

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF QWEST CORPORATION FOR ) CASE NO. QWE-T-09-07  
APPROVAL OF ITS INTERCONNECTION )  
AGREEMENT WITH VIRTUAL NETWORK )  
SOLUTIONS, INC. PURSUANT TO 47 U.S.C. )  
§ 252(e) )**

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**IN THE MATTER OF THE APPLICATION )  
OF QWEST CORPORATION FOR ) CASE NO. QWE-T-00-07  
APPROVAL OF AN AMENDMENT TO ITS )  
INTERCONNECTION AGREEMENT WITH )  
MCLEODUSA TELECOMMUNICATIONS )  
SERVICES, INC. PURSUANT TO 47 U.S.C. § ) ORDER NO. 30792  
252(e) )**

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In these cases, the Commission is asked to approve a new Interconnection Agreement and an amendment to an existing Interconnection Agreement. With this Order the Commission approves the Agreements.

**BACKGROUND**

Under the provisions of the federal Telecommunications Act of 1996, interconnection agreements, including amendments thereto, 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 APPLICATIONS

### 1. Qwest Corporation and Virtual Network Solutions, Inc., Case No. QWE-T-09-07.

On April 17, 2009, Qwest submitted an Application for approval of its Interconnection Agreement with Virtual Network. The Agreement sets forth the relevant terms, conditions and pricing under which Qwest will provide network interconnection and access to its unbundled network elements to Virtual Network. The Agreement also includes certain other ancillary services in attached Exhibits A, B, and K. Exhibit A lists the wholesale rates; Exhibit B describes the service performance indicators and Exhibit K recites Qwest's Performance Assurance Plan. In Section 9.2.6 – Change Management, the Agreement details a process wherein the parties agree to conform to industry guidelines, standards and practices to address Qwest's OSS products and processes.

The parties assert that the Agreement was reached through voluntary negotiations and without resorting to mediation or arbitration.

2. Qwest Corporation and McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services, Case No. QWE-T-00-07. On April 9, 2009, Qwest filed an Application seeking to amend its Interconnection Agreement with McLeodUSA which was previously approved by the Commission on November 9, 2000. *See* Order No. 28565. The amended Agreement seeks to incorporate specified rate elements pertaining to Collocation, engineering and installation labor into the parties' existing Agreement. The rate elements are listed in Attachment 1 and Exhibit A of the Application.

The Application states that the amended Agreement was reached through voluntary negotiations.

## STAFF RECOMMENDATION

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 the Interconnection Agreement and Amendment are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff recommended that the Commission approve the foregoing Agreements.

## COMMISSION DECISION

Under the terms of the Telecommunications Act, interconnection agreements, including amendments thereto, 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 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. Approval of these Agreements does not negate the responsibility of either party 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.

### **ORDER**

IT IS HEREBY ORDERED that the Interconnection Agreement between Qwest Corporation and Virtual Network Solutions, Inc., Case No. QWE-T-09-07, is approved.

IT IS FURTHER ORDERED that amendment to the Interconnection Agreement between Qwest Corporation and McLeodUSA Telecommunications Services, Inc. dba PAETEC Business Services, Case No. QWE-T-00-07, 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 5<sup>th</sup>  
day of May 2009.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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