

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF QWEST CORPORATION AND DIECA) CASE NO. QWE-T-05-19
COMMUNICATIONS, INC. DBA COVAD)
COMMUNICATIONS COMPANY FOR)
APPROVAL OF AN AMENDMENT TO AN) ORDER NO. 30424
EXISTING INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. §)
252(e))

In this case the Commission is asked to approve an amendment to an existing and previously approved Interconnection Agreement between Qwest Corporation and Dieca Communications, Inc. dba Covad Communications Company. With this Order, the Commission approves the amendment to the Interconnection Agreement.

BACKGROUND

Under the provisions of the federal Telecommunications Act of 1996, interconnection agreements, including amendments thereto, 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.

THE CURRENT APPLICATION

In this Joint Application, the parties seek the Commission’s approval of an amendment to their interconnection agreement approved by the Commission on October 12, 2005. *See* Order No. 29889. The Application seeks to amend the original Agreement by adding terms, conditions and rates for Local Number Portability. The Application also states that the

parties reached an agreement to amend their Interconnection Agreement through voluntary negotiations and without mediation or arbitration.

STAFF RECOMMENDATION

The 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. Staff believes that the amendment is consistent with the pro-competitive policies of this Commission, Title 62 of the Idaho Code, and the federal Telecommunications Act. Accordingly, Staff recommended that the Commission approve the amendment to the existing Interconnection Agreement.

COMMISSION DECISION

Under the terms of the Telecommunications Act, interconnection agreements, including amendments thereto, must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission's review is limited, however. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement or implementation of the agreement is not consistent with the public interest, convenience and necessity. *Id.*

Based upon our review of the Application and the Staff's recommendation, the Commission finds that the amendment to the Interconnection Agreement is consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that the amendment should be approved. Approval of this Application does not negate the responsibility of either of the parties to this Agreement to obtain a Certificate of Public Convenience and Necessity (pursuant to Commission Order No. 26665) if they are offering local exchange services or to comply with *Idaho Code* §§ 62-604 and 62-606 if they are providing other non-basic local telecommunications services as defined by *Idaho Code* § 62-603.

ORDER

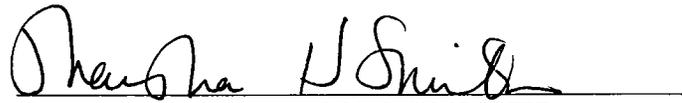
IT IS HEREBY ORDERED that the amendment to the Interconnection Agreement between Qwest Corporation and Dieca Communications, Inc. dba Covad Communications Company is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for

reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10th day of September 2007.


PAUL KJEILANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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