

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
QWEST CORPORATION AND MCIMETRO) CASE NO. QWE-T-06-24
ACCESS TRANSMISSION SERVICES, INC.)
FOR APPROVAL OF AN AMENDMENT TO)
AN EXISTING INTERCONNECTION) ORDER NO. 30652
AGREEMENT PURSUANT TO 47 U.S.C. §)
252(e))**

In this case the Commission is asked to approve an Amendment to a previously approved Interconnection Agreement between Qwest Corporation and MCImetro Access Transmission Services LLC. 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 APPLICATION

On September 17, 2008, Qwest submitted an Application for approval of an amendment to its Interconnection Agreement with MCImetro. The Interconnection Agreement was initially approved by the Commission on February 1, 2007. *See* Order No. 30234. MCImetro provides toll-free transit service (“Toll Free 8YY Transit Service). The parties now request that the Commission approve an amendment to their Interconnection Agreement that

seeks to incorporate certain terms and conditions related to Originated Toll Free Service JPSA ("Jointly Provided Switched Access") traffic. Part of the additional terms and conditions will permit 8XX Third Party Carriers to route unqueried originated Toll Free Service JPSA traffic to the competitive local exchange carrier ("CLEC") for the 8XX database dip, and to route the queried traffic to IXCs served by Qwest as JPSA traffic via CLEC's LIS trunks. Qwest asserts that the agreement was reached through voluntary negotiations.

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, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff recommended that the Commission approve the amendment.

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 that 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 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 amendment does not negate the responsibility of either party to this Agreement 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 MCImetro Access Transmission Services LLC, Case No. QWE-T-06-24, 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.

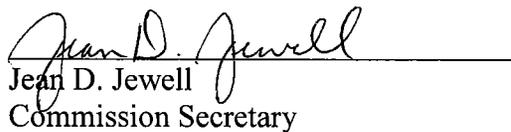
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7th day of October 2008.


MACK A. REDFORD, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


JIM D. KEMPTON, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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