DECISION MEMORANDUM

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

FROM: **CAROLEE HALL**

DATE: **JUNE 22, 2012**

RE: **GTE-T-98-04 AMENDMENT NO. 1 FOR THE INTERCONNECTION AGREEMENT BETWEEN FRONTIER COMMUNICATIONS NORTHWEST INC. ("FRONTIER") AND CLARKS ELECTRONICS DBA CLARKS COMMUNICATIONS. ("CLARKS").**

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

On June 21, 2012 Frontier filed an amendment to its Interconnection Agreement with Clarks. This Agreement is being amended because on November 18, 2011, the Federal Communications Commission released its USF/ICC Transformation Order. *See* FCC 11-161.

In the order the FCC determined that the default intercarrier compensation methodology for all non-access telecommunications traffic exchanged between carriers and competitive Local Exchange Carriers will transition to bill and keep over the next six years. The FCC ordered that the companies begin the transition process on July 1, 2012. The amendment between the parties sets out rates, terms and conditions as prescribed by the FCC.

STAFF ANALYSIS

Staff has reviewed the amendment to the Agreement between Frontier and Clarks and finds it compatible with federal and state guidelines. Moreover, Staff believes that this filing is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff recommends approval.

COMMISSION DECISION

Does the Commission agree?

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i:udmemos/ interconnection agreements/GTE-T-98-4 Amendment No. 1 Frontier Communications Northwest Inc. and Clarks Communications