(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE APPLICATION OF AT&T COMMUNICATIONS OF THE MOUNTAIN STATES FOR AN AMENDMENT TO ITS CERTIFICATE OF PUBLIC CONVE-NIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNI-CATIONS SERVICES. | )))))))) | CASE NO. ATT-T-96-1ORDER NO.  26575 |

On February 29, 1996, AT&T Communications of the Mountain States, Inc. (AT&T) filed a Notice and Application for Amended Certificate of Public Convenience and Necessity requesting that its certificate be amended to authorize local exchange service in the state of Idaho.  AT&T currently provides unregulated telecommunications services under Idaho Code, Title 62 and requests an amendment to its authority in order to provide Title 61 regulated telecommunications services, including basic exchange.(footnote: 1)

On March 29, 1996, the Commission issued a Notice of Application, and on May 15, 1996 issued a Notice of Modified Procedure.  The Notice of Modified Procedure provided a written comment period that expired on June 14, 1996.  Comments were filed by a group of small independent telephone companies (Telcos), U S WEST Communications, Inc.  (U S WEST), GTE of the Northwest, Inc.  (GTE), Commission Staff and a private individual.  The Commission on June 28, 1996, issued Order No. 26506 directing AT&T to respond in writing to the comments filed during the comment period.  On July 12, 1996, AT&T filed responsive comments, and also filed a supplement to its application to provide specific information requested by Staff.  By this Order the Commission approves the amendment of AT&T’s Certificate of Public Convenience and Necessity to authorize the Company’s provision of local exchange service within certain parts of the state.

THE COMMENTS

The Telcos are the companies that are in the process of completing purchases of rural exchanges from U S WEST.  These companies state that they are “rural telephone companies” as defined by the federal Telecommunications Act of 1996, which provides them with a “right to heightened scrutiny by the Idaho Commission of requests to provide competitive telecommunications services in the rural telephone company’s existing service area.”  These companies assert that if the Commission approves AT&T’s Application, the Commission should not include the purchased exchange areas within the scope of its Order.  The Telcos also remind the Commission that it retains a responsibility in state law to determine whether an applicant is ready, willing and able to immediately commence service to a certificated area.

The U S WEST comments, noting that AT&T’s request is the first from any party seeking to provide competitive service in the previously fully regulated local exchange market, claim that it presents unique issues which require the Commission’s consideration.  U S WEST made the following points in its comments:

1.The Commission should impose the same regulatory requirements on both incumbent local exchange companies and new entrants for the provision of retail services to end users.

2.The Commission should understand exactly where new entrants intend to make services available and where the incumbent will continue to be the only providers.  Thus, the Commission should require new entrants to provide a metes and bounds description or detailed map of the areas in which they will provide service within the next twelve months, a description of the classes of customers that will be served, whether the new entrant intends to construct or rely upon its own facilities, and an implementation schedule that defines a reasonable interval for the actual provision of service.

3.Noting that AT&T indicated it may build its own facilities, U S WEST identifies several issues, including AT&T’s obligation to serve Title 61 and Title 62 customers in the certificated area, and AT&T’s obligation to extend facilities to serve customers if no facilities are currently available from the incumbent.

4.It is not clear from AT&T’s Application how it will perform the statutory obligations of a Title 61 provider.  By Idaho law, providers of basic local exchange service must file tariffs, justify rates for service under traditional rate of return regulation, make an election to deregulate Title 62 services and utilize a cost allocation to determine the rates for Title 61 services.

5.The Commission should ensure that new entrants will be bound by the same regulations that create standards for the existing incumbents.  Thus, the Commission should make compliance with all rules and regulations of the Commission a condition of certification.  New entrants should be required to meet the same service quality standards, including recordkeeping and reporting requirements.

U S WEST recommended the Commission convene a hearing to consider these and other issues identified by U S WEST.

GTE stated in its comments that its primary concerns if AT&T’s Application is approved relate to regulatory parity, rate rebalancing and universal support.  By Idaho law, AT&T would need to make an election between Title 61 and Title 62 regulation.  According to GTE, the appearance in its service territory of duplicate providers of local services calls into question traditional pricing of the Company’s services under years of regulation by the Commission.  Rates based on value of service criteria rather than underlining economic costs and market forces will need to be changed, according to GTE.  Such changes will remove internal cross subsidies which now support the state’s universal service objectives.

The Commission Staff in its comments stated that AT&T’s Application should not present an occasion to examine all the issues presented by the federal Telecommunications Act, such as interconnection and number portability.  These issues can be addressed in separate dockets as necessary once AT&T begins providing local exchange service.  However, Staff stated that AT&T’s map of its intended service area is not adequate in detail and that an improved map is required.  In addition, AT&T did not file tariffs with its Application, which are necessary to determine the type of service the Company intends to offer and the scope of those services.  According to Staff, AT&T should also be required to provide a full description of its proposed construction or expansion and the manner in which it intends to serve customers, that is, whether its services will be facilities based or by resale.  Staff encouraged the Commission to approve AT&T’s Application if AT&T revises its Application to include a detailed map of intended service area showing specific exchange areas, tariffs detailing the services the Company intends to offer, and a full description of its proposed construction or expansion and the manner in which it intends to serve customers.

