

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT)	
APPLICATION OF IDAHO TELEPHONE)	CASE NO. GNR-T-99-4
ASSOCIATION MEMBERS FOR APPROVAL)	
OF THEIR RESPECTIVE PLANS TO)	
IMPLEMENT INTRASTATE, INTRALATA)	ORDER NO. 28064
DIALING PARITY.)	
)	

On April 22, 1999, the Idaho Telephone Association (ITA), on behalf of certain of its members, filed an Application for approval of their respective intrastate, intraLATA toll dialing parity plans. More specifically, the Idaho Telephone Association filed on behalf of Albion Telephone Co., Cambridge Telephone Co., Council Telephone Company, Inc., CTC Communications, Inc., Custer Telephone Cooperative, Direct Communications Lakeside, Inc., Direct Communications Rockland, Inc., Farmers Mutual Telephone Co., Filer Mutual Telephone Co., Fremont Telcom, Midvale Telephone Exchange, Mud Lake Telephone Co., Oregon-Idaho Utilities, Inc., Rural Telephone Co., Sawtooth Telephone Co., Silver Star Telephone Co., Columbine Telephone Company, Inc. d.b.a. Teton Telecom Communications (an affiliate of Silver Star Telephone Company), and Westel, Inc.

Because the Commission is required to review toll dialing parity implementation plans on a very concise schedule, the Commission determined that the public interest may not require a formal hearing and proceeded under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -.204. Order No. 28028. In that order, the Commission scheduled a settlement conference. *Id.* An amended Notice of Settlement Conference was issued on May 6, 1999, setting the settlement conference for May 26, 1999.

Only Staff and AT&T Communications of the Mountain States, Inc. filed comments on May 18, 1999. Settlement conference was held May 26, 1999. At the settlement conference, settlement was reached among the parties, placed on the record and approved by the Commission pursuant to Commission Rule 274 (IDAPA 31.01.01.274). Tr. pp. 27-30.

Based on the comments filed by AT&T and the Staff, the settlement placed on the record, the

law and the Application and respective implementation plans, the Commission approves the Application and the dialing parity plans as modified below. The Commission further orders a limited suspension of the dialing parity obligations imposed by Section 251(b) of the Telecommunications Act of 1996 as described below.

BACKGROUND

Following the implementation of the Telecommunications Act of 1996, many states challenged the jurisdictional authority of the Federal Communications Commission (“FCC”) in certain matters. In 1997, the Eighth Circuit Court of Appeals held that the FCC had exceeded its authority when it promulgated rules to implement various sections of the Act. Among other things, the Eighth Circuit held that the FCC lacked jurisdiction to promulgate its dialing parity rules 47 CFR §51.205-51.217. The FCC appealed to the United States Supreme Court. On January 25, 1999, the United States Supreme Court reversed, in part, the Eighth Circuit and held, *inter alia*, that the FCC has jurisdiction to implement the Act’s local competition provisions, including those rules addressing dialing parity. *AT&T v. Iowa Utilities Board*, 119 S.Ct. 721 (1999).

In response, the FCC issued FCC Order 99-54 revising the schedule for implementation of dialing parity. Order 99-54 established new deadlines for all local exchange carriers (“LECs”) to implement intraLATA dialing parity. Specifically, all local exchange carriers are required to submit dialing parity plans to the respective state commissions by April 22, 1999. State commissions were given until June 22, 1999, to review and approve those plans. Approved intraLATA toll dialing parity plans were directed to be implemented within thirty (30) days of approval.

Toll dialing parity, also referred to as “1 plus equal access” or carrier presubscription, allows a customer to pre-select a carrier for intrastate, intraLATA toll calls and then access his chosen carrier simply by dialing 1 plus the telephone number. Without dialing parity, a customer wishing to use a specific toll carrier may be required to dial a series of numbers before dialing the telephone number. Upon implementation of toll dialing parity, customers will be able to presubscribe to a carrier for both their interLATA and intraLATA toll calls. This means that originating customers will be able to dial toll calls without having to use any extra digits or access codes (other than the prefatory A1≡ or A0≡). This is often referred to as Afull 2-PIC≡ capability. In addition, originating customers will continue to be able to use “dial-around” 101-XXXX to route their specific calls to a carrier other than their presubscribed carrier if they so choose.

ITA MEMBER DIALING PARITY PLANS

Pursuant to 47 U.S.C. § 251(b)(3), ITA members, Farmers, Cambridge, Council, Midvale, Sawtooth, Silver Star, Teton, CTC, and Fremont submitted identical intraLATA toll dialing parity plans for Commission approval. ITA members Albion, Custer, Lakeside,¹ Rockland, Filer, Mud Lake, Oregon-Idaho,² Rural and Westel submitted individual plans. Each of these Applicants offer local exchange service within the southern Idaho LATA, with the exception of one Midvale exchange that is located in the northern Idaho LATA. (*see* 47 CFR §51.213). Until recently, most intrastate, intraLATA toll traffic for the customers of each of these companies was carried by U S WEST Communications, unless a customer dialed around to reach a different toll carrier. Recently, however, several of the Applicants terminated their contracts for toll service with U S WEST and formed IXC subsidiaries – switching all former U S WEST customers to the Applicant’s IXC subsidiary.

In Order 99-54, the FCC established an implementation schedule that requires all intraLATA toll dialing parity plans be fully implemented with cut-over dates no later than July 22, 1999. With the exception of Farmers which implemented dialing parity approximately two years ago, none of the ITA Applicants can meet the implementation schedule ordered by the FCC. The ITA Applicants propose implementation schedules that involve cut-over dates in late July, early August and late September. Therefore, ITA on behalf of the Applicants requested the Commission suspend or modify their respective dialing parity obligations pursuant to the Commission’s authority under 47 U.S.C. § 251(f)(2).³

¹ Although Lakeside and Rockland submitted individual dialing parity plans, the Commission recently approved the merger of Lakeside and Rockland. Order No. 27866.

² On March 19, 1999, Oregon-Idaho Utilities, Inc. had previously filed an Application with the Commission for an Order approving its intraLATA toll dialing parity implementation plan but joined in this Application. The same proposal was also submitted to the Oregon Public Utilities Commission. Oregon-Idaho offers local telephone exchange service to approximately 68 lines in the Idaho exchange of Jordan Valley.

³ 47 U.S.C. § 251(f)(2). **Suspensions and modifications for rural carriers.**-- A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification--

(A) is necessary--

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

A. The Proposed IntraLATA Dialing Parity Cut-Over Dates.

1. Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton.

Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton propose to begin implementation by June 1999, with final programmed cut-over on August 31, 1999.

Fremont and Teton cannot complete the cut-over until August 31, 1999, because Fremont and Teton share a switch and to make the switch two-PIC capable the switch software must be upgraded. Fremont and Teton indicated that the earliest available installation date for the necessary software upgrades is August 8, 1999.

Cambridge, Council, CTC, Midvale, Sawtooth, and Silver Star use monthly billing cycles that mail mid month. With a June 22, 1999 Commission approval, the next billing cycle will release customer notices in mid July. Therefore, using a 30-day customer notification period places the earliest reasonable cut over date in August 1999.

Therefore, ITA requested that the Commission exercise its authority under 47 U.S.C. § 251(f)(2) to grant these rural ITA companies a “suspension” to allow the August 31, 1999 dialing parity cut over date.

(iii) to avoid imposing a requirement that is technically infeasible; and
(B) is consistent with the public interest, convenience, and necessity. The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

2. Albion, Filer, Lakeside, Mud Lake, Rockland and Westel. Albion, Filer, Lakeside, Mud Lake, Rockland and Westel proposed an intraLATA cut-over date of August 1, 1999. Like the other ITA companies, each of these companies have monthly billing cycles that mail mid month. Pending a June 22, 1999 Commission approval, the next billing cycle would release customer notifications in mid July. A 30-day customer notification period places the earliest reasonable cut over date in August 1999. Therefore, these ITA companies request the Commission exercise its authority to suspend the cut-over dates.

3. Rural. Rural proposed an intraLATA cut-over date of July 26, 1999. Like the other ITA companies, Rural has monthly billing cycles that mail mid month. Pending a June 22, 1999 Commission approval, the next billing cycle would release customer notifications in mid July. Therefore, Rural requests the Commission exercise its authority to suspend the cut-over date.

4. Custer. Custer proposed an intraLATA cut-over date of August 16, 1999. Like the other ITA companies, Custer has monthly billing cycles that mail mid month. Pending a June 22, 1999 Commission approval, the next billing cycle would release customer notifications in mid July. Therefore, Custer requests the Commission exercise its authority to suspend the cut-over date.

5. Oregon-Idaho. Oregon-Idaho proposed an intraLATA cut-over date coincident with their interLATA cut-over date of September 28, 1999. Pending a June 22, 1999 Commission approval, the next billing cycle would release customer notifications June 28, 1999. Therefore, Oregon-Idaho requests the Commission exercise its authority to suspend the cut-over date. They have also filed with the FCC for approval of the later cut-over date.

B. Proposed Notification to IXCs.

1. Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton. Under the plans submitted on behalf of Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton, all carriers that currently offer interLATA toll service to the customers of the LECs will be requested to confirm whether they intend to offer intraLATA service. Those responses will be due July 1, 1999. Any other carrier that requests to offer intraLATA service by July 1, 1999, will be added to the list of available intraLATA carriers.

2. Albion, Filer, Lakeside, Mud Lake, Rockland and Westel. Albion, Filer, Lakeside, Mud Lake, Rockland and Westel proposed that all carriers that currently offer interLATA toll service to the customers in their respective exchanges will be requested to confirm whether they intend to

offer intraLATA service. Those responses will be due June 22, 1999. This notification to IXC's will be mailed out May 22, 1999. Any other carrier that requests to offer intraLATA service by July 22, 1999, will be added to the list of available intraLATA carriers.

3. Rural. Rural proposed that all carriers that currently offer interLATA toll service to the customers in the Rural exchanges will be requested to confirm whether they intend to offer intraLATA service. This notification to IXCs will be mailed out June 24, 1999, and the carrier must respond by July 22, 1999. Any other carrier that requests to offer intraLATA service by July 22, 1999, will be added to the list of available intraLATA carriers.

4. Custer. Custer proposed that all carriers that currently offer interLATA toll service to the customers in the Custer exchanges will be requested to confirm whether they intend to offer intraLATA service. This notification to IXCs will be mailed out June 22, 1999, and the carrier must respond by July 22, 1999.

5. Oregon-Idaho. Oregon-Idaho has already sent notices to all carriers that are registered in Oregon and Idaho to confirm whether they intend to offer interLATA service, intraLATA service, or both. This notification to IXCs was mailed April 2, 1999. Any other carrier that requests to offer intraLATA service will be added to the list of available intraLATA carriers.

C. Proposed Notification to Customers.

1. Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton. Farmers, Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton propose to send a notice to customers to inform them of the opportunity they will have to choose an intraLATA carrier on the first billing cycle after the Commission has approved the LEC's implementation plan. None of these companies included a draft customer notice for Staff or Commission review with the Application. Silver Star, Teton and Fremont gave copies of draft IXC and customer notices to Staff on the date comments were due. The companies proposed to send a second, identical customer notice in the second billing cycle after the Commission approves the implementation plans.

According to the plans, those customers who respond to the customer notice before August 31, 1999, will have their intraLATA presubscription choice programmed into the switch on the cut-over date of August 31, 1999. The implementation plans include a sixty (60) day "grace" period after the cut-over date in which customers may make or change their intraLATA carrier choice free of charge. Thereafter, each intraLATA PIC change will cost five dollars (\$5.00).

2. Albion, Filer, Lakeside, Mud Lake, Rockland and Westel. Albion, Filer, Lakeside, Mud Lake, Rockland and Westel proposed to send customers a notice as a bill insert on July 8, 1999, to inform them of the coming opportunity they will have to choose an intraLATA carrier. A copy of the proposed notice was included in the Application. The proposed notice lists the available IXC carrier choices as determined by the responses these companies receive from the IXCs. It addresses what will happen to those customers who do not respond by making a carrier selection. Those customers who respond to the customer notification before July 29, 1999, will have their intraLATA presubscription choice programmed into the switch on the respective cut-over dates.

The implementation plans also include a sixty (60) day “grace” period after the cut-over date wherein customers may change their intraLATA carrier choice **one** additional time free of charge. The proposed grace period ends October 1, 1999. Thereafter, each intraLATA PIC change will result in a \$5 PIC change fee.

3. Rural. Rural proposed to send customers a notice on July 26, 1999, as a bill insert to inform them of the coming opportunity they will have to choose an intraLATA carrier. A copy of the proposed notice was included in the Application. The proposed notice lists the available IXC carrier choices as determined by the responses these companies receive from the IXCs. It addresses what will happen to those customers who do not respond by making a carrier selection. Those customers who respond to the customer notification before July 26, 1999, will have their PIC programmed into Rural's switch without delay. Because Rural already has the ability to make intraLATA PIC choices, those requests will be processed as soon as the customer responds to the notification.

Rural's implementation plan includes a 90-day “grace” period for customers after the cut-over date wherein customers may change their intraLATA carrier choice **one** additional time free of charge. The proposed grace period ends October 26, 1999. Thereafter, each intraLATA PIC change will result in a five dollar (\$5.00) PIC change fee.

4. Custer. Custer proposed to send customers a notice on August 1, 1999, as a bill insert. A copy of the proposed notice was included in the Application. The proposed notice lists the available IXC carrier choices as determined by the responses these companies receive from the IXCs. It addresses what will happen to those customers who do not respond by making a carrier selection.

Those customers who respond to the customer notification before August 14, 1999, will have their PIC programmed into Custer's switch on the cut-over date of August 16, 1999.

Custer's implementation plan has a sixty (60) day "grace" period for customers wherein customers may change their intraLATA carrier choice **one** additional time free of charge. The grace period ends October 16, 1999. Thereafter, each intraLATA PIC change will result in a five dollar (\$5.00) PIC change fee and a ten dollar (\$10.00) office processing fee being charged.

5. Oregon-Idaho. On June 28, 1999, Oregon-Idaho will send a notice to all customers in a bill insert to inform them they will have to choose an intraLATA carrier. Oregon-Idaho proposed to list the available carrier options in random order. Those customers who respond to the customer notification before August 18, 1999, will have their intraLATA presubscription choice programmed into the switch on the cut-over date of September 28, 1999. Those customers who do not respond by August 18, 1999, will receive a second notice informing them which intraLATA carrier was allocated to them by default and, again, asking them to make a different selection if they choose.

Customers will have a "grace" period until January 28, 2000, within which to make PIC changes without incurring a PIC charge. Oregon-Idaho included a draft notice with its Application.

D. Proposed Defaults for Customers Who Do Not Choose an IntraLATA carrier.

1. Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star, Teton, Albion, Lakeside, Rockland, Rural and Westel. According to the ITA submitted implementation plan, Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star, Teton, Albion, Lakeside, Rockland, Rural and Westel all proposed that current customers who do not actively choose a carrier for their intraLATA toll calls will remain with their current carrier. Each of these ILECs elected to end their contractual agreements with U S WEST and create IXC subsidiaries or associate with affiliates. Therefore, the default carrier would be their respective IXC subsidiary. New customers who do not designate an intraLATA toll carrier will have to "dial around" using 101-XXXX carrier access codes until they choose their presubscribed carrier(s).

2. Filer, Farmers and Custer. Filer and Farmers are mutual telephone companies and Custer is a cooperative. All have proposed to default current customers who do not actively choose a carrier for their intraLATA toll calls to themselves. New customers who do not designate an intraLATA toll carrier will have to "dial around" using 101-XXXX carrier access codes until they choose their presubscribed carrier(s).

3. Oregon-Idaho. Oregon-Idaho proposed to leave customers who do not affirmatively choose an intraLATA carrier with their existing carrier. Because Oregon-Idaho is implementing both interLATA and intraLATA dialing parity at the same time, those customers who do not respond to the first customer notice will receive a second notice informing them that they have been allocated to a particular IXC. The allocated carrier will be for both intraLATA and interLATA toll service. The second notice will tell those customers they may select a different IXC by contacting Oregon-Idaho or the IXC directly.

New customers who do not designate an intraLATA toll carrier will have to “dial around” using 101-XXXX carrier access codes until they choose their presubscribed carrier(s).

4. Mud Lake. Mud Lake proposed to leave customers who do not affirmatively choose an intraLATA carrier with their existing carrier. It has not chosen what plan it will adopt. New customers who do not designate an intraLATA toll carrier will have to “dial around” using 101-XXXX carrier access codes until they choose their presubscribed carrier(s).

E. Proposals for Cost Recovery

1. Albion, Cambridge, Teton, Council, CTC, Custer, Lakeside, Rockland, Farmers, Filer, Fremont, Midvale, Mud Lake, Rural, Sawtooth, Silver Star, and Westel. Each Applicant proposed that the costs related to dialing parity implementation be recovered by imposing a surcharge on intrastate access rates sufficient to recover conversion costs over a 24-month period. Those costs are not yet known.

2. Oregon-Idaho. Oregon-Idaho’s plan did not address a method for recovering the costs associated with interLATA and intraLATA implementation. According to Staff Comments, Oregon-Idaho suggested that these costs will be minimal and may not be recovered for the 68 Idaho lines.

AT&T COMMENTS

AT&T generally opposes any change to the FCC Order 99-54 implementation schedule and argues that July 22, 1999, is the last date by which full dialing parity must be implemented. In addition, AT&T urges the Commission to order each Applicant to send customers notice in a separate mailing, written on neutral letterhead and sent first-class mail. AT&T requests the Commission to order all the Applicants to allow customers a one-hundred twenty (120) day “grace period” during which the customers can select or change their intraLATA toll carrier.

Finally, AT&T requests that where a customer chooses to simultaneously change or select both an intraLATA and interLATA carrier, only one PIC charge should apply.

STAFF RECOMMENDATION

Staff recommended the final Order be made effective June 22, 1999. Staff also recommended that the Commission exercise its authority granted by *Idaho Code* § 62-615 and 47 U.S.C. § 251(f)(2) and modify the FCC requirement for a July 22, 1999, cut-over for the ITA companies. All the ITA companies are rural companies “with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide.” Therefore, Staff asserts that the Act clearly grants the Commission authority to modify Section 251(b)(3) dialing parity obligations if “consistent with the public interest, convenience, and necessity,” the Commission finds it necessary to “avoid imposing a requirement that is technically infeasible,” to “avoid a significant adverse economic impact on users of telecommunications services generally,” or “to avoid imposing a requirement that is unduly economically burdensome.” Staff asserts that such modifications are necessary in general for these rural companies to “avoid imposing a requirement that is technically infeasible.” Moreover, modification is clearly “consistent with the public interest, convenience, and necessity.”

Staff also recommended that the Commission order each Applicant to send customers notice in a separate mailing.

Staff recommended the Commission to order all the Applicants, except Oregon-Idaho, to allow customers a one-hundred twenty (120) day “grace period” during which the customers can select or change their intraLATA toll carrier. Oregon-Idaho’s plan already included a one-hundred twenty (120) day “grace period.”

