

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF QWEST CORPORATION FOR)	CASE NO. QWE-T-08-06
APPROVAL OF AN AMENDMENT TO AN)	
EXISTING INTERCONNECTION)	
AGREEMENT WITH ELTOPIA)	
COMMUNICATIONS, LLC PURSUANT TO)	
47 U.S.C. § 252(e))	
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IN THE MATTER OF THE APPLICATION)	
OF QWEST CORPORATION AND)	CASE NO. QWE-T-06-24
MCIMETRO ACCESS TRANSMISSION)	
SERVICES, INC. FOR APPROVAL OF AN)	
AMENDMENT TO AN EXISTING)	ORDER NO. 30803
INTERCONNECTION AGREEMENT)	
PURSUANT TO 47 U.S.C. § 252(e))	

In these cases the Commission is asked to approve amendments to existing and previously approved interconnection agreements. 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 Eltopia Communications, Inc., Case No. QWE-T-08-06. On April 29, 2009, Qwest submitted an Application seeking approval of an amendment to its Interconnection Agreement with Eltopia which was previously approved by the Commission on July 3, 2008. *See* Order No. 30589. The proposed amendment revises the Reciprocal Compensation Rate Election for FCC § 251(b)(5) Traffic between the parties from State Ordered Rates to FCC ISP Ordered Rates (\$.0007 per minute). The Application states that the parties' mutual agreement to the amendment was reached through voluntary negotiations.

2. Qwest Corporation and MCImetro Access Transmission Services, LLC, Case No. QWE-T-06-24. On April 22, 2009, Qwest filed an Application seeking to amend its Interconnection Agreement with MCImetro which was previously approved by the Commission on February 1, 2007. *See* Order No. 30234. The proposed amendment seeks to incorporate certain terms, conditions and rates for DC Power Measurement. The Application states that the parties' mutual agreement to the proposed amendment was reached through voluntary negotiations.

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 proposed amendments 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 amendments to Interconnection 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 amendments to the Interconnection Agreements described herein are consistent with the public interest, convenience and necessity and do not discriminate.

Therefore, the Commission finds that the amendments should be approved. Approval of these amendments 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 Eltopia Communications, Inc., Case No. QWE-T-08-06, is approved.

IT IS FURTHER 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 12th
day of May 2009.



JIM D. KEMPTON, PRESIDENT




MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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