

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )  
QWEST CORPORATION FOR APPROVAL ) CASE NO. QWE-T-00-07  
OF AN AMENDMENT TO ITS )  
INTERCONNECTION AGREEMENT WITH )  
MCLEODUSA TELECOMMUNICATIONS )  
SERVICES, LLC DBA PAETEC BUSINESS ) ORDER NO. 32218  
SERVICES PURSUANT TO 47 U.S.C. § 252(e) )**

In this case, the Commission is asked to approve an Amendment to the Interconnection Agreement between Qwest Corporation and McLeodUSA Telecommunications Services, LLC dba PAETEC Business Services. With this Order, the Commission approves the Amendment to the parties' Interconnection Agreement.

**BACKGROUND**

Under the provisions of the federal Telecommunications Act of 1996, interconnection agreements, including amendments thereto, 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.

**THE APPLICATION**

On March 23, 2011, the Commission received an Application from Qwest requesting authority to amend its Interconnection Agreement with McLeodUSA. The amended Agreement adds terms and conditions relating to xDSL Capable Loops, as set forth in Attachments 1-3 and Exhibit A attached to the filing. Specifically, Qwest will restore Asymmetric Digital Subscriber Line (“ADSL”) service and reverse changes previously made.

On February 9, 2011, this Commission received a copy of a confidential settlement agreement resolving a dispute between the parties regarding this xDSL and ADSL issue. The public version was redacted and a separate settlement agreement was submitted for Staff review.

In the Application, Qwest states that both parties request an expeditious approval process and assert that the Agreement was reached through voluntary negotiations and without resort to mediation or arbitration.

#### **STAFF RECOMMENDATION**

Staff 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 proposed Amendment to the parties' Interconnection Agreement is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff recommended that the Commission approve the Amendment to the Interconnection Agreement.

#### **COMMISSION DECISION**

Under the terms of the Telecommunications Act, interconnection agreements, including amendments thereto, must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission's review is limited, however. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement or implementation of the agreement is not consistent with the public interest, convenience and necessity. *Id.*

Based upon our review of the Application and the Staff's recommendation, the Commission finds that the Amendment to the parties' Interconnection Agreement is consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that the Amendment should be approved. Approval of an Amendment to an Interconnection Agreement does not negate the responsibility of either party to an Agreement to obtain a Certificate of Public Convenience and Necessity if they are offering local exchange services or to comply with *Idaho Code* §§ 62-604 and 62-606 if they are providing other non-basic local telecommunications services as defined by *Idaho Code* § 62-603.

**ORDER**

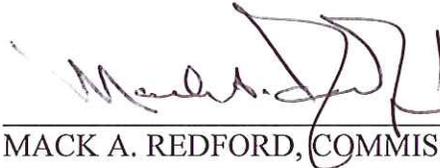
IT IS HEREBY ORDERED that the Amendment to the Interconnection Agreement between Qwest Corporation and McLeodUSA Telecommunications Services, LLC dba PAETEC Business Services, Case No. QWE-T-00-07, is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 5<sup>th</sup> day of April 2011.



PAUL KJELLANDER, PRESIDENT

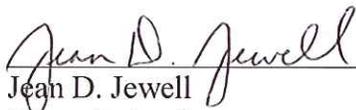


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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