

DECISION MEMORANDUM

**TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

FROM: CAROLEE HALL

DATE: MAY 20, 2010

**RE: CASE NO. CEN-T-10-01 - APPLICATION FOR APPROVAL OF AN
INTERCONNECTION AGREEMENT BETWEEN CENTURYTEL OF
IDAHO, INC., dba CENTURYLINK OF IDAHO (“CENTURYLINK -
IDAHO”) AND BULLSEYE TELECOM, INC. (“BULLSEYE”)**

**CASE NO. CGS-T-10-01 - APPLICATION FOR APPROVAL OF AN
INTERCONNECTION AGREEMENT BETWEEN CENTURYTEL OF
THE GEM STATE, dba CENTURYLINK OF THE GEM STATE
 (“CENTURYLINK – GEM STATE”) AND BULLSEYE TELECOM, INC.
 (“BULLSEYE”)**

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

CenturyLink of Idaho and the Gem State filed an Interconnection Agreement with BullsEye Telecom, Inc. on May 5, 2010. Case No.'s CEN-T-10-01 and CGS-T-10-01 were assigned for Century Link of Idaho and CenturyLink of the Gem State, Inc., respectively.

The Agreements set forth the terms, conditions and pricing under which CenturyLink will provide certain Telecommunications Services to BullsEye for the purpose of delivering such services to customers of BullsEye.

The Application further states that CenturyLink is a "rural telephone company" as that term is defined in the Act, 47 U.S.C.153. Pursuant to Section 251 (f)(1) of the Act. CenturyLink goes on to indicate that it is exempt from Section 251 (c) of the Act and, that notwithstanding, the companies have entered into and accepted this Agreement for purposes of exchanging local traffic. CenturyLink further states that "execution of the Agreement does not in any way constitute a waiver or limitation of CenturyLink's rights under Section 251 (f)(1) or 251 (f)(2) of the Act" and that the Company, "expressly reserves the right to assert its right to an exemption or waiver and modification of Section 251 (c) of the Act, in response to other requests for interconnection by CLEC or any other carriers."

STAFF ANALYSIS

Staff has reviewed the Applications and CenturyLink's statements regarding its claim to rural exemptions pursuant to Section 251 (f)(1) or 251 (f)(2) of the Act. Staff does not consider this statement binding or establishing precedence. Such a determination will be made when this is a claim for a rural exemption in accordance with Section 251(f) of the Act. However, Staff's review of the interconnection agreements between the parties does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest.

Staff believes that the Agreements between CenturyLink – Idaho, CenturyLink - of the Gem State and BullsEye, 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 Agreements merit the Commission's approval.

COMMISSION DECISION

Does the Commission agree with Staff's Recommendation?



Carolee Hall

idmemos/interconnection agreements/CEN-T-10-01 CENTURYLINK of Idaho, CGS-T-10-01 CENTURYLINK of the Gem State, Inc. AND BullsEye Telecom, Inc.