

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

| | | |
|---|---|-----------------------------|
| IN THE MATTER OF THE APPLICATION |) | |
| OF VERIZON NORTHWEST INC. AND XO |) | CASE NO. VZN-T-04-03 |
| IDAHO, INC. FOR APPROVAL OF AN |) | |
| AMENDMENT TO AN EXISTING |) | |
| INTERCONNECTION AGREEMENT |) | |
| PURSUANT TO 47 U.S.C. § 252(e) |) | |
| <hr/> | | |
| IN THE MATTER OF THE APPLICATION |) | |
| OF QWEST CORPORATION FOR |) | CASE NO. QWE-T-09-02 |
| APPROVAL OF AN INTERCONNECTION |) | |
| AGREEMENT WITH GREENFLY |) | |
| NETWORKS, INC. DBA CLEARFLY |) | ORDER NO. 30730 |
| COMMUNICATIONS PURSUANT TO 47 |) | |
| U.S.C. § 252(e) |) | |

The Commission is asked to approve an amendment to the Interconnection Agreement between Verizon Northwest Inc. and XO Communications Services, Inc. and a new Interconnection Agreement between Qwest Corporation and Greenfly Networks, Inc. dba Clearly Communications. With this Order, the Commission approves the parties' Interconnection Agreements and Amendments.

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. Verizon Northwest Inc. and XO Communications Services, Inc., Case No. VZN-T-04-03. On January 13, 2009, Verizon filed an Application for approval of an amendment to its Interconnection Agreement with XO. The amendment seeks to incorporate certain terms and conditions governing the parties' exchange of VoIP Traffic. The parties' original Interconnection Agreement was approved by the Commission on March 31, 2004. *See* Order No. 29460.

2. Qwest Corporation and Greenfly Networks Inc. dba Clearly Communications, Case No. QWE-T-09-02. On January 13, 2009, Qwest filed an Application for approval of its Interconnection Agreement with Greenfly. The Agreement contains terms, conditions and pricing under which Qwest will provide Clearly with network interconnection and access to Unbundled Network Elements. The Agreement also includes the wholesale rates for these and other services, delineates Service Performance Indicators and a Performance Assurance Plan. *See* Interconnection Agreement, Exhibits A-K. The Application states that the parties' Agreement was reached through voluntary negotiations and without mediation or arbitration.

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 Interconnection Agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff recommends 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 Verizon Northwest Inc. and XO Communications Services, Inc., Case No. VZN-T-04-03, is approved.

IT IS FURTHER ORDERED that the Interconnection Agreement between Qwest Corporation and Greenfly Networks Inc. dba Clearly Communications, Case No. QWE-T-09-02, 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 18th
day of February 2009.


MACK A. REDFORD, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


JIM D. KEMPTON, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:VZN-T-04-03_QWE-T-09-02_np