

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: MARCH 23, 2011

RE: APPLICATION FOR APPROVAL TO AMEND THE
INTERCONNECTION AGREEMENT BETWEEN QWEST
CORPORATION (QWEST) AND MCLEODUSA
TELECOMMUNICATIONS SERVICES, INC. DBA PAETEC BUSINESS
SERVICES. CASE NO. QWE-T-00-7.

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 March 23, 2011, this Commission received an amended Interconnection Agreement between Qwest Corporation and McLeodUSA Telecommunications Services, Inc. dba PAETEC Business Services (“McLeodUSA”) in Case No. QWE-T-00-7.

This 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”), and reverse changes previously made.

On February 9, 2011, this Commission received 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.

The filing received on March 23, 2011, states that the terms of the Amendment were reached through voluntary negotiations without resort to mediation or arbitration. Staff believes the parties have resolved their differences and this matter can move forward.

STAFF ANALYSIS

Staff has reviewed the Application and finds that the amended Application does not appear to contain any terms or conditions that may be consider discriminatory or contrary to the public interest. Staff believes that the amended Agreement merits the Commission’s approval.

COMMISSION DECISION

Does the Commission agree?



Carolee Hall

i:udmemos/QWE-T-00-07 Qwest and McLeodUSA dba PAETEC Business Services