

## DECISION MEMORANDUM

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

**FROM:** CAROLEE HALL

**DATE:** SEPTEMBER 17, 2009

**RE:** APPLICATION FOR APPROVAL OF AN INTERCONNECTION  
AGREEMENT BETWEEN QWEST CORPORATION (“QWEST”) AND  
ENTELEGENT SOLUTIONS, INC. (“ENTELEGENT”).  
CASE NO. QWE-T-09-17.

### 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.

### APPLICATION

On September 11, 2009, Qwest and EnTelegent filed Case No. QWE-T-09-17 seeking Commission approval for an Interconnection Agreement between the parties. The parties claim that the Agreement was jointly entered into and provides for both companies to interconnect their

facilities for the purpose of providing customers with increased choices among local telecommunications services. The Agreement between the parties sets out many rates, terms and conditions for certain interconnection products that Qwest is to provide EnTelegent. Some of the products include: Exhibit A – Statement of Rates for Unbundled Network Elements (UNEs); Exhibit B - Service Performance Indicators (PIDs) and Exhibit K - Performance Assurance Plan (PAP).

**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 approve this Interconnection Agreement?



Carolee Hall