

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF CENTURYTEL OF THE GEM STATE,) CASE NOS. CEN-T-17-01
INC. DBA CENTURYLINK AND) CGS-T-17-01
CENTURYTEL OF IDAHO, INC. DBA)
CENTURYLINK FOR APPROVAL OF A)
RESALE AGREEMENT WITH LEVEL 3)
COMMUNICATIONS, LLC PURSUANT TO) ORDER NO. 33798
47 U.S.C. § 252(e).)

On June 12, 2017, CenturyTel of the Gem State, Inc. dba CenturyLink and CenturyTel of Idaho, Inc. dba CenturyLink (“Applicants”) applied to the Commission for an Order approving their Resale Agreement (“Agreement”) with Level 3 Communications, LLC (“Level 3”). With this Order, the Commission approves the Agreement.

BACKGROUND

Under the provisions of the federal Telecommunications Act of 1996, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission may reject an agreement adopted by negotiations only if it finds that the agreement: (1) discriminates against a telecommunications carrier not a party to the agreement; or (2) implementation of the agreement is not consistent with the public interest, convenience and necessity. 47 U.S.C. § 252(e)(2)(A). As the Commission noted in Order No. 28427, companies voluntarily entering into interconnection agreements “may negotiate terms, prices and conditions that do not comply with either the FCC rules or with the provision of Section 251(b) or (c).” Order No. 28427 at 11 (emphasis in original). This comports with the FCC’s statement that “a state commission shall have authority to approve an interconnection agreement adopted by negotiation even if the terms of the agreement do not comply with the requirements of [Part 51].” 47 C.F.R. § 51.3.

THE APPLICATION

The Applicants asked the Commission to approve its proposed Agreement with Level 3. The Applicants state that the proposed Agreement was voluntarily negotiated and establishes terms and conditions, ancillary services, and pricing for resale of services.

STAFF RECOMMENDATION

Staff reviewed the Application and Agreement and believes the terms and conditions are not discriminatory or contrary to the public interest. Staff also believes the Agreement is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff recommended that the Commission approve the Agreement.

COMMISSION DECISION

Under the terms of the Telecommunications Act, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission's review is limited. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement or implementation of the agreement is not consistent with the public interest, convenience and necessity. *Id.*

Based upon our review of the Application, Resale Agreement and Staff's recommendation, the Commission finds that the Resale Agreement is consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that the Resale Agreement at issue should be approved. Our approval does not negate either party's responsibility to obtain a Certificate of Public Convenience and Necessity if they offer local exchange services, or to comply with *Idaho Code* §§ 62-604 and 62-606 if they provide other non-basic local telecommunications services as defined by *Idaho Code* § 62-603.

ORDER

IT IS HEREBY ORDERED that the Agreement between CenturyTel of the Gem State, Inc. dba CenturyLink, CenturyTel of Idaho, Inc. dba CenturyLink and Level 3 Communications, LLC, Case Nos. CEN-T-17-01 and CGS-T-17-01, is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* §§ 61-626 and 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *22nd*
day of June 2017.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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