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TELECOMMUNICATIONS E-BRIEF

State Commission Rules Interconnection Agreement Involving Non-Certificated Carrier is Defective

In October 2011, the Utah Public Service Commission (“Commission”) issued an order rejecting the joint request for approval of a interconnection agreement. Qwest Corporation (“Qwest”) and Gazelle Link, LLC (“Gazelle”) filed for approval a negotiated interconnection agreement pursuant to the process provided in 47 U.S.C. § 252(e). Although the interconnection agreement was a negotiated agreement, Gazelle had not applied for or received a certificate to provide telecommunications services in the State of Utah.

The Commission found that the interconnection agreement was not consistent with public interest convenience and necessity because the interconnection agreement was attempting to allow Gazelle to provide telecommunications services without a certificate. Additionally, 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.” [Bracketed Information in Original] Accordingly, the interconnection agreement was rejected by the Commission.

Although carriers cannot refuse to negotiate with un-certificated carriers, this decision serves as an

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important reminder during this time of ever-changing carriers and competition that state commissions still have a role in regulating telecommunications service and, the basic requirements, such as obtaining certifications, must be complied with before companies attempt to provide service.

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