

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: JANUARY 16, 2009

RE: FRETEL COMMUNICATIONS, LLC (“FRETEL”) APPLICATION FOR APPROVAL TO ADOPT THE INTERCONNECTION AGREEMENT BETWEEN QWEST CORPORATION (“QWEST”) AND 360NETWORKS (USA), INC. (“360”) IN CASE NO. QWE-T-09-01.

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.

BACKGROUND

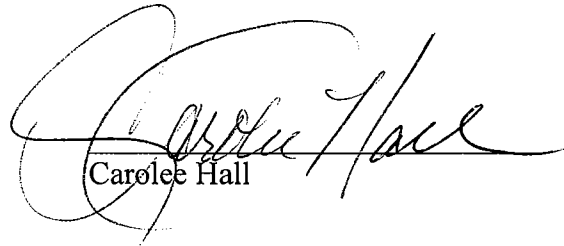
On January 13, 2009 an Application was filed on behalf of Qwest Corporation and Fretel Communications, LLC. The Application seeks Commission approval for Fretel to adopt the agreement between 360networks USA, Inc. and Qwest Corporation as approved by this Commission on March 7, 2006.

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 current filing in Case No. QWE-T-09-1 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 accept and approve the Interconnection Agreement for Case No. QWE-T-09-1?



Carolee Hall

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and 360networks Interconnection Agreement