

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF QWEST CORPORATION FOR) CASE NO. QWE-T-04-09
APPROVAL OF AN AMENDMENT TO ITS)
INTERCONNECTION AGREEMENT WITH)
AT&T COMMUNICATIONS OF THE)
MOUNTAIN STATES, INC. PURSUANT TO)
47 U.S.C. § 252(e))**

**IN THE MATTER OF THE APPLICATION)
OF QWEST CORPORATION FOR) CASE NO. QWE-T-08-06
APPROVAL OF AN AMENDMENT TO ITS)
INTERCONNECTION AGREEMENT WITH)
ELTOPIA COMMUNICATIONS, LLC) ORDER NO. 31079
PURSUANT TO 47 U.S.C. § 252(e))**

In these cases the Commission is asked to approve amendments to previously approved Interconnection Agreements. With this Order, the Commission approves these Agreements.

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

1. Qwest Corporation and AT&T Communications of the Mountain States, Inc., Case No. QWE-T-04-09. On April 2, 2010, Qwest submitted an Application to amend its Interconnection Agreement with AT&T. The parties' initial Agreement was approved by the Commission on June 22, 2004. *See* Order No. 29530. In this Application, the parties request that the Commission approve an amendment to incorporate certain language pertaining to Collocation Miscellaneous Labor Charges and Rates as set forth in Attachment 1 (description) and Exhibit A (rates) of Qwest's Application.

2. Qwest Corporation and Eltopia Communications, LLC, Case No. QWE-T-08-06. On April 23, 2010, Qwest and Eltopia filed an amendment to their Interconnection Agreement. Their original Agreement was approved by the Commission on July 2, 2008. *See* Order No. 30589. The amendment was reached through voluntary negotiations. The amendment adds terms and conditions for Single Point of Presence ("SPOP")¹ in the LATA, as set forth in Attachments 1 and 2 of Qwest's Application. The amendment also contains language pertaining to the CLEC's payment of "Services with funds obtained through the American Recovery and Reinvestment Act or other similar stimulus grants or loans. . . ."

STAFF RECOMMENDATION

Staff reviewed the parties' Applications and does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes that the amendments to the Agreements are 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 amendments to the Interconnection Agreements.

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). However, the Commission's review is limited. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a

¹ SPOP in the LATA is a Local Interconnection Service (LIS) interconnection trunking option that allows the CLEC to establish one physical point of presence in the LATA in Qwest's territory. Qwest and the CLEC may then exchange traffic at the CLEC's SPOP.

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 amendments to the Agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the amendments should be approved. Approval of the amendments does not negate the responsibility of either party to these Agreements 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 AT&T Communications of the Mountain States, Inc., Case No. QWE-T-04-09, is approved.

IT IS FURTHER ORDERED that the Amendment to the Interconnection Agreement between Qwest Corporation and Eltopia Communications, LLC, Case No. QWE-T-08-06, 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.

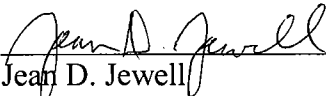
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 11th
day of May 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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