

## DECISION MEMORANDUM

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

**FROM:** CAROLEE HALL

**DATE:** SEPTEMBER 25, 2007

**RE:** APPLICATION OF TDS TELECOMMUNICATIONS CORPORATION (TDS) FOR APPROVAL OF A NEGOTIATED WIRELESS TRAFFIC EXCHANGE AGREEMENT WITH CRICKET COMMUNICATIONS, INC. ("CRICKET"). CASE NO. POT-T-07-1.

### 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

TDS and Cricket filed Case No. POT-T-07-1 on September 20, 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 TDS will offer and provide to Cricket, interconnection facilities for the purpose of delivering telecommunication services to customers.

### **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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Telecommunications Corp and Cricket Communications