

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF QWEST CORPORATION FOR) CASE NO. QWE-T-05-21
APPROVAL OF AN AMENDMENT TO ITS)
INTERCONNECTION AGREEMENT WITH)
PROJECT MUTUAL TELEPHONE)
COOPERATIVE ASSOCIATION PURSUANT)
TO 47 U.S.C. § 252(e))**

**IN THE MATTER OF THE APPLICATION)
OF QWEST CORPORATION FOR) CASE NO. QWE-T-09-04
APPROVAL OF ITS INTERCONNECTION)
AGREEMENT WITH DSLNET)
COMMUNICATIONS, LLC PURSUANT TO) ORDER NO. 30758
47 U.S.C. § 252(e))**

In these cases, the Commission is asked to approve an amendment to an existing and previously approved Interconnection Agreement and a new Interconnection Agreement. With this Order, the Commission approves the Agreements.

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 APPLICATIONS

1. Qwest Corporation and Project Mutual Telephone Cooperative Association, Inc., Case No. QWE-T-05-21. On March 6, 2009, Qwest filed an amendment to its Interconnection Agreement with Project Mutual. The parties' Interconnection Agreement was initially approved by the Commission on November 23, 2005. *See* Order No. 29920. In the Application, the parties seek the Commission's approval to include terms and conditions as set forth in Mid-Span Meet POI (Point of Interface), Trunking and Exhibit H (Calculation of the Relative Use Factor) as an amendment to their original Agreement. The Application states that the amendment was reached through voluntary negotiations.

2. Qwest Corporation and DSLnet Communications, LLC, Case No. QWE-T-09-04. On March 3, 2009, Qwest filed an Application for approval of its Interconnection Agreement with DSLnet. The parties' Agreement contains terms, conditions and the wholesale rate structure for services Qwest has agreed to provide to DSLnet. Such services include, but are not limited to, the following: Network interconnection; access to Unbundled Network Elements (UNEs); collocation; commitment to Qwest's Performance Assurance Plan (PAP); and other ancillary services. The Application states that the Agreement was reached through voluntary negotiations without resort to mediation or arbitration.

STAFF RECOMMENDATION

Staff has reviewed the 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 Interconnection Agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff recommended that the Commission approve the foregoing Agreements.

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 Applications and the Staff's recommendation, the Commission finds that the Agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the Agreements should be approved. Approval of these Agreements does not negate the responsibility of either party to these Agreements to obtain a Certificate of Public Convenience and Necessity 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.

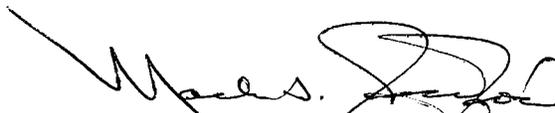
ORDER

IT IS HEREBY ORDERED that the amendment to the Interconnection Agreement between Qwest Corporation and Project Mutual Telephone Cooperative Association, Inc., Case No. QWE-T-05-21, is approved.

IT IS FURTHER ORDERED that the Interconnection Agreement between Qwest Corporation and DSLnet Communications, LLC, Case No. QWE-T-09-04, 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.

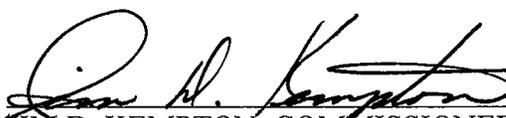
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 25th
day of March 2009.



MACK A. REDFORD, PRESIDENT

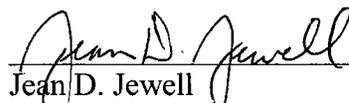


MARSHA H. SMITH, COMMISSIONER



JIM D. KEMPTON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:QWE-T-05-21_QWE-T-09-04_np