

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>JOSEPH B. McNEAL DBA PAGEDATA,</b>	)	
	)	<b>CASE NO. QWE-T-03-25</b>
<b>COMPLAINANT,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>QWEST CORPORATION, INC.,</b>	)	<b>ORDER NO. 30024</b>
	)	
<b>RESPONDENT.</b>	)	

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On October 31, 2003, PageData filed a Complaint with the Commission alleging that Qwest Corporation was not in compliance with the reciprocal compensation provisions of the parties' Interconnection Agreement. Qwest filed a response and PageData filed a subsequent reply and request for summary judgment. After a lengthy period of unsuccessful settlement negotiations, the Commission issued Order No. 29687 on January 19, 2005, dismissing the Complaint without prejudice. The Commission found that "the arbitration process is the first and foremost method for resolving disputes under the Interconnection Agreement." Order No. 29687 at 6. PageData's Petition for Reconsideration was denied on March 9, 2005. Order No. 29726.

On April 19, 2005, PageData filed a Notice of Appeal from Commission Order Nos. 29687 and 29726. The matter was briefed, argued, and submitted to the Idaho Supreme Court. On March 22, 2006, the Idaho Supreme Court issued its opinion in this case, *Joseph B. McNeal v. Idaho PUC*, \_\_\_ Idaho \_\_\_, \_\_\_ P.3d \_\_\_ (2006 WL 708911)(only the Westlaw citation is currently available). Although the Court affirmed the Commission's conclusion that the parties were required to utilize AAA arbitration to settle their dispute, the Court held that the Commission's final Order "should have been stayed rather than dismissed" without prejudice. Slip Op. at 6. The Court stated that the case "should be stayed pending the outcome of the arbitration which may include filing of the [arbitration] decision as an amendment to the interconnection agreement." *Id.* at 10. On April 19, 2006, the Commission received the Remittitur in this matter, issued by the Court on April 13, 2006, directing that the "Commission shall forthwith comply with the directive of the Opinion, if any action is required." Remittitur No. 31844 at 1.

## DISCUSSION

In compliance with the Court's directive, the Commission amends final Order No. 29687 in this proceeding. In particular, Order No 29687 shall be stayed "pending the outcome of the arbitration" between the parties. Pursuant to *Idaho Code* § 61-624, the Commission amends the first ordering paragraph in Order No. 29687 by deleting the last sentence ("Consequently, we dismiss PageData's Complaint without prejudice."). The Commission also deletes the second ordering paragraph on page 7 that designates Order No. 29687 as a final Order. Any party may advise the Commission of the outcome of arbitration.

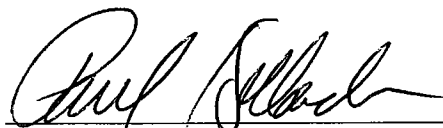
## ORDER

IT IS HEREBY ORDERED that Order No. 29687, issued January 19, 2005, is amended as set out above.

IT IS FURTHER ORDERED that subsequent proceedings in this case be STAYED pending the outcome of arbitration between /among the parties.

IT IS FURTHER ORDERED that the parties advise the Commission whether further Commission action is necessary after the arbitration proceeding has been completed.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 25<sup>th</sup> day of April 2006.



PAUL KJELLANDER, PRESIDENT

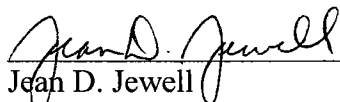


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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