

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: CAROLEE HALL

DATE: JULY 3, 2007

RE: JOINT APPLICATION BETWEEN QWEST CORPORATION (QWEST)
AND COVISTA, INC. (COVISTA) FOR APPROVAL OF AMENDMENTS TO
THE INTERCONNECTION AGREEMENT BETWEEN THE COMPANIES.
CASE NO. QWE-T-04-14.

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

Qwest and Covista’s Application for Approval of the Amendment to the Interconnection Agreement (“Amendment”), which was approved by the Idaho Public Utilities Commission on July 8, 2004 (the “Agreement”). Case No. QWE-T-04-14.

The Application between Qwest and Covista states that the parties are jointly filing and that the Amendments were reached through voluntary negotiations without resort to mediation. The Amendments incorporate the Triennial Review Order (“TRO”) and the Triennial Review Remand Order (“TRRO”) into the Interconnection Agreement between the parties.

On February 4, 2005, the FCC released the *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand* (Triennial Review Remand Order)(FCC 04-290) (“TRRO”), effective March 11, 2005, which further modified the rules governing Qwest’s obligation to make certain UNEs available under Section 251 (c)(3) of the Act.

STAFF ANALYSIS AND RECOMMENDATION

Staff has reviewed the Application for the Amendment and does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes 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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