

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of)	DOCKET NO. UT-960356
)	
XO WASHINGTON, INC.,)	
)	
and)	
)	
QWEST CORPORATION)	ORDER APPROVING
)	NEGOTIATED TENTH AMENDED
For Approval of Negotiated)	AGREEMENT ADDING
Agreement Under the)	PROVISIONS FOR UNBUNDLED
Telecommunications Act of 1996)	DARK FIBER
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated tenth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between XO Washington, Inc., (XO) and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on April 30, 1997, a first amended agreement on November 15, 1999, a second amended agreement on July 31, 2000, a third amended agreement on April 25, 2001, a fourth amended agreement on August 8, 2001, a fifth amended agreement on April 24, 2002, a sixth amended agreement on July 26, 2002, a seventh amended agreement on September 25, 2002, an eighth amended agreement on December 10, 2002 and a ninth amended agreement on February 28, 2003. 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 tenth amendment on February 28, 2003.

FINDINGS AND CONCLUSIONS

- 2 (1) The Commission is an agency of the State of Washington vested by statute
with the authority to regulate public service companies, including
telecommunications companies. *RCW 80.01.040; Chapter 80.04 RCW and
Chapter 80.36 RCW.*
- 3 (2) 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:
- 4 (i) the agreement (or any portion thereof) discriminates against a
telecommunications carrier not a party to the agreement; or
- 5 (ii) the implementation of such agreement or portion is not consistent
with the public interest, convenience, and necessity.
- 6 (3) Qwest is engaged in the business of furnishing telecommunications
services including, but not limited to, basic local exchange service within
the state of Washington.
- 7 (4) XO is authorized to provide telecommunications services to the public in
the state of Washington.
- 8 (5) The Commission approved an interconnection agreement between the
parties on April 30, 1997, a first amended agreement on November 15,
1999, a second amended agreement on July 31, 2000, a third amended
agreement on April 25, 2001, a fourth amended agreement on August 8,
2001, a fifth amended agreement on April 24, 2002, a sixth amended
agreement on July 26, 2002, a seventh amended agreement on

September 25, 2002, an eighth amended agreement on December 10, 2002, and a ninth amended agreement on February 28, 2003. 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.

- 9 (6) On February 28, 2003, the parties filed with the Commission a joint request for approval of a tenth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 10 (7) The Amended Agreement between XO and Qwest was brought before the Commission at its regularly scheduled meeting on March 12, 2003.
- 11 (8) XO and Qwest voluntarily negotiated the entire amendment.
- 12 (9) The Amended Agreement does not discriminate against any other telecommunications carrier.
- 13 (10) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 14 (11) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 15 (12) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 16 (13) 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.

- 17 (14) After examination of the proposed Amended Agreement filed by XO and Qwest on March 12, 2003, and giving consideration to all relevant matters, the Commission finds the proposed Amended Agreement should be approved.

ORDER

THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement between XO Washington, Inc., and Qwest Corporation, which the parties filed on March 12, 2003, is approved and effective as of the date of this Order.
- 19 (2) In the event that the parties revise, modify, or amend the agreement approved in this Order, the revised, modified, or amended agreement will be deemed to be a new 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.
- 20 (3) 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 12th day of March, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner