

DECISION MEMORANDUM

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

FROM: GRACE SEAMAN

DATE: DECEMBER 9, 2004

RE: QWEST CORPORATION AND NORTHSTAR TELECOM, INC.
APPLICATION FOR APPROVAL TO ADOPT AT&T
COMMUNICATIONS OF THE MOUNTAIN STATES AGREEMENT;
CASE NO. QWE-T-04-26

BACKGROUND

Under the provisions 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 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 of Sections 251(b) or (c).” Order No. 82427 at 11 (emphasis 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 CURRENT APPLICATION

The Joint Application for Approval of Agreement between Qwest Corporation and Northstar Telecom, Inc. was filed on October 27, 2004. The Application seeks approval to adopt

AT&T Communications of the Mountain States' Agreement, Case No. QWE-T-04-9 approved on June 22, 2004.

STAFF ANALYSIS

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

COMMISSION DECISION

Does the Commission agree?


Grace Seaman
Grace Seaman

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