

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Interconnection)
Agreement between Qwest Corporation) DOCKET NO. 07-049-40
and NOS Communications, Inc.) REPORT AND ORDER
)

ISSUED: December 17, 2007

SYNOPSIS

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

By The Commission:

On August 24, 2007, Qwest Corporation (“Qwest”) filed for approval with the Commission a Resale Agreement (“the Agreement”) with NOS Communications, Inc. (“NOS”). The Commission asked the Division of Public Utilities, Utah Department of Commerce (“DPU”), to review the matter and the DPU filed its Memorandum on November 28, 2007, recommending denial due to NOS’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. 47 U.S.C. §252(e)(2) provides the basis upon which we may reject a negotiated interconnection agreement. That section, in part, provides 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. . .”

The fact that NOS is not certificated to provide services within the State of Utah is dispositive in our consideration of this Interconnection Agreement. As of the date of this Order, NOS has not been granted, let alone applied for, a certificate to provide any public telecommunication services in Utah.

In this context, we conclude that the Interconnection Agreement must be rejected as “not consistent with the public interest, convenience, and necessity” in attempting to position NOS to provide public telecommunication services in the State of Utah without a certificate. NOS’s failure to be subject to and to be able to comply with these requirements precludes us from approving the Interconnection Agreement. We conclude that it would also “discriminate against [all other] telecommunications carrier[s] not a party to the Agreement” that have complied with Utah law and obtained their certificates to provide the services that NOS seeks to provide.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

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

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the

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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 Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 17th day of December, 2007.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#55605