

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: JUNE 23, 2009

RE: APPLICATION FOR APPROVAL TO AMEND AN INTERCONNECTION AGREEMENT BETWEEN QWEST CORPORATION (“QWEST”) AND LEVEL 3 COMMUNICATIONS, LLC. (“LEVEL 3”).
CASE NO. QWE-T-02-8.

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 17, 2009, this Commission received an amendment to the Interconnection Agreement that was originally approved by this Commission on May 22, 2002, in Case No. QWE-T-02-8. Since then there have been a number of amendments submitted and approved.

With this filing the companies are seeking approval to add terms and conditions that will modify 8XX Third Party Carrier traffic. As defined in Attachment 1 of the filing, "8XX Third Party Carrier" is a wireless telecommunications provider whose originating toll free traffic transits the CLEC's network and routes the traffic to an Interexchange Carrier (IXCs) served by Qwest. The Agreement also sets out provisions for billing and interconnecting for jointly provided switched access traffic.

According to the parties this Agreement was reached through voluntary negotiations without resort to mediation or arbitration.

STAFF ANALYSIS

Staff has reviewed the Amended Application and finds that it 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 Application is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and Sections 251, 252 and 271 of 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 the the Interconnection Agreement?


Carolee Hall

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