

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION STAFF
LEGAL
WORKING FILE**

FROM: CAROLEE HALL

DATE: JANUARY 21, 2005

RE: QWEST CORPORATION (QWEST) AND ORBITCOM, INC. (CASE NO. QWE-T-04-13) APPLICATION FOR APPROVAL TO AMEND THEIR INTERCONNECTION AGREEMENT.

QWEST CORPORATION (QWEST) AND CONTACT COMMUNICATIONS, INC. FOR APPROVAL OF A WIRELINE INTERCONNECTION AGREEMENT IN CASE NO. QWE-T-03-3.

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

1. Qwest and OrbitCom's Agreement amend their Interconnection Agreement

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 Communication 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 ANALYSIS AND RECOMMENDATION

The Staff has reviewed the Application and Agreement 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 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

Does the Commission agree?



Carolee Hall

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