

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT)
APPLICATION OF QWEST CORPORATION) CASE NO. QWE-T-02-22
AND MCIMETRO ACCESS TRANSMISSION)
SERVICES LLC FOR APPROVAL OF A)
WIRELINE INTERCONNECTION) ORDER NO. 29580
AGREEMENT PURSUANT TO 47 U.S.C. §)
252(e).)**

In this case MCImetro Transmission Services LLC and Qwest Corporation ask the Commission to approve an amendment to a previously approved interconnection agreement between the parties. In this Order the Commission approves the Application.

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.

THE CURRENT APPLICATION

The joint Application by Qwest and MCImetro seeks approval to amend the existing interconnection agreement approved by the Commission on November 21, 2002. The amendment adds terms and conditions that are included in a Master Service Agreement filed by both Qwest and MCImetro during August 2004.

STAFF RECOMMENDATION

The Staff has reviewed the Application and did not find any terms and conditions to be discriminatory or contrary to the public interest. Staff believes that this amendment to a previously approved interconnection agreement is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff believes that the Application merits 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 Application, and the Staff's recommendation, the Commission finds that the amendment is consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that this Application should be approved. However, approval of this amendment does not negate the responsibility of either of the parties to this agreement 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 amendment to the interconnection agreement between Qwest Corporation and MCImetro, Case No. QWE-T-02-22, as discussed above, is approved. Terms of the agreement that are not already in effect shall be effective as of the date of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) issued in this Case No. QWE-T-02-22 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 issued in this Case No. QWE-T-02-22. 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.

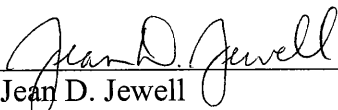
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 2nd
day of September 2004.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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