

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT)
APPLICATION OF QWEST CORPORATION) CASE NO. QWE-T-04-13
AND ORBITCOM, 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) CASE NO. QWE-T-03-3
AND CONTACT COMMUNICATIONS, INC.)
FOR APPROVAL OF AN AMENDMENT TO)
AN EXISTING WIRELINE) ORDER NO. 29700
INTERCONNECTION AGREEMENT)
PURSUANT OT 47 U.S.C. § 252(e))**

The Commission is asked in these cases to approve amendments to existing interconnection agreements. In this Order the Commission approves the Applications.

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 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 CURRENT APPLICATIONS

1. Qwest and OrbitCom, Case No. QWE-T-04-13. In this filing the companies agree to eliminate the Unbundled Network Element Platform (UNE-P) and to implement Batch Hot Cut Process with discounts.

2. Qwest and Contact Communications, Case No. QWE-T-03-3. This Application and Agreement between the companies provides for limited time, promotional rates for Available Inventory Collocations on Available Inventory Sites, which are identified on Qwest's web site. This promotion is set to expire on March 31, 2005.

STAFF RECOMMENDATION

Staff has reviewed the Applications and did not find any terms or conditions to be discriminatory or contrary to the public interest. Staff believes that the amendments are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the amendments merit the Commission's approval.

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.* Additionally, 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); 47 C.F.R. § 51.3.

Based upon our review of the Applications and the Staff's recommendation, the Commission finds that the agreements are consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that the agreement should be approved. However, approval of these agreements does not negate the responsibility of either of the parties 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 amended interconnection agreement between Qwest Corporation and OrbitCom, Inc., Case No. QWE-T-04-13, as discussed above, is approved.

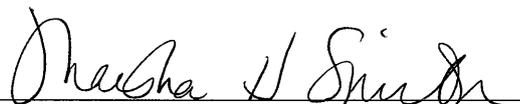
IT IS FURTHER ORDERED that the amended interconnection agreement between Qwest Corporation and Contact Communications, Inc., Case No. QWE-T-03-3, as discussed above, is approved.

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.

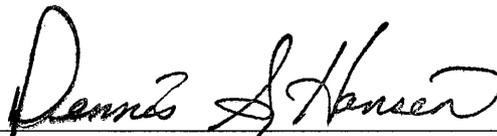
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of January 2005.



PAUL KJELLANDER, PRESIDENT

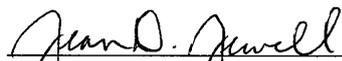


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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