

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: APRIL 30, 2009

RE: APPLICATION FOR APPROVAL OF AMENDMENT TO THE
INTERCONNECTION AGREEMENT BETWEEN QWEST
CORPORATION (QWEST) AND ELTOPIA COMMUNICATIONS, INC.
CASE NO. QWE-T-08-6.

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

On April 29, 2009, Qwest filed an amendment to an interconnection agreement in Case No. QWE-T-08-6. In that case, Commission Order No. 30589 was issued on July 3, 2008,

approving the Interconnection Agreement between Qwest Corporation and Eltopia Communications, Inc.

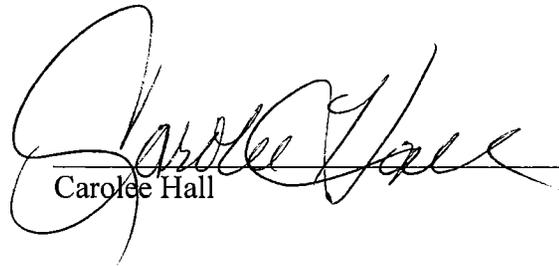
With this filing, the companies submitted an amendment to their original Interconnection Agreement. According to the Application, the amendment was reached through voluntary negotiations without resort to mediation or arbitration. This Amendment revises the rates applicable to FCC §251(b)(5) traffic between Qwest and Eltopia¹. These rates apply to reciprocal compensation (Exhibit J of the original interconnection agreement). The rates are set forth in Exhibit A of the Interconnection Agreement on file with this Commission.

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 amendment is consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act of 1996. Accordingly, Staff believes that the amendment merits the Commission's approval.

COMMISSION DECISION

Does the Commission wish to accept and approve the amendment to the Interconnection Agreement?



Carolee Hall

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¹ When the FCC ordered rate for ISP-bound traffic is applied to (§251 (b)(5)) Traffic, the FCC ISP rate is used in lieu of End Office call termination and Tandem Switched Transport rate elements. According to Exhibit A, Section 7.7, this rate is \$.0007 per minute of use as of June 14, 2003.