(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION FOR APPROV­AL OF AN INTERCONNECTION AGREEMENT BETWEEN SPRINT COM­MUNI­CA­TIONS COMPANY AND U S WEST COMMUNICATIONS, INC. | )  )  )  )  )  ) | CASE NO. USW-T-97-16  SPR-T-97-3  ORDER NO.  27198 |

On August 28, 1997, Sprint Communications Company (Sprint) filed an Application for approval of a negotiated interconnection agreement between Sprint and U S WEST Communications, Inc.  (U S WEST).  The agreement provides terms for numerous interconnection issues including collocation, entrance facilities or meet point arrangements, the exchange of traffic between U S WEST and Sprint, compensation for transport and termination of traffic, the purchase of U S WEST retail services for resale by Sprint, the acquisition of unbundled network elements from U S WEST, and other issues.  The Application was filed only by Sprint, although the interconnec­tion agreement was signed by both parties.

On September 22, 1997, the Commission issued a Notice of Petition and Notice of Modified Procedure.  During the comment period, comments were filed by U S WEST, and responsive comments were filed by Sprint on October 22, 1997.  In its comments, U S WEST stated that the agreement is not a final, complete agreement, even though it has been signed by the parties.  The agreement was executed on July 15, 1997, three days before a decision was issued in Iowa Utilities Board v. Federal Communications Commission, 120 F.3d 753 (8th Cir. 1997).  According to U S WEST, the Eighth Circuit decision invalidates portions of Federal Communications Commission regulations that were the basis for some of the terms in the agreement.  U S WEST contends the agreement now requires modification to bring it into compliance with the Eighth Circuit Court decision.

U S WEST recognized that the agreement contains terms to allow the parties to modify it to reflect changes in perti­nent regulations or laws.  The agreement requires the parties to negotiate in good faith to make modifications.  Nonetheless, U S WEST requested that the Commission not approve the agreement until the parties have changed its terms or, if the Commission does approve the agreement, U S WEST suggested the Commission “provide a mechanism to prevent a party from being required to perform a provision of the agreement which has been superseded by the Eighth Circuit’s decision.”  Alternatively, U S WEST suggested the Order approving the agreement “require the parties to negotiate and submit such modifying language to the Commission within 60 days of the Commission’s Order.”

In its responsive comments, Sprint pointed out that U S WEST does not contend the agreement fails to meet the requirements of 47 U.S.C. § 252(e).  Sprint argues that the Commission’s review authority under that section is very narrow, and because the agreement meets the requirements of Section 252(e), the Commission is required to approve it.  Sprint stated that the agreement submitted to the Commission is a final, complete and enforceable contract that has been signed by both parties.  Sprint urged the Commission to approve the agreement subject to the requirement that it be amended in response to the Iowa Utilities Board decision.  Sprint stated that it would not object to the Commission’s imposition of a reasonable deadline for the parties to submit either negotiated amendments or a request for arbitration of unresolved issues to the Commission.

COMMISSION DECISION

The Commission has before it a final interconnection agreement that has been executed by both parties to the agreement.  In those circumstances, 47 U.S.C. § 252(e) provides a narrow function for the Commission.  According to that section, the Commission may only reject the interconnection agreement if:

(i)the agreement (or a portion thereof) discriminates against a telecom­mu­ni­ca­tions carrier not a party to the agreement; or

(ii)the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

The agreement itself provides the means for the parties to renegotiate terms as needed.  U S WEST does not contend that implementation of the agreement would be inconsistent with the public interest, convenience and necessity, and there is no contention that the agreement discriminates against other telecommunications carriers.  Accordingly, we approve the agreement, recognizing that portions of it may need to be modified as a result of the Eighth Circuit Court decision in the Iowa Utilities Board case.  As the agreement provides, the parties should negotiate in good faith to modify those terms that require change in light of the Iowa Utilities Board decision.  To encourage successful resolution of the parties’ discussions, we find that the parties should within ninety (90) days file the modified terms with the Commission or report on the status of the negotiations.

O R D E R

IT IS HEREBY ORDERED that the interconnection agreement between Sprint Communications and U S WEST is approved.  The parties are directed to negotiate in good faith to modify its terms as necessary, and either file the modified terms or report to the Commission within ninety (90) days.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case Nos. USW-T-97-16 and SPR-T-97-3  may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case Nos. USW-T-97-16 and SPR-T-97-3 .  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of October 1997.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:USW-T-97-16.ws2

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 29, 1997