote areas can easily become isolated. Without the necessary lifeline enabling them to obtain timely emergency aid and service, safety and health are endangered. It should not be that difficult to convey to urban ears how the threat and the reality of miserable relations with a sole provider affect the lives of the people who testified to those conditions. There are few alternatives available to those who find themselves dependent on and at the mercy of small rural telephone companies. The legislative decisions to grant monopolies in the public interest contain commitment that these government charters are not licenses to tyrannize. To the credit of the telephone industry in Idaho, the quality of service generally provided by those companies is exemplary. Silver Star is an exception.

After deliberation and a review of the testimony and filings of record in this case and also in Silver Star Case Nos. U-1038-7, -8, -9 and -10, the Commission finds that Silver
Star has not provided adequate and sufficient service with its instrumentalities, equipment and facilities, nor has it maintained adequate, efficient or reasonable customer relations. We further believe that under present management and ownership it will not improve without the necessity of continuous and constant Commission intervention and supervision. The Commission is a regulator of public utilities, not a utility itself and not a provider of telephone service. The rights of Silver Star to maintain its Certificate must necessarily be balanced with the rights of the customer-base that it is obliged to serve. There is a point in time when customers denied adequate service are entitled to a different provider. There is a point in time when a Commission frustrated in its attempts to effect improvement, upgrade, and minimally adequate service by a utility and failing to see a light at the end of the tunnel must consider recision of a utility's Certificate. In the matter of Silver Star that time has arrived. Incredulous at first, we have been patient to the point of tardiness in our efforts to reconcile the needs of Silver Star customers with the way in which Silver Star ownership has treated those needs and the customers themselves. The system can be upgraded. The stewardship can be changed only by placing it in other hands to meet the standard the rest of Idaho takes for granted. That is the record. We see no reasonable or justifiable alternative. For the reasons stated above we find that Silver Star Telephone

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Company has breached the conditions upon which its grant of Certificate of Public Convenience and Necessity depends and therefore it is appropriate to terminate or rescind its Certificate.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over this matter and Silver Star Company, a telephone utility, pursuant to the authority and power granted it under Title 61, Sections 61-501, 61-624, 61-526 of the Idaho Code.

INTERLOCUTORY ORDER

IT IS HEREBY ORDERED that the Certificate of Public Convenience and Necessity No. 207 (as amended) which was previously granted to Silver Star Telephone Company, Inc. be rescinded effective February 18, 1986.

IT IS FURTHER ORDERED that Silver Star provide this Commission within thirty (30) days with comments or suggestions as to how this transition can be best effected and how its interests and property rights can be best safeguarded.

IT IS FURTHER ORDERED that Silver Star or its successor in interest must effect the technical improvements and upgrade as set out above in Section II (C) and effect the policy changes as set out in Section III (F).

This is an Interlocutory Order and parties are entitled to all procedural rights granted by IDAPA 31.A.32.et al.


See Commissioner High's attached Dissenting Statement.

ATTEST:  

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sw/vs/390L
I dissent only from that part of this order which rescinds Silver Star's Certificate of Convenience and Necessity.

My dissent is based upon testimony at hearing and upon the potential adverse effect of rescission of the certificate.

In my opinion the benchmark question was answered in the affirmative; namely, whether Silver Star is capable of improving its service to comply with industry standards, and whether it can restore relations with its customers to normal business practices.

The evidence clearly showed a need to install buried cable for the entire Wayan Exchange, and to install a new digital switch at the Irwin Exchange. The owners of Silver Star, Melvin and Ardell Hoopes, unequivocally committed themselves to complete these improvements during 1986 with installation of buried cable to begin immediately. Equally important, they have the financial resources to complete the upgrade. (TR 233, 337).

The issue of customer relations is less clear. The record shows that customers were appreciative of the courtesy and helpfulness of the field service personnel. The hostility and discourtesy displayed by business office personnel toward customers may, in part, result from the general customer dissatisfaction with the quality of service. The system upgrade should
reduce this source of friction. The owners testified to recent changes in business office personnel and committed themselves to improving customer relations.

Rescission of Silver Star's Certificate will delay upgrading the system as required in this order which otherwise would be completed during 1986. The management, financial and legal problems accompanying a transfer of ownership can only mean farther unacceptable delays for the long suffering customers of Silver Star.

Richard S. High, Commissioner