

## DECISION MEMORANDUM

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

**FROM:** CAROLEE HALL

**DATE:** JANUARY 6, 2005

**RE:** APPLICATION FOR APPROVAL OF AMENDMENT TO THE  
INTERCONNECTION AGREEMENT BETWEEN QWEST  
CORPORATION (QWEST) AND TIME WARNER TELECOM OF  
IDAHO LLC (TIME WARNER); CASE NUMBER QWE-T-04-20.

### 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 Corporation and Time Warner. Case No. QWE-T-04-20 filed December 16, 2004. The Amendment jointly entered into between Qwest and Time Warner

provides for a limited time, promotional rates for Available Inventory Collocations on Available Inventory Sites. The promotional rates are to expire on March 31, 2005.

### **STAFF ANALYSIS**

Staff has reviewed the Application and does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes that the amendment is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the amendment merits the Commission's approval.

### **COMMISSION DECISION**

Does the Commission wish to accept and approve the amendment to the Interconnection Agreement?

  
Carolee Hall

i:\udmemos\adopting interconnection agreements\QWE-T-04-20 Time Warner