

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>QWEST CORPORATION FOR APPROVAL</b>	)	<b>CASE NO. QWE-T-08-05</b>
<b>OF AN AMENDMENT TO AN EXISTING</b>	)	
<b>INTERCONNECTION AGREEMENT WITH</b>	)	
<b>XO COMMUNICATIONS SERVICES, INC.</b>	)	
<b>PURSUANT TO 47 U.S.C. § 252(e)</b>	)	
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<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>QWEST CORPORATION FOR APPROVAL</b>	)	<b>CASE NO. QWE-T-08-09</b>
<b>OF AN INTERCONNECTION AGREEMENT</b>	)	
<b>AND AN AMENDMENT TO THE</b>	)	
<b>INTERCONNECTION AGREEMENT WITH</b>	)	
<b>QUANTUMSHIFT COMMUNICATIONS, INC.</b>	)	
<b>DBA VCOM SOLUTIONS PURSUANT TO 47</b>	)	<b>ORDER NO. 30696</b>
<b>U.S.C. § 252(e)</b>	)	

In these cases the Commission is asked to approve an amendment to interconnection agreement between Qwest Corporation and XO Communications Services, Inc. and an interconnection agreement and amendment between Qwest and QuantumShift Communications, Inc. dba vCom Solutions. With this Order, the Commission approves the interconnection agreement and amendments to the interconnection 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 XO Communications Services, Inc., Case No. QWE-T-08-05. On November 17, 2008, Qwest filed an Application to amend the parties’ Interconnection Agreement that was initially approved by the Commission on July 3, 2008. Order No. 30589. The current Application includes an attachment labeled the “Collocation Bay Procurement Amendment” which seeks to add certain terms and conditions governing caged and cageless physical collocation to the parties’ original Interconnection Agreement. Finally, the Application states that the amendment to the parties’ Interconnection Agreement was reached through voluntary negotiations.

2. Qwest Corporation and QuantumShift Communications, Inc. dba vCom Solutions, Case No. QWE-T-08-09. On November 10, 2008, Qwest filed an Application for approval of its Resale Agreement with QuantumShift as well as an amendment to this agreement. In this Application, the parties request that the Commission approve an agreement that includes, but is not limited to, certain terms and conditions describing unbundled network elements (UNE), pricing, ancillary services and telecommunications services available for resale within the geographical areas where Qwest is currently serving as the incumbent local exchange carrier (ILEC). Qwest also submitted an amendment which seeks to incorporate the Qwest Local Service Platform (QLSP) into the aforementioned agreement. Finally, the Application states that the parties’ Agreement and amendment thereto were reached through voluntary negotiations.

### **STAFF RECOMMENDATION**

The 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 Interconnection Agreement and Amendments to the Interconnection Agreements 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 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 agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the agreements should be approved. Approval of these agreements 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 XO Communications Services, Inc., Case No. QWE-T-08-05, is approved.

IT IS FURTHER ORDERED that the Interconnection Agreement and Amendment to the Interconnection Agreement between Qwest Corporation and QuantumShift Communications, Inc. dba vCom Solutions, Case No. QWE-T-08-09, are 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 3<sup>rd</sup>  
day of December 2008.



MACK A. REDFORD, PRESIDENT

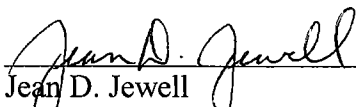


MARSHA H. SMITH, COMMISSIONER



JIM D. KEMPTON, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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