

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Interconnection)
Agreement between Qwest Corporation and) DOCKET NO. 11-049-50
Gazelle Link, LLC) REPORT AND ORDER
)

ISSUED: October 6, 2011

SYNOPSIS

The Interconnection Agreement at issue being defective as involving a non-certificated carrier, the Commission rejects the Interconnection Agreement.

By The Commission:

On September 19, 2011, Qwest Corporation (“Qwest”) filed for approval with the Commission an Interconnection Agreement with Gazelle Link, LLC (“Gazelle”). The Commission asked the Division of Public Utilities (the “Division”), to review the matter and the Division filed its Memorandum on September 20, 2011, recommending denial due to Gazelle’s failure to date to obtain a Certificate of Public Convenience and Necessity (“certificate”) to provide services in Utah.

The Commission rejects the Interconnection Agreement submitted herein.

Title 47, Section 252(e)(2) of the United States Code provides the basis upon which the Commission may reject a negotiated interconnection agreement. Section 252 provides, in part, that:

The State commission may only reject – (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that – (i) the agreement (or 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. . . .

47 U.S.C. § 252(e)(2)(A)(i)-(ii).

As of the date of this Order, Gazelle has neither filed for nor received a certificate to provide any public telecommunication services in Utah. Because Gazelle is not certificated to provide services within the state of Utah, that fact is dispositive in the Commission's consideration of this Interconnection Agreement.

Accordingly, the Commission concludes that the Interconnection Agreement must be rejected as "not consistent with the public interest, convenience, and necessity" in attempting to position Gazelle to provide public telecommunication services in the state of Utah without a certificate. Gazelle's failure to comply with these requirements precludes the Commission from approving the Interconnection Agreement. The Commission concludes that the Interconnection Agreement would also "discriminate against [all other] telecommunications carrier[s] not a party to the agreement" that have complied with Utah law and have obtained their certificates to provide the services that Gazelle seeks to provide.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The Interconnection Agreement filed herein is rejected. This rejection is without prejudice, permitting the Interconnection Agreement to be resubmitted when Gazelle has remedied the deficiencies noted in this Order.

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DATED at Salt Lake City, Utah, this 6th day of October, 2011.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
D#210602

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of October, 2011, a true and correct copy of the foregoing REPORT AND ORDER, was served upon the following as indicated below:

By U.S. Mail:

Qwest Corporation
Attention: L. T. Christensen, Director – Wholesale Contracts
930 15th Street, 6th Flr.
Denver, CO 80202

CenturyLink
Attention: Torry R. Sommers, Esq.
6700 Via Austi Pkwy.
Las Vegas, NV 89119

Gazelle Link, LLC
Attention: Johnny Brown, CEO
1450 Boyson Rd., Bldg. C 3-A
Hiawatha, IA 52233

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Flr.
Salt Lake City, Utah 84111

Administrative Assistant