

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: JULY 5, 2005

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

**QWEST CORPORATION (QWEST) AND AT&T COMMUNICATIONS
OF THE MOUNTAIN STATES, INC. ("AT&T") APPLICATION FOR
APPROVAL OF AMENDMENT TO THE INTERCONNECTION
AGREEMENT; CASE NO. QWE-T-04-09**

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(S)

1. **Qwest and Matraex Application to amend the interconnection agreement previously approved by this Commission on December 10, 2004 in Case No. QWE-T-04-31.**

This Amendment deletes certain UNEs and changes and/or adds terms and conditions for certain UNEs as set forth in Attachment 1 and Exhibit A attached to this filing. This Amendment also deletes and replaces in its entirety the Parties' Triennial Review Order/USTA II and was reached through voluntary negotiations without resort to mediation.

2. **Qwest and AT&T Communications of the Mountain States, Inc. ("AT&T") Application to Amend its Interconnection Agreement in Case No. QWE-T-04-09.**

The previous Application for Approval of Amendment to the Interconnection Agreement between the parties was approved by the Idaho Public Utilities Commission on June 22, 2005. This current filing seeks approval to add terms, conditions and rates for Expedites for Design Services as set forth in Attachment 1 and Exhibit A, to the Amendment, attached to the filing.

STAFF ANALYSIS AND RECOMMENDATION

The Staff has reviewed the above mentioned Applications 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 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 Agreements between Qwest and Matraex, Inc. and Qwest and AT&T merits the Commission's approval.

COMMISSION DECISION

Does the Commission wish to accept for filing the Amendments between Qwest and Matraex, Inc (Case No. QWE-T-04-31) as well as Qwest and AT&T (Case QWE-T-04-09)?


Carollee Hall

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