

**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 TWELFTH
	)	AMENDED AGREEMENT
	)	ADDING PROVISIONS FOR
For Approval of Negotiated	)	ADDITIONAL UNBUNDLED
Agreement Under the	)	NETWORK ELEMENTS
Telecommunications Act of 1996	)	COMBINATIONS
.....	)	

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated twelfth amended agreement (Amended Agreements) 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, a ninth amended agreement on February 28, 2003, a tenth amendment on March 12, 2003, and an eleventh amended agreement on August 13, 2003<sup>1</sup>. The Commission ordered that in the event the parties amended their agreement, the amended agreement

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<sup>1</sup> Paragraph 9 of the order approved on August 13, 2003, has incorrect references. Paragraph 9 should refer to a request for approval of an eleventh amendment filed on July 15, 2003.

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 twelfth amendment on January 20, 2004.

### 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, a ninth amended agreement on February 28, 2003, a tenth amendment on March 12, 2003, and an eleventh amended agreement on August 13, 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) Paragraph 9 of the August 13, 2003, Order Approving Negotiated Eleventh Amended Agreement should be corrected to read:

9 (6) On July 15, 2003, the parties filed with the Commission a joint request for approval of an eleventh amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.

- 10 (7) On January 20, 2004, the parties filed with the Commission a joint request for approval of a twelfth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.

- 11 (8) The Amended Agreement between XO and Qwest was brought before the Commission at its regularly scheduled meeting on February 11, 2004.

- 12 (9) XO and Qwest voluntarily negotiated the entire amendment.

- 13 (10) The Amended Agreement does not discriminate against any other telecommunications carrier.

- 14 (11) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 15 (12) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 16 (13) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 17 (14) 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.
- 18 (15) After examination of the proposed Amended Agreement filed by XO and Qwest on January 20, 2004, and giving consideration to all relevant matters, the Commission finds the proposed Amended Agreement should be approved.

## ORDER

### THE COMMISSION ORDERS:

- 19 (1) The Amended Agreement between XO Washington, Inc., and Qwest Corporation, which the parties filed on January 20, 2004, is approved and effective as of the date of this Order.
- 20 (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.

- 21 (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.
- 22 (4) Paragraph 9 of the August 13, 2003, Order Approving Negotiated Eleventh Amended Agreement is corrected to read:

9 (6) On July 15, 2003, the parties filed with the Commission a joint request for approval of an eleventh amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.

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 11<sup>th</sup> day of February, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary