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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 99

In the Matter of)	
)	
OREGON TELEPHONE CORPORATION,)	
INC.)	ORDER
)	
Application for Allocation of Exclusively)	
Served Territory.)	
)	

**DISPOSITION: APPLICATION FOR TERRITORY ALLOCATION AND
AUTHORITY TO SERVE GRANTED**

On November 20, 2002, the Public Utility Commission of Oregon (OPUC) received an application from Oregon Telephone Corporation, Inc. (Oregon Telephone), requesting allocation to provide telephone service to a previously unserved territory. A metes and bounds description of the area related to this proposal (the revised Hereford-Unity Exchange) follows, taken from Oregon Telephone’s application, Exhibit C. Staff has reviewed this description and found it accurate. We include it here and adopt it officially.

Hereford-Unity-Bridgeport-Ironside

Exchange Legal Description

Point of Beginning NE corner of Section 4 T.11S., R.39E., W.M.;
thence South NE corner of Section 21 T.12S., R.39E.;
thence East to the NE corner of Section 24 T.12S., R.41E.;
thence South to the SE corner of Section 12 T.13S., R.41E.;
thence West to the SE corner of Section 7 T.13S., R.41E.;
thence South to the SE corner of Section 6 T.14S., R.41E.;
thence West to the SE corner of Section 3 T.14S., R.40E.;
thence South to the SE corner of Section 10 T.14S., R.40E.;
thence West to the SE corner of Section 9 T.14S., R.40E.;
thence South to the SE corner of Section 16 T.14S., R.40E.;
thence West to the SE corner of Section 13 T.14S., R.39E.;

thence South to the SE corner of Section 25 T.14S., R.39E.;
thence East to the NE corner of Section 33 T.14S., R.40E.;
thence South to the SE corner of Section 33 T.14S., R.40E.;
thence East to the NE corner of Section 4 T.15S., R.41E.;
thence South to the SE corner of Section 4 T.15S., R.41E.;
thence East to the NE corner of Section 10 T.15S., R.41E.;
thence South to the SE corner of Section 10 T.15S., R.41E.;
thence West to the SW corner of Section 9 T.15S., R.40E.;
thence North to the NE corner of Section 5 T.15S., R.40E.;
thence West to the NE corner of Section 5 T.15S., R.39E.;
thence South to the SE corner of Section 8 T.15S., R.39E.;
thence West to the SW corner of Section 7 T.15S., R.39E.;
thence North to the NW corner of Section 6 T.15S., R.39E.;
thence West to the SW corner of Section 31 T.14S., R.36E.;
thence North to the NW corner of Section 6 T.11S., R.36E.;
thence East to the Point of the Beginning.

The Commission served notice of this application on the list of persons interested in cases of this kind and caused notice to be published in the Argus Observer (Ontario) and the Baker City Herald on December 22, 2002, and December 29, 2002. All forms of notice informed the reader that any affected party or customer may request a hearing on the application within 30 days of the final publication of the notice (December 29, 2002). The Commission has received no requests for hearing, and the time for such requests is past.

Commission Staff investigated and analyzed Oregon Telephone's request. The following is based on the company's application and Staff's analysis as set out in a memorandum dated December 3, 2002.

Background. Oregon Telephone's request is for allocation of territory and authority to serve unserved and unallocated territory. The request involves two parcels. The first is a four square mile area directly south of the current exchange, and the second is an area known as Cow Valley. The Cow Valley area is 24 square miles and lies south and east of the current exchange. Oregon Telephone proposes to make these two areas part of the Hereford-Unity Exchange. Both areas are in Malheur County and are contiguous with the existing 645 square mile Hereford-Unity Exchange. There are approximately ten potential customers in the areas.

There is no wireline telephone service in Cow Valley or in the other parcel. The people in these areas have wanted telephone service for some time, but the cost to build facilities into and within the areas has made service uneconomic for any telephone carrier to provide without subsidies. Some of the people in these two parcels have cellular telephone service, but that service is not consistently reliable.

Costs. Oregon Telephone has conducted engineering studies and determined that it will cost approximately \$375,000 to provide service to these two areas. The plan involves the provision of service via AFC-Digital Line Concentrators (DLCs) through a fiber cable feeder from Oregon Telephone’s Central Office in Unity, Oregon. Oregon Telephone will not require customers in either parcel to pay line extension charges. The project will be financed by a loan from the Rural Utilities Service (RUS), formerly known as the Rural Electrification Association. Service to these two areas will be economic for Oregon Telephone because Oregon Telephone is a small utility with access to federal universal service support money, the Oregon Customer Access Fund (OCAF), and the loan from RUS. Larger utilities, such as neighboring Qwest, generally do not have access to RUS loans, OCAF funds, or federal universal service support money. In addition to local rates, Oregon Telephone will also receive access charge revenue from long distance carriers for toll traffic to and from the Hereford-Unity Exchange.

Rates in the two parcels will be the same as in Hereford-Unity. Oregon Telephone’s monthly rates are:

	Residence <u>One Party</u>	Business <u>One Party</u>
Hereford-Unity Exchange	\$10.95	\$15.50
EAS Additive	\$10.55	\$14.85

The above rates include tone dialing (touchtone) service. Oregon Telephone does not offer multiparty service. Telephone traffic within the Hereford-Unity Exchange will be local without toll charges. However, EAS and toll traffic rates from the new combined Hereford-Unity Exchange will remain as they are. The Hereford-Unity Exchange was granted EAS service to the Baker City Exchange effective August 2001.

Exclusive Allocation/Allocation. In its cover letter, Oregon Telephone requested an order granting it the exclusive right to provide telephone service to previously unserved territory. Staff believes that Section 253(a) of the Federal Telecommunications Act of 1996 (the Act) preempts state commissions’ right to grant exclusive franchises to provide telecommunications service. Staff also believes that, under ORS 759.020 and 759.050, the Commission could grant another carrier authority to serve in the Hereford-Unity Exchange. Staff recommends that the Commission grant Oregon Telephone authority to serve the two requested parcels as part of the Hereford-Unity Exchange and allocate these territories to Oregon Telephone, but believes that the Commission may not grant exclusive authority to any carrier.

We agree with Staff that the Act, as well as ORS 759.020 and 759.050, preclude our granting an exclusive right to serve a territory. We therefore simply grant Oregon Telephone authority to serve the two requested parcels as part of the Hereford-Unity Exchange.

Revised Exchange Map. Staff notes that Oregon Telephone will need to file a revised map of the Hereford-Unity Exchange after this application is granted. The new

map will have an effective date and title information similar to a tariff page. Staff asks that this order contain an ordering paragraph directing Oregon Telephone to file, within 30 days of the date of service of the order, a map of the Hereford-Unity Exchange including the addition of the small parcel and the Cow Valley area. We have included such a paragraph below.

Conclusion. Based on Staff's memorandum and the application file, we conclude that Oregon Telephone's application to serve previously unserved territory should be granted.

ORDER

IT IS ORDERED that:

1. Oregon Telephone Corporation, Inc.'s application for allocation of territory and authority to serve unserved and unallocated territory is granted.
2. The Hereford-Unity Exchange shall be revised as indicated in the body of the order by the metes and bounds description.
3. Oregon Telephone Corporation, Inc., shall file, within 30 days of the service of this order, a revised map of the Hereford-Unity Exchange including the addition of the two parcels allocated to it in this order.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.