

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND COVAD) CASE NO. USW-T-99-3
COMMUNICATIONS COMPANY FOR)
APPROVAL OF AN AMENDMENT TO AN)
INTERCONNECTION AGREEMENT PURSUANT)
TO 47 U.S.C. § 252(e).)**

**IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND FRETTEL) CASE NO. USW-T-99-14
COMMUNICATIONS, LLC FOR APPROVAL OF)
AN AMENDMENT TO AN EXISTING WIRELINE)
INTERCONNECTION AGREEMENT PURSUANT)
TO 47 U.S.C. § 252(e).)**

**IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND ICG) CASE NO. QWE-T-02-3
TELECOM GROUP, INC. FOR APPROVAL OF)
AN AMENDMENT TO AN EXISTING WIRELINE)
INTERCONNECTION AGREEMENT PURSUANT)
TO 47 U.S.C. § 252(e).)**

**IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND CONTACT) CASE NO. QWE-T-03-3
COMMUNICATIONS, INC. FOR APPROVAL OF)
AMENDMENTS TO AN EXISTING WIRELINE)
INTERCONNECTION AGREEMENT PURSUANT)
TO 47 U.S.C. § 252(e).)**

**IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND SPRINT) CASE NO. QWE-T-04-1
COMMUNICATIONS COMPANY L.P. FOR)
APPROVAL OF AN AMENDMENT TO AN)
EXISTING WIRELINE INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e).)**

**IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND AT&T) CASE NO. QWE-T-04-9
COMMUNICATIONS OF THE MOUNTAIN)
STATES, INC. FOR APPROVAL OF AN)
INTERCONNECTION AGREEMENT PURSUANT) ORDER NO. 29530
TO 47 U.S.C. § 252(e).)**

IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND 1-800-) CASE NO. QWE-T-04-12
RECONEX, INC. DBA USTEL FOR APPROVAL)
OF AN INTERCONNECTION AGREEMENT)
PURSUANT TO 47 U.S.C. § 252(e).)
)

IN THE MATTER OF THE JOINT APPLICATION)
OF VERIZON NORTHWEST INC. AND VOLO) CASE NO. VZN-T-04-7
COMMUNICATIONS OF IDAHO, INC. FOR)
APPROVAL OF AN INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e).)
)

In these cases the Commission is asked to approve new interconnection agreements and amendments to previously approved interconnection agreements.

BACKGROUND

Under the provisions 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 recently 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 provisions of Section 251(b) or (c).” Order No. 28427 at 11 (emphasis 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 CURRENT APPLICATIONS

The Commission has been asked to approve two new interconnection agreements and two amendments to existing interconnection agreements. The new agreements and amendments are discussed in greater detail below.

1. Qwest Corporation and Covad Communications Company (Case No. USW-T-99-3). In this Application the parties request that the Commission approve an amendment to an existing interconnection agreement that provides terms and conditions for line sharing provided

on a commercial basis. Qwest and Covad have entered into a commercial agreement for Covad to purchase line sharing on a continuing basis.

2. Qwest Corporation and Fretel Communications, LLC (Case No. USW-T-99-14). This is an amendment to an existing interconnection agreement providing terms for local number portability.

3. Qwest Corporation and ICG Telecom Group, Inc. (Case No. QWE-T-02-3). This Application is for an amendment to update the interconnection agreement to reflect changes in regulatory requirements implemented in the Federal Communications Commission's (FCC) Triennial Review Order (TRO). This amendment identifies those TRO elements that were not delegated to states for further analysis.

4. Qwest Corporation and Contact Communications, Inc. (Case No. QWE-T-03-3). This case involves two separate amendments to an existing interconnection agreement regarding Collocation Available Inventory. The first amendment identifies general terms and conditions for such collocation inventory, while the second provides promotional rates for Collocation Available Inventory for a limited time period.

5. Qwest Corporation and Sprint Communications Company L.P. (Case No. QWE-T-04-1). This Application is for an amendment to an existing interconnection agreement providing terms for Qwest DSL provided with UNE-P.

6. Qwest Corporation and AT&T Communications of the Mountain States, Inc. (Case No. QWE-T-04-9). This Application requests approval of a new interconnection agreement (replacing a previous agreement). The new agreement is based upon voluntary negotiations between the parties. The terms and conditions generally appear to be similar to those available through Qwest's Statement of Generally Available Terms (SGAT).

