

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 recently 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 provisions of Section 251(b) or (c).” Order No. 28427 at 11 (emphasis 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

The Commission has been asked to approve two new interconnection agreements and four amendments to existing interconnection agreements. These Applications are discussed in greater detail below.

1. Qwest Corporation and Covad Communications Company (Case No. USW-T-99-3). In this Application, the parties request that the Commission approve an amendment to an existing interconnection agreement. The amendment adds terms and conditions regarding CLEC maintenance of common area splitter collocations.

2. Qwest Corporation and Electric Lightwave, Inc. (Case No. USW-T-00-21). In this Application, the parties request that the Commission approve an amendment to an existing interconnection agreement. The amendment adds terms and rates regarding DC power reduction procedures.

3. Qwest Corporation and Excel Telecommunications, Inc. (Case No. QWE-T-02-12). In this Application, the parties request that the Commission approve an amendment to an existing interconnection agreement. The amendment adds terms and rates regarding Qwest DSL with UNE-P.

4. Verizon Northwest Inc. and AIRPEAK Communications LLP (Case No. VZN-T-04-4). In this Application, the parties request that the Commission approve an interconnection agreement. AIRPEAK has elected to adopt the Nextel West/Verizon agreement.

5. Verizon Northwest Inc. and Northwest Telephone, Inc. (Case No. VZN-T-04-5). In this Application, the parties request that the Commission approve an interconnection agreement. The terms are similar to those already approved by this Commission. This agreement also contains an amendment addressing terms specified by the Federal Communications Commission in the Triennial Review Order (TRO).

6. Qwest Corporation and XO Idaho, Inc. (Case No. QWE-T-02-2). In this Application, the parties request that the Commission approve an amendment to an existing interconnection agreement. The amendment adds terms and rates regarding various network elements.

STAFF RECOMMENDATION

The Staff has reviewed these Applications and did not find any terms and conditions to be discriminatory or contrary to the public interest. Staff believes that these new agreements and amendments to interconnection agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff believes that the Applications merit the Commission's approval.

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, the Staff's recommendation and on the fact no other person commented on these Applications, the Commission finds that the new interconnection agreements and amendments to previously approved interconnection agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that these Applications should be approved. However, approval of these agreements and amendments does not negate the requirement that the parties to them must obtain a Certificate of Public Convenience and

Necessity if they are offering local exchange services or complying 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 new interconnection agreements and amendments to interconnection agreements discussed above are approved. Terms of the agreements that are not already in effect shall be effective as of the date of this Order.

IT IS FURTHER ORDERED that the amendment to a previously approved interconnection agreement between Qwest Corporation and Covad Communications Company, Case No. USW-T-99-3, is approved.

IT IS FURTHER ORDERED that the amendment to a previously approved interconnection agreement between Qwest Corporation and Electric Lightwave, Inc., Case No. USW-T-00-21, is approved.

IT IS FURTHER ORDERED that the amendment to a previously approved interconnection agreement between Qwest Corporation and Excel Telecommunications, Inc., Case No. QWE-T-02-12, is approved.

IT IS FURTHER ORDERED that the new interconnection agreement between Verizon Northwest Inc. and AIRPEAK Communications LLP, Case No. VZN-T-04-4, is approved.

IT IS FURTHER ORDERED that the new interconnection agreement between Verizon Northwest Inc. and Northwest Telephone, Inc., Case No. VZN-T-04-5, is approved.

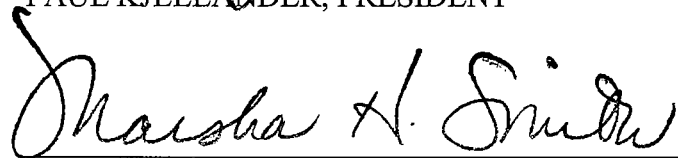
IT IS FURTHER ORDERED that the amendment to a previously approved interconnection agreement between Qwest Corporation and XO Idaho, Inc., Case No. QWE-T-02-2, is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in the Case Nos. USW-T-99-3, USW-T-00-21, QWE-T-02-12, VZN-T-04-4, VZN-T-04-5 and QWE-T-02-2 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in these cases. 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 15th
day of April 2004.



PAUL KJELLANDER, PRESIDENT

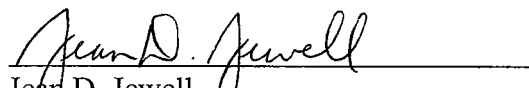


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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