Farmers, Cambridge, Council, CTC, Fremont, Midvale, Sawtooth, Silver Star and Teton did not include a draft notice for Commission approval in their Application. Therefore, as a general comment, Staff recommended that no notices be sent to customers without prior Commission approval in order to ensure that such notices are competitively neutral and easily understood. In light of this, Staff drafted and recommended a proposed customer notification that Staff believed clearly informs the customer, is competitively neutral, lists the available carriers, and describes what will happen if no action is taken by the customer. As to all other customer notices, with minor changes, the Staff recommended approval of the companies' proposed notices. Although none of the proposals address it, Staff further recommended that existing interLATA PIC "freezes" do not automatically transfer to the intraLATA PICs and are only extended to the intraLATA selection upon affirmative request from the customer.

The proposed customer notification schedules for Mud Lake, Rural, Albion, Filer, Lakeside, Custer, Rockland and Westel do not comply with the thirty (30) day public notice required by *Idaho Code* § 61-307. However, Staff recommended the Commission approve an exception to *Idaho Code* § 61-307 because there is "good cause" to expedite the implementation of this service. Moreover, Staff suggested the proposed time frame for customer notice is adequate given the proposed customer "free PIC" period following implementation.

Staff recommended that in cases where U S WEST is the underlying intraLATA carrier and elects to remain so, those customers who do not actively choose an intraLATA toll carrier by various proposed plan deadlines, default to U S WEST. In cases where U S WEST is not the underlying intraLATA toll carrier or has elected to terminate that agreement in the presence of other carrier options, Staff recommended that customers who do not actively choose an intraLATA carrier by the deadline, be defaulted to their interLATA carrier.

Staff recommended that all PIC change requests be processed within five (5) business days.

Finally, Staff recommended the Commission generally approve each Applicants proposed method of recovery for dialing parity costs. Staff stated it cannot ascertain what the amounts will be until those costs are incurred and submitted by each Applicant in a separate tariff filing. Staff also recommended that the Applicants include any waived PIC change charges in their cost recovery.

SETTLEMENT AGREEMENT

At the settlement conference, AT&T, Staff and the ITA Applicants agreed to settle their differences. Tr. pp. 10-22. After negotiations, each party made certain concessions and agreed that each Applicant's dialing parity plan, including the implementation schedule, should be approved as filed with the following specific changes to the proposed plans:

1. With the exception of Oregon-Idaho's plan, customers will have a ninety (90) day "grace period" within which to change or select their intraLATA PIC free of charge. Tr. pp. 13-14.
2. PIC change requests will be processed within five (5) business days.
3. Waived PIC charges will be billed to the participating carrier as a one time bulk bill and not recovered from the end user.
4. Customer notices will be written on neutral letterhead with each Applicant's logo on the envelope and mailed separately and not as a bill insert. Tr. p. 13.
5. Albion, Cambridge, Council, CTC, Lakeside, Rockland, Fremont, Midvale, Oregon-Idaho, Rural, Sawtooth, Silver Star, Teton, and Westel⁴ will charge one five dollar (\$5.00) PIC change fee if a customer selects both an intraLATA and interLATA toll carrier at the same time.

With respect to Custer, Farmers, Filer or Mud Lake, the parties could not agree that where a customer chooses to simultaneously change or select both an intraLATA and interLATA carrier, only one PIC charge should apply. AT&T still maintained that only one PIC charge should apply and Custer, Farmers, Filer and Mud Lake maintained that the Commission had no authority to order what amounted to an interstate tariff change. Tr. pp. 7-9.

⁴ This does not include Custer, Farmers, Filer or Mud Lake. These are cooperatives or mutuals.

