DECISION MEMORANDUM

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

FROM: **CAROLEE HALL**

DATE: **AUGUST 20, 2009**

RE: **APPLICATION FOR APPROVAL OF NEGOTIATED AGREEMENT BETWEEN CUSTER TELEPHONE COOPERATIVE, INC. ("CUSTER") AND ALLTEL COMMUNICATIONS, LLC AND ID HOLDING, LLC (COLLECTIVELY, "ALLTEL") CASE NO. CUS-T-09-02.**

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

The Agreement between Custer and Alltel in Case No. CUS-T-09-02 was filed August 19, 2009, and states that it was jointly entered into by the parties through voluntary negotiations. This Agreement sets out rates, terms and conditions pertaining to traffic exchange and reciprocal compensation arrangements between the parties.

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

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