

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: CAROLEE HALL

DATE: OCTOBER 20, 2006

RE: JOINT APPLICATION BETWEEN QWEST CORPORATION (“QWEST”) AND BG ENTERPRISES, INC., FOR APPROVAL TO AMEND THE INTERCONNECTION AGREEMENT BETWEEN THE COMPANIES; CASE NO. QWE-T-01-23.

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

Qwest and BG Enterprises submitted a joint Application for approval to amend their Interconnection Agreement, which was approved by the Idaho Public Utilities Commission on December 18, 2001.

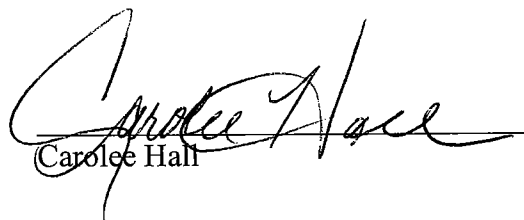
The amendment to the Interconnection Agreement states that the parties are jointly filing and that this amendment was reached through voluntary negotiations without resort to mediation. This is an amendment to the resale agreement between Qwest and BG Enterprises, Inc. The agreement amends the terms and conditions for Qwest Digital Subscriber Line (Qwest DSL), as set forth in Attachment 1 and Exhibit A, attached and incorporated into this filing.

STAFF ANALYSIS AND RECOMMENDATION

Staff has reviewed the Application and Agreement and does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes that the Agreement and Amendment are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the Agreement and Amendment merit the Commission's approval.

COMMISSION DECISION

Does the Commission agree?



Carolee Hall

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