

IN THE MATTER OF THE JOINT)
APPLICATION OF QWEST CORPORATION) CASE NO. QWE-T-03-18
AND IDACOMM, INC. FOR APPROVAL OF)
AN AMENDMENT TO AN)
INTERCONNECTION AGREEMENT)
PURSUANT TO 47 U.S.C. §252(e))

In these cases the Commission is asked to approve amendments to existing interconnection agreements. With this Order the amendments are approved.

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 CURRENT APPLICATIONS

In these cases the Commission is asked to approve amendments to existing interconnection agreements. According to the filings, the amendments are a result of regulatory uncertainty in light of the D.C. Circuit Court’s decision in *United States Telecom Association v. FCC*, 359 F3d 554 (2004). The filings address arrangement of the continued availability of Qwest services that are technically and functionally equivalent to the June 14, 2004 UNE-P arrangements. All amendments remove UNE-P from the existing agreements and incorporate both the implementation of Batch Hot Cut process and rate discounts.

1. Qwest Corporation and AT&T Communications of the Mountain States, Inc. (Case No. QWE-T-04-09). Amends the existing interconnection agreement approved by the

Commission on June 22, 2004. This filing includes Batch Hot Cut installations, but not the rate discounts.

2. Qwest Corporation and 1-800 Reconex (Case No. QWE-T-04-12). Amends the existing interconnection agreement approved by the Commission on June 22, 2004.

3. Qwest Corporation and Preferred Carrier Services, Inc. dba Phones for All (Case No. QWE-T-01-15). Amends the existing interconnection agreement approved by the Commission on August 22, 2004.

4. Qwest Corporation and Eschelon Telecom, Inc. (Case No. QWE-T-00-13). Amends the existing interconnection agreement approved by the Commission on November 20, 2000.

5. Qwest Corporation and Integra Telecom of Idaho, Inc. (Case No. USW-T-00-5). Amends the existing interconnection agreement approved by the Commission on June 22, 2004.

6. Qwest Corporation and McLeodUSA Telecommunications Services, Inc. (Case No. QWE-T-00-7). Amends the existing interconnection agreement approved by the Commission on November 13, 2000.

7. Qwest Corporation and IDACOMM, Inc. (Case No. QWE-T-03-18). Amends the existing interconnection agreement approved by the Commission on August 28, 2003.

STAFF RECOMMENDATION

Commission Staff has reviewed the Applications and does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes that these Agreements are consistent with the recent FCC Orders and the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff recommended Commission approval of the Amendments.

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, however. 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 Applications and the Staff's recommendation, the Commission finds that the agreements are consistent with the public

interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the agreements should be approved. However, approval of these agreements does not negate the responsibility of either of the parties to these agreements to obtain a Certificate of Public Convenience and Necessity if they are offering local exchange services or to comply with *Idaho Code* §§ 62-604 and 62-606 if they are providing other non-basic local telecommunications services as defined by *Idaho Code* § 62-603.

O R D E R

IT IS HEREBY ORDERED that the amended interconnection agreement between Qwest Corporation and AT&T Communications of the Mountain States, Inc., Case No. QWE-T-04-9, is approved.

IT IS FURTHER ORDERED that the amended interconnection agreement between Qwest Corporation and 1-800 Reconex, Case No. QWE-T-04-12, is approved.

IT IS FURTHER ORDERED that the adopted and amended interconnection agreement between Qwest Corporation and Preferred Carrier Services, Inc. dba Phones for All, Case No. QWE-T-01-15, is approved.

IT IS FURTHER ORDERED that the amended interconnection agreement between Qwest Corporation and Eschelon Telecom, Inc., Case No. QWE-T-00-13, is approved.

IT IS FURTHER ORDERED that the amended interconnection agreement between Qwest Corporation and Integra Telecom of Idaho, Inc., Case No. USW-T-00-5, is approved.

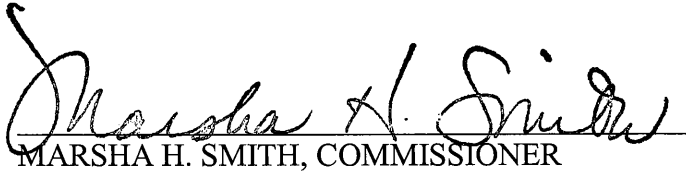
IT IS FURTHER ORDERED that the amended interconnection agreement between Qwest Corporation and McLeodUSA Telecommunications Services, Inc., Case No. QWE-T-00-7, is approved.

IT IS FURTHER ORDERED that the amended interconnection agreement between Qwest Corporation and IDACOMM, Inc., Case No. QWE-T-03-18, 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.

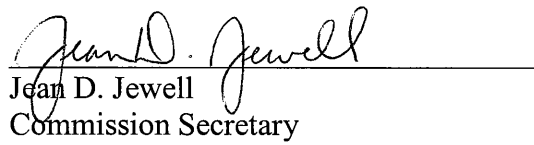
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4th
day of March 2005.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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