

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: APRIL 30, 2008

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

The original Interconnection Agreement between Qwest Corporation and Time Warner was filed in Case No. QWE-T-04-20 on August 2, 2004 and approved by this Commission in Order Number 29559.

This Amendment, filed on April 25, 2008, was jointly entered into between Qwest and Time Warner, and requests Commission approval to make changes to the terms and conditions attached as exhibits to the filing. Specifically, the rate changes reflected in Exhibit A are for Transit Traffic, Directory Assistance, Toll and assistance for Operator Services. Other terms that are being revised are for Dispute Resolution, Entrance Facilities and Direct Trunked Transport. See Sections 5.18, 7.3.1.1.3 and 7.3.2.2.1. According to the Amendment, this Agreement was reached through voluntary negotiations and will expire two years after the execution date. See Section 5.2.1.

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. Because the Agreement was reached through voluntary negotiations 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