

## DECISION MEMORANDUM

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

**FROM:** CAROLEE HALL

**DATE:** MAY 31, 2006

**RE:** APPLICATION FOR APPROVAL TO AMEND THE  
INTERCONNECTION AGREEMENT BETWEEN QWEST ("QWEST")  
AND FRETTEL COMMUNICATIONS, LLC ("FRETTEL");  
CASE NO. QWE-T-99-14.

### 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.

### CURRENT APPLICATION

The original Agreement between Qwest and Fretel was approved by this Commission on August 27, 1999. This amended Application seeks Commission approval for Qwest to change the terms and conditions for its Digital Subscriber Line (Qwest DSL) service as set forth in

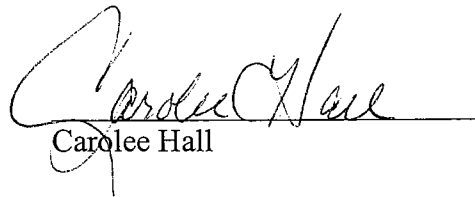
Attachment 1 incorporated with this filing. Both parties agree that this amendment will be deemed effective upon Commission approval and further agree that Qwest will implement any necessary billing changes within two (2) billing cycles after the latest execution date of this amendment.

#### **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 accept and approve this Interconnection Agreement?



Carolee Hall

chall/Interconnection Agreements/QWE-T-99-14 Qwest and Fretel.