# DECISION MEMORANDUM

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

**FROM:** CAROLEE HALL

**DATE:** MARCH 7, 2011

**RE:** APPLICATION FOR APPROVAL OF AN AMENDMENT TO THE INTERCONNECTION AGREEMENT BETWEEN QWEST CORPORATION ("QWEST") AND COMTEL TELCOM DBA EXCEL TELECOMMUNICATIONS ("EXCEL") IN CASE NO. QWE-T-02-01.

## 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 3, 2011, this Commission received an Application from Qwest requesting authority to amend its Interconnection Agreement with Excel in Case No. QWE-T-02-01. The Agreement provides for the adoption of the Qwest Local Services Platform Agreement (QLSP).

The QLSP acts as an interconnection agreement between the parties and sets out rates, terms and conditions for the companies to interconnect their services.

As stated in the Application, both parties request an expeditious approval process and maintain that the Agreement was reached through voluntary negotiations.

**STAFF ANALYSIS**

Staff has reviewed the Application to amend the Interconnection Agreement between Qwest and Excel. Staff believes that the amendment meets the terms and conditions of this Commission and is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that merits the Commission's approval.

**COMMISSION DECISION**

Does the Commission agree?

Carolee Hall

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