DECISION MEMORANDUM

TO: COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSIONER KEMPTON
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: CAROLEE HALL

DATE: OCTOBER 30, 2007

RE: APPLICATION FOR APPROVAL OF NEGOTIATED AGREEMENT BETWEEN ALBION TELEPHONE COMPANY, INC. ("ALBION") AND VERIZON WIRELESS ("VERIZON"). CASE NO. ALB-T-07-04.

BACKGROUND

Under the provision 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.

CURRENT APPLICATION

The Agreement between Albion and Verizon in Case No. ALB-T-07-04 was filed October 23, 2007. The Company states that this is an Application for approval of a "Negotiated Agreement". The Company also sets out in its Recital that Albion "is entitled to maintain that it is a rural telephone company and that by entering into this Agreement, it is not waiving its right to maintain that it is a rural telephone company and its right to maintain that it is exempt from 251(c) under 47 U.S.C. 251 (f) of the Act. The Agreement states that it was jointly entered into by the parties through voluntary negotiations and sets out rates, terms and conditions pertaining to Reciprocal Compensation.

Reciprocal Compensation, as set forth in the Agreement, is defined as a compensation arrangement between two carriers in which each of the two carriers receives compensation from the other carrier for the Transport and Termination on each carrier's network facilities of Telecommunications Traffic that originates on the network facilities of the other carrier. 47 C.F.R. § 51.07 (E).

STAFF ANALYSIS

Staff has reviewed the Application and while they have no effect on Staff's ultimate recommendation for approval of this Agreement, there are two points Staff makes concerning its recommendation. First, Albion makes a point of not referring to this as an interconnection agreement. This agreement sets forth the terms, conditions and rates under which Albion and Verizon will exchange traffic. Although Staff hesitates to argue semantics, this constitutes an interconnection agreement regardless of what the companies choose to call it.

Secondly, the agreement "acknowledges that Albion is entitled to maintain that it is a rural telephone company (as defined in 47 U.S.C. 153) as provided by 47 U.S.C. 251(f) of the Act." Staff does not consider this statement binding or establishing precedence. Such a determination will be made when this is a claim for a rural exemption in accordance with Section 251(f) of the Act.

Staff does, however, find that this Agreement is consistent with the public interest as identified in the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the Agreement merits the Commission's approval.

COMMISSION DECISION

Does the Commission wish to accept and approve this Interconnection Agreement?

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