

DECISION MEMORANDUM

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

FROM: WELDON STUTZMAN

DATE: MAY 1, 2006

SUBJECT: CASE NO. QWE-T-06-6
PETITION FILED BY QWEST CORPORATION FOR APPROVAL OF
INTERCONNECTION AGREEMENTS, AND MOTIONS TO DISMISS
FOUR PARTIES

On March 17, 2006, Qwest Corporation filed a Petition for Approval of Interconnection Agreements to Implement FCC Ruling in *T-Mobile Order*. Qwest's Petition asserts that it is required by the Federal Communications Commission to request and enter into interconnection agreements with wireless and paging carriers for the termination of traffic. Qwest attempted to obtain interconnection agreements with the six parties named in its Petition, but did not receive a response from the companies. Qwest asserts that it initially requested interconnection discussions in correspondence sent to the companies on May 3, 2005. Qwest sent a second request for negotiations on October 11, 2005, and a third request for negotiations on January 13, 2006 (for paging providers) and February 2 (for wireless providers). Despite these notices, the companies failed to respond to Qwest's request for negotiation for interconnection agreements, and so Qwest sent a final request on February 21, 2006. Qwest's Petition states that it seeks approval of the interconnection agreements attached to its Petition "as the preferable alternative to discontinuing services relating to termination of wireless traffic to respondents." Petition p. 4.

Qwest specifically requests that the Commission "approve the agreement attached as Exhibit A as an interconnection agreement between Qwest and the Type 1 wireless carriers identified in paragraph 2 above, and approve the agreement attached as Exhibit B as an interconnection agreement between Qwest and the paging carriers identified in paragraph 3, as

written, without changes or disputed issues.” Petition p. 7. Qwest also includes in its request for relief, however, a request that the Commission “conduct an arbitration pursuant to Section 252(b) of the [Federal Telecom] Act.” Petition p. 8. According to Qwest’s Petition, the FCC’s *T-Mobile Order* provides interim arrangements for pricing that currently govern the exchange of traffic between Qwest and respondents. Qwest states that if the Commission does not approve the agreements, Qwest will be forced to discontinue service to the respondents until an appropriate interconnection agreement can be negotiated, approved and filed. Qwest claims it has “taken every step possible to avoid such a drastic result.”

After filing its initial Petition, Qwest filed an Amended Petition along with four Motions to Dismiss. The first Motion filed April 4, 2006, asks that Qwest’s complaint against Mountainland Communications, Inc., be dismissed because the parties “have reached an agreement that addresses the issues raised in Qwest’s complaint in this case.” On April 12, 2006, Qwest filed a Motion to Dismiss its complaint against Teton Communications, Inc., again for the reason that Qwest and Teton reached an agreement that addresses the issues raised in Qwest’s complaint. Also on April 12, 2006, Qwest filed an Amended Petition withdrawing Exhibit A from the original Petition, which was the proposed interconnection agreement for wireless carriers. Because Teton was the only wireless carrier named in Qwest’s Petition, the proposed interconnection agreement (Exhibit A) is no longer needed as part of the case.

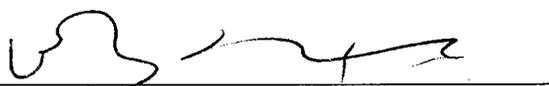
Qwest’s final Motion to Dismiss was filed on April 21, 2006, requesting that the Company’s complaint against Idaho Mobile Telephone, aka Idaho Phone Service, Inc., aka Idaho Mobile Phone, aka Idaho Mobile Phone Service, Inc., be dismissed. In that Motion, Qwest asserts that Idaho Mobile has abandoned service and appears to no longer be in operation or using Qwest services. Qwest filed another Motion to Dismiss on May 2, 2006 to remove Intermountain Communications of Southern Idaho, Inc. from the complaint. With its Amended Petition and Motions to Dismiss, two parties remain as respondents in Qwest’s initial Petition.

In the usual case requesting Commission approval of interconnection agreements, Staff reviews the agreements and presents them to the Commission for approval without further procedural steps. This case is unique, however, in that Qwest is proposing Commission approval of interconnection agreements were not actually negotiated with the other parties. Apparently negotiations were not possible because Qwest, after several requests, did not obtain any response from the other parties. Staff accordingly recommends that the Commission issue a Notice of

Modified Procedure to process Qwest's Petition, and attempt to notify the two remaining respondent companies and give them an opportunity to respond to Qwest's Petition. Staff also recommends that the Commission include in its Notice of Modified Procedure an Order approving Qwest's Motions to Dismiss four of the named respondent parties.

COMMISSION DECISION

Should the Commission issue a Notice of Modified Procedure to process Qwest's Petition, including an Order dismissing four of the parties named in the Petition pursuant to Motions filed by Qwest?



Weldon Stutzman

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