DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

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GARY RICHARDSON

WORKING FILE

FROM:BEV BARKER

DON HOWELL

DATE:SEPTEMBER 5, 1996

RE:PROPOSED MEDIATION AND ARBITRATION PROCEDURES FOR INTERCONNECTION AGREEMENTS; CASE NO. USW-T-96-10 AND PFI-T-96-2

On August 30, 1996, Phoenix Fiberlink of Idaho filed a Petition requesting that the Commission arbitrate its interconnection agreement with U S WEST Communications, Fiberlink maintained that it had requested interconnection negotiations with U S WEST on March 28, 1996, “for each of the states in which U S West conducts local exchange operations.  Exhibit A.  The Petition includes U S WEST’s response dated March 29, 1996, where U S WEST provided Fiberlink with a “discussion draft” of a proposed interconnection  agreement.  See Exhibit B.  On July 18, 1996, U S WEST presented Fiberlink with a revised form of the agreement attached to the Petition as Exhibit C.

Fiberlink asserts that its request for arbitration falls within the “arbitration window” (135-160 days) as provided by the federal Telecommunications Act of 1996, § 252(b)(1).  Although Fiberlink indicates that it will continue to pursue negotiations with U S WEST, it petitions the Commission “to arbitrate the outstanding issues necessary for the establishment of interconnection and ancillary agreements with U S WEST.”  Petition at 4.  As to the issues in dispute, Fiberlink states that it has been unable to reach agreement on any of the issues listed in Paragraph 3 of its Petition including:  interconnection with the facilities and equipment of U S WEST at any technically feasible point; the rates, terms and conditions for interconnection; access to network elements on an unbundled basis; the physical co-location of Fiberlink equipment necessary for interconnection; the wholesale rates for resale service; number portability; and reciprocal compensation arrangements for the transport and termination of telecommunication messages.  Petition at 2, ¶ 3.

Fiberlink’s Petition has prompted the Staff to examine various mediation/arbitration procedures adopted in other states.  Based upon the Staff’s review of the federal Act, the interconnection Order and procedures promulgated in other states, the Staff believes that it is appropriate for the Commission to consider the following mediation/arbitration procedures for use in Idaho.

Don Howell

Bev Barker

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