

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Request for)	
Approval of Negotiated Agreement)	
Under the Telecommunications Act of)	DOCKET NO. UT-013099
1996 Between)	
)	
OREGON TRAIL INTERNET, INC.,)	ORDER APPROVING NEGOTIATED
)	FIRST AMENDED AGREEMENT
and)	ADDING PROVISIONS FOR
)	FACILITY CONNECTED
QWEST CORPORATION)	COLLOCATION
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated first amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Oregon Trail Internet, Inc., (OTI), and Qwest Corporation (Qwest). On November 16, 2001, the parties filed a joint request that OTI adopt Qwest's Statement of Generally Available Terms (SGAT). The SGAT has not been approved by the Commission. Accordingly, the Commission treated the joint request as a fully negotiated agreement under Section 252 of the Telecom Act, and approved the agreement on January 9, 2002. The Commission ordered that in the event the parties amended their agreement, the amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for approval. The parties filed a joint request for approval of a first amendment on February 15, 2002.

MEMORANDUM

2 The Amended Agreement between OTI and Qwest was brought before the Commission at its regularly scheduled open meeting held on March 13, 2002, at its offices in Olympia, Washington. The Commission granted its approval of the Agreement as negotiated and requested by the parties.

FINDINGS OF FACT

- 3 The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies.
- 4 Section 252(e)(1) of the Telecom Act requires parties to a negotiated agreement to submit the agreement to the Commission for approval. Section 252(e)(2)(A) states that the Commission may only reject an agreement (or any portion thereof) adopted by negotiation if it finds that:
- 5 (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- 6 (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.
- 7 Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.
- 8 OTI is not currently authorized to provide telecommunications services in the state of Washington.
- 9 On November 16, 2001, the parties filed a joint request that OTI adopt Qwest's SGAT. The SGAT has not been approved by the Commission. Accordingly, the Commission treated the joint request as a fully negotiated agreement under Section 252 of the Telecom Act, and approved the agreement on January 9, 2002. The Commission ordered that in the event the parties amended their agreement, the amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for approval.
- 10 On February 15, 2002, the parties filed with the Commission a joint request for approval of a first amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 11 OTI and Qwest voluntarily negotiated the entire amendment.
- 12 The Amended Agreement does not discriminate against any other telecommunications carrier.
- 13 The Amended Agreement will facilitate local exchange competition in the state of Washington by enabling OTI to enter the local exchange market and increase customer choices for local exchange services.

CONCLUSIONS OF LAW

- 14 The Commission has jurisdiction over the subject matter and all parties to this proceeding.
- 15 The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 16 The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 17 Approval of the Amended Agreement does not in any way waive OTI's requirement to become a registered telecommunications service provider in the state of Washington.
- 18 The laws and regulations of the State of Washington and Commission orders govern the construction and interpretation of the Amended Agreement. The Amended Agreement is subject to the jurisdiction of the Commission.

ORDER

THE COMMISSION ORDERS:

- 19 The Amended Agreement between Oregon Trail Internet, Inc., and Qwest Corporation, which the parties filed on February 15, 2002, is approved.
- 20 In the event that the parties revise, modify, or amend the agreement approved herein, the revised, modified, or amended agreement will be deemed to be a new negotiated agreement under the Telecom Act and must be submitted to the Commission for approval, pursuant to 47 U.S.C. § 252(e)(1) and relevant provisions of state law, prior to taking effect.
- 21 The laws and regulations of the State of Washington and Commission orders govern the construction and interpretation of the Amended Agreement. The Amended Agreement is subject to the jurisdiction of the Commission.

DATED at Olympia, Washington, and effective this 13th day of March, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner