

DECISION MEMORANDUM

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

FROM: CAROLEE HALL

DATE: FEBRUARY 10, 2011

RE: APPLICATION FOR APPROVAL OF A TYPE 2 WIRELESS
AGREEMENT BETWEEN QWEST CORPORATION ("QWEST")
AND COMMNET WIRELESS, LLC. ("COMMNET").
CASE NO. QWE-T-11-02.

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 January 27, 2011, the Commission received an Application from Qwest and Commnet. The companies are seeking Commission approval to enter into a Type 2 Wireless Interconnection Agreement. The Agreement sets out rates, terms and conditions for two-way

wireless interconnection between the parties. The Application states that the Agreement was reached through voluntary negotiations without resort to mediation or arbitration.

STAFF ANALYSIS AND RECOMMENDATION

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 agree?



Carolee Hall

i:udmemos/QWE-T-11-02 QWEST AND COMMNET WIRELESS, LLC