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

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| IN THE MATTER OF THE JOINT APPLICATION OFU S WEST COMMUNICATIONS, INC. AND TOPP COMM, INC. FOR APPROVAL OF A RESALE AGREEMENT PURSUANT TO 47 U.S.C.  § 252(e). | )  )  )  )  )  ) | CASE NO.  USW-T-99-1  ORDER NO.  27970 |

On January 5, 1999, U S WEST Communications, Inc. and Topp Comm, Inc. filed a Joint Application for approval of a negotiated resale agreement between U S WEST and Topp Comm for the purposes of Topp Comm reselling U S WEST services in Idaho.  The Joint Application states that the agreement was reached through voluntary negotiations without resort to mediation or arbitration and is submitted for approval pursuant to Section 252(e) of the Telecommunications Act of 1996.

Based on the record, the comments and the law, the Commission approves this interconnection agreement between U S WEST and Topp Comm.

BACKGROUND

Under the terms of the 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 negotiation only if it finds that the agreement discriminates against a telecommunication carrier not a party to the agreement or implementation of the agreement is not consistent with the public interest, convenience and necessity.  47 U.S.C. § 252 (e)(2)(A).  If the Commission does not act to approve or reject the agreement within 90 days after its submission, the agreement is deemed approved.  47 U.S.C. § 252 (e)(4).  The Commission’s decision is not reviewable by the state courts.  Id.

On March 4, 1999, the Commission ordered the Joint Application be processed under Modified Procedure.  Order No. 27940. Only the Commission Staff filed comments during the comment period.

STAFF RECOMMENDATION

Staff reviewed the language of this Agreement and found the terms and conditions were essentially identical to those contained in previous agreements previously approved by this Commission.  Staff further found that the resale rates included in this Agreement are identical to those reached through the arbitration between U S WEST and AT&T.  Those same arbitrated resale rates were included in other Commission approved interconnection agreements between U S WEST and AT&T, U S WEST and Sprint, and U S WEST and ATGI.

Staff, therefore, concluded that the terms or conditions in this Agreement are not discriminatory and are consistent with the pro-competitive policies of the Commission, the Idaho Legislature and the Telecommunications Act of 1996.  The Staff found that the Agreement is consistent with the public interest and recommended the Commission approve the resale agreement without any changes.

COMMISSION FINDINGS

Under the terms of the Telecommunications Act of 1996, resale agreements 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 telecommunication carrier not a party to the agreement, or finds that implementation of the agreement is not consistent with the public interest, convenience and necessity. Id.  Based on the information filed with the Commission, the Staff’s recommendation, and on the fact no other party commented, the Commission finds that the resale agreement between U S WEST and Topp Comm is consistent with the public interest, convenience and necessity and does not discriminate.  Therefore, the Commission finds this resale agreement should be approved.

O R D E R

IT IS HEREBY ORDERED that the resale agreement between U S WEST Communications, Inc. and Topp Comm, Inc. is approved.

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 No. USW-T-99-1 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 No. USW-T-99-1.  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 March 1999.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

PAUL KJELLANDER, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

O:USWT991.cc2

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

April 2, 1999