

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF QWEST |) | CASE NO. QWE-T-21-08 |
| CORPORATION DBA CENTURYLINK QC'S |) | |
| APPLICATION FOR APPROVAL OF AN |) | ORDER NO. 34949 |
| AMENDMENT TO INTERCONNECTION |) | |
| AGREEMENT WITH AIRUS, INC. |) | |
| PURSUANT TO 47 U.S.C. §252(e) |) | |

On February 5, 2021, Qwest Corporation dba CenturyLink QC (“CenturyLink”) applied for Commission approval of an amendment (“Amendment”) to its Interconnection Agreement (“Agreement”) with Airus, Inc. (“Airus”). The Amendment allows Airus to offer transiting services to telecommunication carriers and exchange that transited traffic with CenturyLink (“Amended Agreement”). With this Order, the Commission approves the Amended Agreement.

BACKGROUND

Under the federal Telecommunications Act of 1996, interconnection agreements, including any amendments to them, 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 Federal Communications Commission (“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 regulation 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

In its Application, CenturyLink asked the Commission to approve the Amendment to its Agreement with Airus. The Commission approved the Agreement on June 5, 2015. Order No. 33315. The Application states the parties entered into the Amended Agreement through voluntary negotiations without resort to mediation or arbitration. In this Application, CenturyLink requests

the Commission approve the Amended Agreement, which adds terms under which Airus exchanges transited traffic with CenturyLink.

STAFF RECOMMENDATION

Commission Staff reviewed the Application and believes the Amendment is not discriminatory or contrary to the public interest. Staff also believes the Amendment is consistent with the pro-competitive policies of this Commission, Title 62 of the Idaho Code, and the federal Telecommunications Act. Accordingly, Staff recommended that the Commission approve the Application.

COMMISSION DECISION

Under 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 its review of the record, the Commission finds that the Amended Agreement is consistent with the public interest, convenience and necessity and does not discriminate. The Commission thus finds it reasonable to grant the Application and approve the Amended Agreement. The Commission's approval of the Amended Agreement 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 Application is granted, and the Amendment is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date upon this Order regarding any matter decided in 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 8th day of March 2021.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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