

The Commission met on **Thursday, May 22, 2014**, with Chair Heydinger and Commissioners Boyd, Lipschultz, and Wergin present.

The following matters came before the Commission:

ENERGY AGENDA

E-015/TL-13-68

In the Matter of the Application of Minnesota Power for a Route Permit for the Deer River 115 and 230 kV Transmission Line in Itasca County

Commissioner Boyd moved to do the following:

1. Determine that the environmental assessment and the record created at the public hearing address the issues identified in the environmental assessment scoping decision.
2. Approve and adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations for Minnesota Power's Deer River HVTL (High Voltage Transmission Line) Project in Itasca County.
3. Issue a high-voltage transmission line route permit identifying a specific route and permit conditions to Minnesota Power for the Deer River Transmission Line Project in Itasca County.

The motion passed 4 – 0.

TELECOMMUNICATIONS AGENDA

P-5681,421/M-08-1443

In the Matter of the Application of Qwest Corporation for Expedited Approval to Discontinue Physical Connection with Digital Telecommunications Inc.

P-5681,421/C-09-302

In the Matter of Digital Telecommunications Complaint against Qwest Corporation

Chair Heydinger moved to do the following:

1. Determine that the Commission has authority to interpret and enforce the amendment to the interconnection agreement between Digital Telecommunications Inc. (DTI, succeeded in interest by SAWT, Inc.) and Qwest Corporation (Qwest, succeeded in interest by CenturyLink) pursuant to the federal Communications Act of 1934 as amended,¹ the

¹ 47 U.S.C. § 151 *et seq.*

Federal Communication Commission's orders,² and the original interconnection agreement.

2. Determine that the Commission has authority to interpret and enforce the interconnection agreement based on state contract law.

The motion passed 4 – 0.

Chair Heydinger moved to determine that Qwest and DTI had an obligation to negotiate the terms, conditions, and rates in the interconnection agreement amendment.

The motion passed 4 – 0.

Chair Heydinger moved to find that the interconnection agreement amendment was the product of good faith negotiations and a valid and enforceable contract.

Commissioner Wergin proposed to amend the motion as follows:

Finding no evidence in the record indicating the negotiations were in bad faith, the interconnection agreement was the product of good faith negotiations and is a valid and enforceable contract.

Chair Heydinger proposed to amend the amendment as follows:

Finding no evidence in the record indicating the negotiations were in bad faith, the interconnection agreement and the amendment are is a valid and enforceable contract.

Commissioner Wergin accepted Chair Heydinger's proposed amendment to her proposed amendment.

Chair Heydinger accepted Commissioner Wergin's proposed amendment to her motion.

Commissioner Lipschultz proposed amending the motion as follows:

There is insufficient evidence in the record to establish that the ICA (interconnection agreement) amendment was procured through bad faith negotiations. Finding no evidence in the record indicating the negotiations were in bad faith, the interconnection agreement and the amendment are a valid and enforceable contract.

Chair Heydinger proposed amending Commissioner Lipschultz's amendment as follows:

² Report and Order, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd. 16978 (2003), *vacated in part, remanded in part*, *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (Triennial Review Order, or TRO); Order on Remand, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 20 FCC Rcd. 2533 (2005), *aff'd*, *Covad Communications Co. v. FCC*, 450 F.3d 528 (D.C. Cir. 2006) (Triennial Review Remand Order, or TRRO).

There is insufficient evidence in the record to establish that the ICA was procured through bad faith negotiations and therefore the ICA is a valid and enforceable contract.

Commissioner Lipschultz accepted Chair Heydinger's proposed amendment to his amendment.

Chair Heydinger accepted Commissioner Lipschultz's proposed amendment to her motion.

The motion as amended passed 4 – 0.

Chair Heydinger moved to find that Qwest did not breach the interconnection agreement amendment.

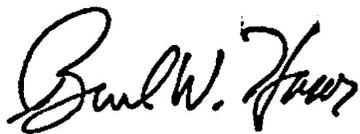
The motion passed 4 – 0.

Chair Heydinger moved to adopt the portions of the supplemental record analysis supporting the Commission's motion.

The motion passed 4 – 0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: August 13, 2014



Burl W. Haar, Executive Secretary