COMMISSION FINDINGS

The Commission finds that it has authority to approve and order modifications to the Applicants' respective dialing parity plans pursuant to *Idaho Code* § 62-615(1),⁵ 47 U.S.C. §§ 251(b)(3) and 251(f)(2) and 47 CFR §§ 51.205-51.217. The Commission finds that it approved those modifications to the filed dialing parity plans agreed to by the parties at the settlement conference as described above. Tr. pp. 27-30. With respect to AT&T's request that where a customer of Custer, Farmers, Filer or Mud Lake chooses to simultaneously change or select both an intraLATA and interLATA carrier, only one PIC charge should apply, the Commission finds that it does not have to reach the issue because PIC changes related to interLATA toll are not necessary to the dialing parity plan for intraLATA toll. Tr. p. 28.

The Commission further finds that the respective dialing parity plans, as modified by settlement and described above, are in the public interest, competitively neutral, and consistent with the Telecommunications Act of 1996.

Moreover, the Commission finds that according to the respective ITA member plans, the Applicants will not complete the programmed cut-over within the schedule as established by the FCC in FCC Docket No. 96-98 by order dated March 23, 1999. Therefore, the Commission finds that pursuant to 47 U.S.C. § 251(f)(2) modification of the implementation schedules, as described in the respective plans, are appropriate in order to "avoid imposing a requirement that is technically infeasible" and modification is "consistent with the public interest, convenience, and necessity." Therefore, pursuant to its authority under *Idaho Code* § 62-615(1) and 47 U.S.C. § 251(f)(2), the Commission orders a limited suspension of the Applicants' dialing parity obligations to allow them to follow their proposed implementation schedules. Finally, the Commission finds that it is in the public interest to make this order final, effective June 22, 1999.

⁵ *Idaho Code* § 62-615 Authority to implement the telecommunications act -- Suspension of obligations of rural carriers -- Promulgation of rules or procedures.

(1) The commission shall have full power and authority to implement the federal telecommunications act of 1996, including, but not limited to, the power to establish unbundled network element charges in accordance with the act.

ORDER

IT IS HEREBY ORDERED that the respective dialing parity plans for Albion Telephone Co., Cambridge Telephone Co., Council Telephone Company, Inc., CTC Communications, Inc., Custer Telephone Cooperative, Direct Communications Lakeside, Inc., Direct Communications Rockland, Inc., Farmers Mutual Telephone Co., Filer Mutual Telephone Co., Fremont Telcom, Midvale Telephone Exchange, Mud Lake Telephone Co., Oregon-Idaho Utilities, Inc., Rural Telephone Co., Sawtooth Telephone Co., Silver Star Telephone Co., Columbine Telephone Company, Inc. d.b.a. Teton Telecom Communications (an affiliate of Silver Star Telephone Company), and Westel, Inc. are approved as modified by settlement of the parties and as more fully described above.

IT IS FURTHER ORDERED that dialing parity obligations of Albion Telephone Co., Cambridge Telephone Co., Council Telephone Company, Inc., CTC Communications, Inc., Custer Telephone Cooperative, Direct Communications Lakeside, Inc., Direct Communications Rockland, Inc., Farmers Mutual Telephone Co., Filer Mutual Telephone Co., Fremont Telcom, Midvale Telephone Exchange, Mud Lake Telephone Co., Oregon-Idaho Utilities, Inc., Rural Telephone Co., Sawtooth Telephone Co., Silver Star Telephone Co., Columbine Telephone Company, Inc. d.b.a. Teton Telecom Communications (an affiliate of Silver Star Telephone Company), and Westel, Inc. are suspended as described above for the limited purpose to allow each company to follow its proposed implementation schedule.

IT IS FURTHER ORDERED that this order is without prejudice to the regulatory authority of this Commission with respect to rates or determination of costs associated with implementation of dialing parity pursuant to these plans, or any other matter that may come before this Commission pursuant to its jurisdiction and authority as provided by law.

THIS IS A FINAL ORDER effective June 22, 1999. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. GNR-T-99-4 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. GNR-T-99-4. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to issues raised in the petition for reconsideration. See section 61-626, Idaho Code.

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

June 1999.

DENNIS S. HANSEN, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

PAUL KJELLANDER, COMMISSIONER

ATTEST:

Myrna J. Walters
Commission Secretary

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