

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: NOVEMBER 7, 2005

**RE: QWEST CORPORATION (QWEST) AND NTCH-Idaho, Inc. ("NTCH")
APPLICATION FOR APPROVAL TO AMEND THEIR INTERCONNECTION
AGREEMENT. CASE NO. QWE-T-00-18.**

**QWEST CORPORATION (QWEST) AND TIME WARNER TELECOM OF
IDAHO LLC ("Time Warner") APPLICATION FOR APPROVAL
TO AMEND THEIR INTERCONNECTION AGREEMENT.
CASE NO. 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 and NTCH's Agreement to amend their Interconnection Agreement in Case No. QWE-T-00-18. The original Agreement was approved by the Idaho Public Utilities Commission on

January 26, 2001 (the "Agreement"). In this filing the Companies agree to incorporate the Triennial Review Order ("TRRO") into the Interconnection Agreement between the parties. To the extent applicable, the Agreement will eliminate certain Unbundled Network Elements ("UNEs") or add terms and conditions for certain UNEs as set forth in Attachment 1 with this filing.

2. Qwest and Time Warner's Agreement to amend their Interconnection Agreement in Case No. QWE-T-04-20. The original Agreement was approved by the Idaho Public Utilities Commission on August 2, 2004 (the "Agreement"). With this filing the Companies agree to incorporate the Triennial Review Order ("TRRO") into the Interconnection Agreement between the parties. To the extent applicable, the Agreement will eliminate certain Unbundled Network Elements ("UNEs") or add terms and conditions for certain UNEs as set forth in Attachment 1 and Exhibit A attached and incorporated with this filing.

STAFF ANALYSIS AND RECOMMENDATION

The Staff has reviewed the Applications and 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 believes that the amendments merit the Commission's approval.

COMMISSION DECISION

Does the Commission agree?



Carlee Hall

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