

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )  
QWEST CORPORATION FOR APPROVAL ) CASE NO. USW-T-00-21  
OF AN AMENDMENT TO ITS )  
INTERCONNECTION AGREEMENT WITH )  
ELECTRIC LIGHTWAVE, LLC PURSUANT ) ORDER NO. 31020  
TO 47 U.S.C. § 252(e) )**

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In this case the Commission is asked to approve an amendment to the Interconnection Agreement between Qwest Corporation and Electric Lightwave, LLC. With this Order, the Commission approves the amendment to the parties' Interconnection Agreement.

**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 APPLICATION**

On December 30, 2010, Qwest submitted an Application for approval of an amendment to its Interconnection Agreement with Electric Lightwave which was originally approved by the Commission on October 11, 2000. *See* Order No. 28535. In this Application, the parties seek the Commission’s approval of an amendment to reflect changes to the terms and conditions relating to Design Change and Rate Update as set forth in Attachment 1, Exhibit A of their Agreement.

## STAFF RECOMMENDATION

The 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. Accordingly, Staff recommends that the Commission approve the Amendment to Qwest's Interconnection Agreement with Lightwave.

## COMMISSION FINDINGS

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.*

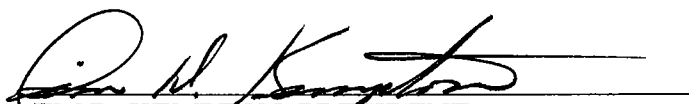
Based upon our review of the Application and Staff's recommendation, the Commission finds that the amendment to the Agreement is consistent with the public interest, convenience and necessity and does not discriminate. Therefore, the Commission finds that the amendment to the Agreement should be approved. Approval of this amendment does not negate the responsibility of either party to this Agreement 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 Electric Lightwave, LLC, Case No. USW-T-00-21, 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.

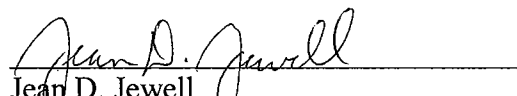
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 9<sup>th</sup>  
day of March 2010.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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