

## DECISION MEMORANDUM

**TO:** COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
LEGAL  
WORKING FILE

**FROM:** CAROLEE HALL

**DATE:** JANUARY 19, 2010

**RE:** APPLICATION FOR APPROVAL OF AMENDMENT TO  
INTERCONNECTION AGREEMENT BETWEEN QWEST AND  
BANDWIDTH.COM CLEC, LLC.; CASE NO. QWE-T-08-01.

### BACKGROUND

Under the provision of the federal Telecommunications Act of 1996, interconnection agreements 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.

### CURRENT APPLICATION

Bandwidth.com was granted a certificate on June 6, 2008. See Order No. 30568 in Case No. BND-T-07-01. Order No. 30527 approving the original Interconnection Agreement between Qwest Corporation and Bandwidth.com was issued on April 11, 2008. This Amendment seeks Commission approval to amend the original agreement by adding terms, conditions and rates for

the exchange of Voice over Internet Protocol (“VoIP”) traffic. Attachment 1 to this filing sets out terms and conditions pertaining to traffic exchange for this new service.

### **STAFF ANALYSIS**

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 Agreement is consistent with the public interest as identified in the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the Agreement merits the Commission’s approval.

### **COMMISSION DECISION**

Does the Commission wish to accept and approve this amended Interconnection Agreement?



Carolee Hall

i:\udmemos\interconnection agreements\QWE-T-08-01 (2010) Qwest and Bandwidth.com LLC