

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF QWEST CORPORATION DBA</b>	)	<b>CASE NO. QWE-T-05-14</b>
<b>CENTURYLINK QC FOR APPROVAL OF</b>	)	
<b>AMENDMENTS TO ITS</b>	)	
<b>INTERCONNECTION AGREEMENT WITH</b>	)	
<b>IONEX COMMUNICATIONS NORTH, INC.</b>	)	
<b>DBA BIRCH COMMUNICATIONS INC.</b>	)	
<b>PURSUANT TO 47 U.S.C. § 252(e)</b>	)	
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<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF QWEST CORPORATION DBA</b>	)	<b>CASE NO. QWE-T-04-19</b>
<b>CENTURYLINK QC FOR APPROVAL OF</b>	)	
<b>AMENDMENTS TO ITS</b>	)	
<b>INTERCONNECTION AGREEMENT WITH</b>	)	
<b>IONEX COMMUNICATIONS NORTH, INC.</b>	)	<b>ORDER NO. 33025</b>
<b>DBA BIRCH COMMUNICATIONS INC.</b>	)	
<b>PURSUANT TO 47 U.S.C. § 252(e)</b>	)	

In these cases, the Commission is asked to approve amendments to separate Interconnection Agreements between Qwest Corporation dba CenturyLink QC and Ionex Communications North, Inc. dba Birch Communications; and Qwest Corporation dba CenturyLink QC and Ionex Communications North, Inc. dba Birch Communications. With this Order, the Commission approves the amendments to the parties' Interconnection 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 APPLICATIONS**

1. Qwest Corporation dba CenturyLink QC and Ionex Communications North, Inc. dba Birch Communications, Case No. QWE-T-05-14. On March 26, 2014, the Commission received an Application from CenturyLink requesting approval of its CenturyLink Local Services Platform (CLSP) Agreement with Birch. According to the CLSP Agreement, certain services provided will be amended by CenturyLink. See Sections 109.23.2.1.1, 109.11.2 and 109.23.2, as attached to the Application. The parties request an expeditious approval of the Application and maintain that the amendments to the Agreement were reached through voluntary negotiations.

2. Qwest Corporation dba CenturyLink QC and Ionex Communications North, Inc. dba Birch Communications, Case No. QWE-04-19. On March 26, 2014, CenturyLink submitted an Application for Commission approval to amend the CenturyLink Local Services Platform (CLSP) Agreement with Ionex. This Agreement was formerly entered into with Lightyear Network Solutions, LLC and approved by the Commission on August 2, 2004. See Order No. 29559. Lightyear was later purchased by Ionex. This CLSP amendment modifies rates and extends the Agreement through December 31, 2016.

### **STAFF RECOMMENDATION**

Staff reviewed the Applications for approval of the aforementioned amendments to the parties’ Interconnection Agreements 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 recommended the Commission approve the amendments to the Interconnection Agreements.

### **COMMISSION FINDINGS**

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). 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 and Staff's recommendation, the Commission finds that the amendments to the parties' Interconnection Agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the Agreements, including amendments thereto, should be approved. Approval of an Interconnection Agreement does not negate the responsibility of either party to an Agreement 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.

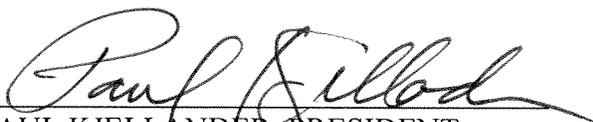
### **ORDER**

IT IS HEREBY ORDERED that the amendments to the Interconnection Agreement between Qwest Corporation dba CenturyLink QC and Ionex Communications North, Inc. dba Birch Communications, Case No. QWE-T-05-14, are approved.

IT IS FURTHER ORDERED that the amendments to the Interconnection Agreement between Qwest Corporation dba CenturyLink QC and Ionex Communications North, Inc. dba Birch Communications, Case No. QWE-T-04-19, are 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.

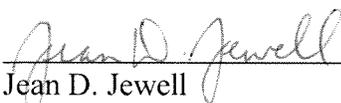
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22<sup>nd</sup>  
day of April 2014.

  
PAUL KJELLANDER, PRESIDENT

  
MACK A. REDFORD, COMMISSIONER

  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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