7. Qwest Corporation and 1-800-RECONEX, Inc. dba USTel (Case No. QWE-T-04-12). This Application requests approval of an interconnection agreement. The agreement is based on Qwest's Third Revised Statement of Generally Available Terms (SGAT).

8. Verizon Northwest Inc. and VOLO Communications of Idaho (Case No. VZN-T-04-7). This Application requests approval of a new interconnection agreement. The agreement adopts the terms of a California Agreement between Sprint Communications Company L.P. and Verizon Northwest Inc.

STAFF RECOMMENDATION

The Staff has reviewed these Applications and did not find any terms and conditions to be discriminatory or contrary to the public interest. Staff believes that the new agreements and amendments to interconnection agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff believes that the Applications merit the Commission's approval.

The amendment to the Qwest-Covad Agreement (Case No. USW-T-99-3) is the result of negotiations between Qwest and Covad to provide Covad with access to line sharing on a commercial basis after line sharing is no longer available as an unbundled network element, due to the FCC Triennial Review Order (TRO). The submitted amendment allows Covad to obtain line sharing under this interconnection agreement, at the same terms as identified in the commercial basis agreement, until the TRO becomes effective and the commercial agreement is implemented. While Staff has no objections to the terms of this amendment, it does recognize that the issue of whether "commercial agreements" should be filed as interconnection agreements remains disputed across the country. Staff recommended that the Order approving this amendment clarify that the Commission's approval of this amendment does not in any way address the issues associated with the filing requirements of the Qwest-Covad commercial agreement.

COMMISSION DECISION

Under the terms of the Telecommunications Act, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252 (e)(1). The Commission's review is limited, however. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a 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 Applications, the Staff's recommendation and on the fact no other person commented on these Applications, the Commission finds that the new agreement and amendments to previously approved interconnection agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that these Applications should be approved. The Commission's approval of the amendment in Case No. USW-T-99-3 does not address the issues associated with the filing requirements of this "commercial agreement"

between Qwest and Covad. Approval of the new agreements and amendments to previously approved agreements does not negate the responsibility of any of the parties to these agreements to obtain a Certificate of Public Convenience and Necessity if they are offering local exchange services or complying 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 new interconnection agreements and amendments to interconnection agreements discussed above are approved. Terms of the agreements that are not already in effect shall be effective as of the date of this Order.

IT IS FURTHER ORDERED that the amendment to the interconnection agreement between Qwest Corporation and Covad Communications Company, Case No. USW-T-99-3, is approved.

IT IS FURTHER ORDERED that the amendment to the interconnection agreement between Qwest Corporation and Fretel Communications, LLC, Case No. USW-T-99-14, is approved.

IT IS FURTHER ORDERED that the amendment to the interconnection agreement between Qwest Corporation and ICG Telecom Group, Inc., Case No. QWE-T-02-3, is approved.

IT IS FURTHER ORDERED that the amendments to the interconnection agreement between Qwest Corporation and Contact Communications, Inc., Case No. QWE-T-03-3, are approved.

IT IS FURTHER ORDERED that the amendment to the interconnection agreement between Qwest Corporation and Sprint Communications L.P., Case No. QWE-T-04-1, is approved.


IT IS FURTHER ORDERED that the new interconnection agreement between Qwest Corporation and AT&T Communications of the Mountain States, Inc., Case No. QWE-T-04-9, is approved.

IT IS FURTHER ORDERED that the new interconnection agreement between Qwest Corporation and 1-800-RECONEX, Inc. dba USTel, Case No. QWE-T-04-12, is approved.

IT IS FURTHER ORDERED that the new interconnection agreement between Verizon Northwest Inc. and VOLO Communications of Idaho, Inc., Case No. VZN-T-04-7, is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in these Case Nos. USW-T-99-3, USW-T-99-14, QWE-T-03-2, QWE-T-03-3, QWE-T-04-1, QWE-T-04-9, QWE-T-04-12 and VZN-T-04-7 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in these cases. 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 22nd day of June 2004.



PAUL KJELLANDER, PRESIDENT

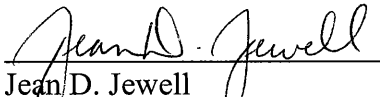


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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