In its reply comments, AT&T addressed specific issues raised in the previously filed comments of U S WEST, GTE, and the Telcos.  Regarding U S WEST’s comments, AT&T noted that the certification process is not the appropriate venue to address many concerns regarding the Telecommunications Act. AT&T asserts the certification process addresses only three narrow questions, that is, (a) whether certification is in the public interest, (b) whether the Company has the technical and financial wherewithal to accomplish the expansion, and (c) how the expansion will be accomplished.  Regarding details of its expansion into the local market, AT&T stated that the federal Act requires many of the issues to be resolved through negotiation with incumbent local exchange carriers, and then by mediation and arbitration if negotiation proves unsuccessful.  AT&T states it is not possible to provide additional details regarding rates and services until that process is completed.  AT&T stated that it will file interconnection and operational agreements as formulated and as approved, and will also file appropriate tariffs describing its proposed services when the services are actually offered.

AT&T agreed with GTE that issues regarding the effect of the Act on local exchange service should be decided by this Commission, but are not required to be resolved prior to AT&T’s amendment to its Certificate.

In response to the comments of the Telcos, AT&T stated that it does not intend initially to serve areas served by local exchange carriers that are subject to the sale by U S WEST to the Telco purchasers.  If the sales are consummated and AT&T seeks to serve the areas of the Telcos, AT&T stated it is aware of and will fully comply with Section 251’s procedures relating to rural telephone companies.

In the supplemental information provided by AT&T, the Company provided a more detailed map, information regarding tariffs and services, and additional information on its plan to begin providing local exchange service.  The new map more specifically depicts the service area where AT&T initially intends to offer service.  AT&T reiterated that it intends to initially offer service only in those exchanges served by GTE and U S WEST.  Regarding tariffs and specific services, AT&T stated it intends to offer a full array of local exchange services once all interconnection and operational arrangements are completed.  AT&T provided a lengthy list of specific services it intends to provide.  As to additional information about how AT&T intends to begin providing local service, AT&T states that it is not able to provide complete details until the necessary arrangements have been completed with the incumbent LECs.  The Company intends to initially offer service primarily on a resale basis, and then evaluate its success in the marketplace before expending capital to construct its own facilities.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission’s Rule of Procedure Rule 112 provides the requirements for the application of an existing utility to amend its Certificate of Public Convenience and Necessity.  Those requirements include a full description of the proposed construction or expansion, a map showing the proposed service area and its relation to other similar utilities, and information regarding the manner and time in which the utility will begin providing service.  The purposes of the requirements of Rule 112 are to enable the Commission to evaluate whether the proposed additional service is in the public interest, that the applicant has the financial strength to provide the service, and the types of service to be provided.

We find, with the supplemental information filed by AT&T, that the Company has met the requirements of Rule 112 for amendment of its Certificate.  The information demonstrates AT&T’s financial ability to provide local exchange service, and identifies the means by which and the types of services the Company intends to provide.

AT&T initially provided a detailed map and information of the areas the Company intends to serve, and then provided a new map and information to correct some obvious errors.  AT&T clearly states it does not intend to provide local services in the rural exchanges purchased by the Telcos from U S WEST, and the Company’s map now excludes all areas within the purchased exchanges.  A photocopy of the corrected map is attached to this Order as Exhibit A.  AT&T states that it understands and will comply with the Commission’s rules regarding local exchange services to customers in Idaho.  We find that AT&T has met the requirements for amendment to its Certificate and therefore conclude that the amended Certificate should issue.

O R D E R

IT IS HEREBY ORDERED that the Application of AT&T to amend its Certificate of Public Convenience and Necessity, authorizing it to provide local telecommunication services within the areas depicted in the map attached as Exhibit A, is approved.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. ATT-T-96-1  may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. ATT-T-96-1 .  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of August 1996.

                                                                                                                                       RALPH NELSON, PRESIDENT

                                                                                            MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:attt961.ws2

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE APPLICATION OF AT&T COMMUNICATIONS OF THE MOUNTAIN STATES FOR AN AMENDMENT TO ITS CERTIFICATE OF PUBLIC CONVE-NIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNI-CATIONS SERVICES. | )))))))) | CASE NO. ATT-T-96-1AMENDMENT TOCERTIFICATE NO.  295 |

IT IS HEREBY CERTIFIED that the Certificate of Public Convenience and Necessity issued to AT&T Communications of the Mountain States, Inc., Certificate No. 295, is amended to authorize AT&T to provide Title 61 regulated telecommunications services, including basic exchange services, within parts of the state of Idaho.  The Commission approved this amendment to AT&T’s Certificate by Order No. 26575 issued August 27, 1996.  Order No. 26575 limits the areas in which AT&T is authorized to provide Title 61 services, as depicted in a map attached as Exhibit A to the Order.  The map is also attached to this Amendment as Exhibit A.  This Amendment is predicated upon and is issued pursuant to the findings of the Commission in Order No. 26575.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of August 1996.

                                                                                                                                       RALPH NELSON, PRESIDENT

                                                                                            MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:ATTT961.ws3

**FOOTNOTES**

1:

AT&T’s certificate previously included authorization to provide Title 61 services.  Following enactment of the Idaho Telecommunications Act of 1988, AT&T elected to remove its services from Title 61 regulation and instead be subject to the provisions of Title 62.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

August 27, 1996