

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT PETITION)	
OF ROBERT RYDER DBA RADIO PAGING)	CASE NO. QWE-T-04-32
SERVICE AND JOSEPH B. McNEAL DBA)	
PAGEDATA FOR ARBITRATION OF AN)	
INTERCONNECTION AGREEMENT)	ORDER NO. 30011
DISPUTE.)	

In November 2004, Radio Paging Service and PageData (collectively referred to as “the Pagers”) filed a Petition for Arbitration against Qwest Corporation. The Pagers requested that the Commission arbitrate a dispute under their respective Interconnection Agreements with Qwest. In Order No. 29905 issued November 9, 2005, the Commission declined to arbitrate the dispute between the parties. The Commission found the respective Interconnection Agreements contain arbitration clauses which provide that any dispute between the parties shall be resolved through arbitration conducted by the American Arbitration Association (AAA). Order No. 29905 at 5. The Commission also recognized that this case is similar to the Pagers’ appeal in another case, QWE-T-03-25. In the 03-25 case, the Commission found that PageData’s Interconnection Agreement required PageData to take its disputes with Qwest to arbitration. Given the similarity of the two cases, the Commission found “there is good cause to stay the effective date of [the] final Order [in the 04-32 case] until the Supreme Court renders a decision, or until the case is dismissed” in the 03-25 appeal. Order No. 29905 at 6.

In March 2006 the Idaho Supreme Court issued its opinion in the 03-25 appeal, *Joseph B. McNeal v. Idaho PUC*, ____ Idaho ____, ____ P.3d ____ (2006 WL 708911). Although the Court affirmed the Commission’s decision that the parties should utilize AAA arbitration to settle their dispute, the Court held that the Commission’s final Order “should have been stayed rather than dismissed” without prejudice. Slip Op. at 6. The Court stated that the case “should be stayed pending the outcome of the arbitration which may include filing of the [arbitration] decision as an amendment to the interconnection agreement.” *Id.* at 10. The Court’s Remittitur was issued April 17, 2006.

DISCUSSION

In compliance with the Court’s directive, the Commission amends final Order No. 29905 in this proceeding. In particular, Order No. 29905 shall be stayed “pending the outcome

of the arbitration” between the parties. Pursuant to *Idaho Code* § 61-624, the Commission amends the first ordering paragraph in Order No. 29905 by deleting the last sentence (“we dismiss the Pagers’ Petition without prejudice”). The Commission also deletes the third ordering paragraph on pages 6-7 that designates Order No. 29905 as a final Order. Any party may advise the Commission of the outcome of arbitration.

ORDER

IT IS HEREBY ORDERED that Order No. 29905 issued November 9, 2005, is amended as set out above.

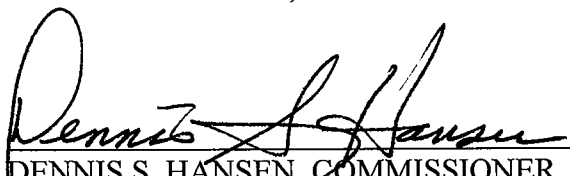
IT IS FURTHER ORDERED that subsequent proceedings in this case be STAYED pending the outcome of arbitration between/among the parties.

IT IS FURTHER ORDERED that the parties advise the Commission whether further Commission action is necessary after the arbitration proceeding has been completed.

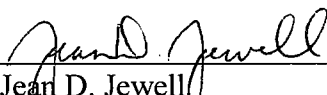
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 25th day of April 2006.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

bls/O:QWE-T-04-32_dh4