

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE JOINT )  
APPLICATION OF VERIZON NORTHWEST ) CASE NO. VZN-T-04-11  
INC. AND AMERICAN FIBER NETWORK, )  
INC. FOR APPROVAL OF AN )  
INTERCONNECTION AGREEMENT )  
PURSUANT TO 47 U.S.C. §252(e) )  
 ) ORDER NO. 29650  
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In this case the Commission is asked to approve an amendment to an existing interconnection agreement.

**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 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 CURRENT APPLICATION**

On October 28, 2004, Verizon Northwest Inc. (Verizon) and American Fiber Network (AFN) filed Amendment No. 1 to an existing agreement between Verizon and AFN. The original agreement was set forth in a letter dated June 23, 2000, wherein AFN adopted the interconnection agreement between New Edge Network, Inc. and Verizon. Staff discovered that the Adoption letter and agreement had never been assigned a case number, nor had a final Order

been issued. Staff contacted the Company and requested copies of the adoption documents to complete the record, which the Company provided.

The current filing is an amendment to make changes to the interconnection agreement based on the Triennial Review Order (TRO) issued by the FCC. Some of the TRO elements that are being amended with this filing include: Dedicated Transport; Enterprise Switching; Entrance Facilities; Local Switching; Line Sharing; Mass Market; and other federally mandated TRO elements.

#### **STAFF RECOMMENDATION**

The Staff has reviewed the Application and did not find any terms or conditions to be discriminatory or contrary to the public interest. Staff believes that this Agreement is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the Federal Telecommunications Act of 1996. Accordingly, Staff believes that this Agreement merits the Commission's approval.

#### **COMMISSION DECISION**

Under the terms of the Telecommunications Act, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission's review is limited, however. 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 Application and the Staff's recommendation, the Commission finds that the agreement is consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that the agreement should be approved. However, approval of this agreement does not negate the responsibility of either of the parties 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 amended interconnection agreement of Verizon Northwest Inc. and American Fiber Network, Inc., Case No. VZN-T-04-11, is approved.

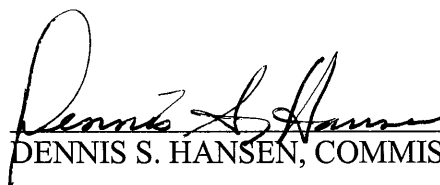
THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this /<sup>st</sup>  
day of December 2004.



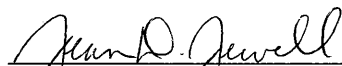
PAUL KJELLANDER, PRESIDENT

Out of the Office on this Date  
MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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