

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

In the Matter of the Request of)	DOCKET NO. UT-980312
)	
COVAD COMMUNICATIONS)	
COMPANY)	
)	
and)	
)	ORDER APPROVING
QWEST CORPORATION)	NEGOTIATED THIRTEENTH
)	AMENDED AGREEMENT
)	ADDING SPECIAL
For Approval of Negotiated)	PROMOTIONAL RATES FOR
Agreement Under the)	AVAILABLE INVENTORY
Telecommunications Act of 1996)	COLLOCATION SITES
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated thirteenth amendment (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Covad Communications Company (Covad) and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on April 22, 1998, a first amended agreement on September 30, 1998, a second amended agreement on March 10, 1999, a third amended agreement on March 28, 2001, a fourth amended agreement on September 25, 2002, a fifth amended agreement on October 9, 2002, a sixth amended agreement on December 31, 2002¹, the seventh and eighth amendments on March 12, 2003, a ninth amended agreement on May 28, 2003, the tenth and eleventh amendments on August 27, 2003, and a twelfth amended agreement on January 28, 2004. The Commission ordered that in the event the parties amended their agreement, the amended agreement would be deemed a

¹ Paragraphs 1 and 8 of orders approved on March 12, 2003; May 28, 2003; August 27, 2003; and January 28, 2004, have incorrect information. Paragraphs 1 and 8 should reflect that the sixth amendment was approved on December 31, 2002.

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 thirteenth amendment on February 11, 2004.

FINDINGS AND CONCLUSIONS

- 2 (1) 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 transfer of 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) Covad 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 22, 1998, a first amended agreement on September 30, 1998, a second amended agreement on March 10, 1999, a third amended agreement on March 28, 2001, a fourth amended agreement on September 25, 2002, a fifth amended agreement on October 9, 2002, a sixth amended agreement on December 31, 2002², the seventh and eighth amendments on March 12, 2003, a ninth amended agreement on May 28, 2003, the tenth and eleventh amendments on August 27, 2003, and the twelfth amended agreement on January 28, 2004. 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 11, 2004, the parties filed with the Commission a joint request for approval of a thirteenth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 10 (7) Covad and Qwest voluntarily negotiated the Amended Agreement in its entirety.
- 11 (8) The Amended Agreement between Covad and Qwest was brought before the Commission at its regularly scheduled meeting on March 12, 2004.
- 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.

² Paragraphs 1 and 8 of orders approved on March 12, 2003; May 28, 2003; August 27, 2003; and January 28, 2004, have incorrect information. Paragraphs 1 and 8 should reflect that the sixth amendment was approved on December 31, 2002.

- 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 Covad and Qwest on February 11, 2004, 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 Covad Communications Company, and Qwest Corporation, which the parties filed on February 11, 2004, 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.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 12th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary