

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

|  |   |                             |
|--|---|-----------------------------|
| <b>IN THE MATTER OF THE APPLICATION</b>    | ) |                             |
| <b>OF QWEST CORPORATION FOR</b>            | ) | <b>CASE NO. QWE-T-02-01</b> |
| <b>APPROVAL OF AMENDMENTS TO ITS</b>       | ) |                             |
| <b>INTERCONNECTION AGREEMENT WITH</b>      | ) |                             |
| <b>COMTEL TELCOM ASSETS, LP DBA</b>        | ) |                             |
| <b>EXCEL TELECOMMUNICATIONS AND</b>        | ) |                             |
| <b>VARTEC TELCOM PURSUANT TO 47 U.S.C.</b> | ) |                             |
| <b>§ 252(e)</b>                            | ) |                             |
| <hr/>                                      |   |                             |
| <b>IN THE MATTER OF THE APPLICATION</b>    | ) |                             |
| <b>OF QWEST CORPORATION FOR</b>            | ) | <b>CASE NO. QWE-T-04-09</b> |
| <b>APPROVAL OF AN AMENDMENT TO ITS</b>     | ) |                             |
| <b>INTERCONNECTION AGREEMENT WITH</b>      | ) |                             |
| <b>AT&amp;T COMMUNICATIONS OF THE</b>      | ) | <b>ORDER NO. 32208</b>      |
| <b>MOUNTAIN STATES, INC. PURSUANT TO</b>   | ) |                             |
| <b>47 U.S.C. § 252(e)</b>                  | ) |                             |

In these cases, the Commission is asked to approve amendments to separate Interconnection Agreements between Qwest Corporation and Comtel Telcom Assets, LP dba Excel Telecommunications and Vartec Telcom; and Qwest Corporation and AT&T Communications of the Mountain States, Inc. With this Order, the Commission approves the amendments to the parties' Interconnection 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 APPLICATION

1. Qwest Corporation and Comtel Telcom Assets, LP dba Excel Telecommunications and Vartec Telcom, Case No. QWE-T-02-01. On March 3, 2011, Qwest submitted dual Applications for approval of amendments to its Interconnection Agreement with Vartec and Excel. The parties’ original Interconnection Agreement was approved by the Commission on March 5, 2002. *See* Commission Order No. 28965. In this Application, the parties request that the Commission allow them to adopt Qwest’s Local Services Platform (QLSP) Agreement as part of their Interconnection Agreement. The QLSP sets out rates, terms and conditions for the companies to interconnect their services.

The parties request an expeditious approval process and maintain that the Agreement was reached through voluntary negotiations.

2. Qwest Corporation and AT&T Communications of the Mountain States, Inc., Case No. QWE-T-04-09. On March 3, 2011, the Commission received Qwest’s Application requesting authority to amend its Interconnection Agreement with AT&T. The parties original Interconnection Agreement was approved by the Commission on June 22, 2004. *See* Order No. 29530. The proposed amendment would adopt the QLSP Agreement as part of the parties’ Interconnection Agreement. The QLSP sets out rates, terms and conditions for the companies to interconnect their services.

The parties request an expeditious approval process and maintain that the Agreement was reached through voluntary negotiations.

### STAFF RECOMMENDATION

Staff reviewed the foregoing Applications and did not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes that the amendments to the Interconnection Agreements 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 proposed amendments to the parties’ Interconnection 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). However, the Commission's review is limited. 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 the Staff's recommendations, the Commission finds that the amendments to the Agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the amendments, reviewed by Staff and more fully described above, should be approved. Approval of the 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 amendments to the Interconnection Agreement between Qwest Corporation and Comtel Telecom Assets, LP dba Excel Telecommunications and Vartec Telecom, Case No. QWE-T-02-01, are approved.


IT IS FURTHER ORDERED that the amendment to the Interconnection Agreement between Qwest Corporation and AT&T Communications of the Mountain States, Inc., Case No. QWE-T-04-09, 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 21<sup>st</sup>  
day of March 2011.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

O:QWE-T-02-01\_QWE-T-04-09\_np