

## DECISION MEMORANDUM

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

**FROM:** CAROLEE HALL

**DATE:** NOVEMBER 2, 2007

**RE:** APPLICATION OF CENTURYTEL OF THE GEM STATE, INC.,  
("CENTURYTEL") AND 360 NETWORKS (USA) INC., ("360  
NETWORKS") FOR APPROVAL OF A NEGOTIATED LOCAL  
INTERCONNECTION AGREEMENT. CASE NO. CGS-T-07-02.

### 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

CenturyTel of the Gem State, Inc., and 360networks (USA) inc., filed Case No. CGS-T-07-2 on October 29, 2007. The Application states that the parties have mutually agreed, through voluntary negotiations, to interconnect their networks thereby providing customers with

increased choices among local telecommunications services. The Agreement sets forth the terms, conditions and pricing under which CenturyTel will offer and provide to 360networks, interconnection facilities for the purpose of delivering telecommunication services to customers. The Application further states that CenturyTel 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. CenturyTel 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. CenturyTel further states that "execution of the Agreement does not in any way constitute a waiver or limitation of CenturyTel'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 Application and CenturyTel'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 on accordance with Section 251(f) of the Act. However, Staff's review of the interconnection agreement 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 Agreement between CenturyTel of the Gem State, Inc., and 360networks (USA) inc., 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?

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Carolee Hall

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