

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: DECEMBER 2, 2004

RE: QWEST CORPORATION (QWEST) AND MATRAEX, INC.
APPLICATION FOR APPROVAL OF AGREEMENT TO ADOPT THE
ORBITCOM AGREEMENT AND APPLICATION FOR AMENDMENT
OF INTERCONNECTION AGREEMENT; CASE NO. QWE-T-04-31.

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 Matraex Application to adopt OrbitCom’s Agreement and for amendments to Interconnection Agreements filed on November 9, 2004 in Case Number QWE-T-04-31. The Application states that “Matraex adopts the terms and conditions of the Underlying Agreement

for interconnection with Qwest and in applying the terms and conditions, agrees that Matreax, Inc. be substituted in place of 'Orbitcom, Inc.' throughout the Underlying Agreement wherever the latter appears."

The Application for Approval of Amendment to the interconnection Agreement between Qwest and Matraex indicates that the parties are jointly filing and that this Amendment was reached through voluntary negotiations without resort to mediation. Moreover, they state that the Agreement was reached pursuant to Section 252(e) of the Telecommunications Act.

STAFF ANALYSIS AND RECOMMENDATION

The Staff has reviewed the Application and Agreement and does not find any terms or conditions that it considers to be discriminatory or contrary to the public interest. Staff believes that the Agreement and Amendment 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 Agreement and Amendment merit the Commission's approval.

COMMISSION DECISION

Does the Commission agree?



Carolee Hall

u/chall/decision memos/adopting interconnection agreements/QWE-T-04-31 Matraex, Inc. and Qwest to Adopt Orbitcom.