

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: CAROLEE HALL

DATE: MAY 3, 2010

RE: APPLICATION FOR APPROVAL TO AMEND AN INTERCONNECTION AGREEMENT BETWEEN QWEST CORPORATION (“QWEST”) AND ELTOPIA COMMUNICATIONS, LLC. (“ELTOPIA”); CASE NO. QWE-T-08-6.

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.

APPLICATION

On April 23, 2010, Qwest and Eltopia filed an Amendment to an Interconnection Agreement in Case No. QWE-T-08-6. The original Agreement was approved by this Commission on July 2, 2008. This Amendment states that the Agreement was reached through

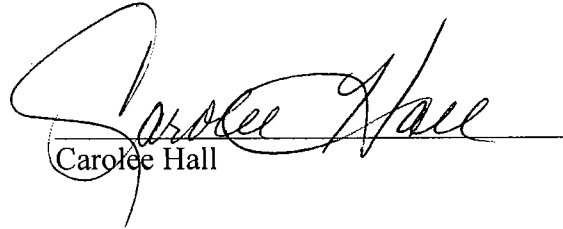
voluntary negotiations. The Amendment adds terms and conditions for Single Point of Presence (“SPOP”)¹ in the LATA, as set forth in the Attachments 1 and 2 of the Application. The Amendment also expressly sets out terms regarding American Recovery and Reinvestment Act language.

STAFF ANALYSIS

Staff has reviewed the Application 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 is consistent with the public interest as identified in the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the Agreement merits the Commission’s approval.

COMMISSION DECISION

Does the Commission wish to approve this Interconnection Agreement?



Carolee Hall

i:\udmemos\QWE-T-08-06 Qwest Corporation and Eltopia Communications, LLC - Amendment

¹ SPOP in the LATA is a Local Interconnection Service (LIS) Interconnection trunking option that allows the CLEC to establish one physical point of presence in the LATA in Qwest’s territory. Qwest and the CLEC may then exchange traffic at the CLEC’s SPOP.