

DECISION MEMORANDUM

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

FROM: DOUG COOLEY

DATE: AUGUST 25, 2004

**RE: STAFF REVIEW OF INTERCONNECTION AGREEMENTS;
CASE NOS. QWE-T-02-22 AND VZN-T-04-09.**

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 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 with 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 one interconnection agreement and one amendment to an existing interconnection agreement. The items are discussed in greater detail below.

1. Verizon Northwest Inc. and Verizon Avenue Corp. (Case No. VZN-T-04-09). In this Application, the parties request that the Commission approve an agreement similar to other agreements entered into by Verizon Northwest. The agreement also includes Amendment #1 which reflects TRO implementation.

2. Qwest Corporation and MCImetro Access Transmission Services LLC (Case No. QWE-T-02-22). In this case, the parties request that the Commission approve an amendment to an existing agreement. With this filing, the parties add terms and conditions that are included in a Master Service Agreement filed by both Qwest and MCImetro during August 2004.

STAFF ANALYSIS

Staff has reviewed the Applications and did not find that any terms or conditions are discriminatory or contrary to the public interest. Staff believes that the agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff believes that the agreements merit the Commission's approval. Although Staff believes the Qwest / MCI amendment should be approved, this does raise the issue of what filing requirements apply to the Master Service Agreement. Nationally, there has been debate regarding appropriate filing requirements and Staff recommends that the Commission issue a Notice that this Master Service Agreement has been filed in Idaho and seek comments regarding its regulatory treatment.

COMMISSION DECISION

Does the Commission approve the Application for interconnection and amendment to existing interconnection agreements?

Does the Commission wish to issue a Notice and establish a comment period regarding the Master Service Agreement between Qwest and MCImetro?



Doug Cooley

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