

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: JULY 22, 2004

RE: AGREEMENT BETWEEN LIGHTYEAR NETWORK SOLUTIONS, LLC
AND QWEST CORPORATION TO ADOPT QWEST'S STATEMENT OF
GENERALLY AVAILABLE TERMS ("SGAT") AND ASSOCIATED
EXHIBITS, FOR THE STATE OF IDAHO. COMMISSION CASE NO.
QWE-T-04-19.

BACKGROUND

Under the provisions of the Federal Telecommunications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"), Agreements reached through voluntary negotiations without resort to mediation or arbitration are submitted to the Commission for approval pursuant to Section 252(e) of the Act.

Section 252(e)(2) of the Act directs that a state Commission may reject an agreement reached through voluntary negotiations only if the Commission finds that: the agreement (or portion(s) thereof) discriminates against a telecommunications carrier not a party to this agreement; or the implementation of such an agreement (or portion) is not consistent with the public interest, convenience and necessity.

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 with Section 251(b) or (c)." Order No. 28427 at 11 (emphasis original). This is consistent with the FCC's statement that, "a state commission shall have authority to approve an interconnection agreement adopted by negotiations even if the terms of the agreement do not comply with the requirements of [Part 51]." 47 C.F.R. § 51.3.

THE SGAT AND EXHIBITS

The Commission has been asked to approve the adoption of the SGAT Agreement in the joint Application of Qwest Corporation and Lightyear Network Solutions, LLC ("Lightyear") pursuant to 47 U.S.C. § 252(E). The effective SGAT and corresponding exhibits being adopted herein are as follows:

SGAT	Statement of Generally Available Terms	dated 07/25/02
Exhibit A	Idaho Rates	dated 04/26/04
Exhibit B	Service Performance Indicators	dated 06/29/04
Exhibit B1	Manual Service Order Accuracy	dated 03/12/03
Exhibit C	Service Interval Tables	dated 05/24/02
Exhibit D	Qwest Right of Way, Pole Attachment and/or Inner duct Occupancy General Information Doc.	dated 05/24/02
Exhibit E	Vertical Switch Features for UNE Switching	dated 05/24/02
Exhibit F	Special Request Process	dated 05/24/02
Exhibit G	Change Management Process (CMP)	dated 05/24/02
Exhibit H	Reserved for Future Use	dated 05/24/02
Exhibit I	Individual Case Basis (ICB)	dated 05/24/02
Exhibit J	Election of Reciprocal Compensation Option	dated 05/24/02
Exhibit K	Performance Assurance Plan	dated 06/29/04
Exhibit L	Advice Adoption Letter	dated 05/24/02
Exhibit M	Interim Advice Adoption Letter	dated 05/24/02

STAFF ANALYSIS

Staff has reviewed the Application and believes the terms and conditions established in the SGAT are not discriminatory or contrary to the public interest. In addition Staff believes approval of the agreement and exhibits is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff recommends the Commission approve the Agreement to adopt the SGAT.

COMMISSION DECISION

Does the Commission wish to approve the Application to adopt the SGAT between Qwest Corporation and Lightyear?


CAROLEE HALL

u/chall/Adoption of SGATs/QWE-T-04-19 Lightyear Network Solutions, LLC and Qwest