

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Request For Approval of	)	DOCKET NO. UT-013009
Negotiated Agreement Under the	)	
Telecommunications Act of 1996 Between	)	
	)	
PAC-WEST TELECOMM, INC.,	)	ORDER APPROVING
	)	NEGOTIATED FIRST
and	)	AMENDED AGREEMENT
	)	FOR INTERCONNECTION
QWEST CORPORATION	)	AND RESALE SERVICES
. . . . .	)	

**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 Pac-West Telecomm, Inc., (Pac-West), and Qwest Corporation (Qwest). On January 31, 2001, the parties filed a joint request that Pac-West receive all arrangements provided in an interconnection agreement previously approved by the Commission between Northwest Telephone, Inc. (Northwest), and Qwest, f/k/a U S WEST Communications, Inc., (U S WEST) in Docket No. UT-990379. The Commission accepted this request on February 14, 2001. On April 12, 2000, in Docket UT-990355 - Interpretive and Policy Statement regarding Section 252(i) of the Telecom Act - the Commission concluded that amendments to original adopted agreements would be deemed new agreements 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 April 5, 2001.

**MEMORANDUM**

2. The Amended Agreement between Pac-West and Qwest was brought before the Commission at its regularly scheduled open public meeting of April 25, 2001, at its offices in Olympia, Washington. The Commission granted its approval of the Amended 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:

- (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

5. Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.

6. Pac-West is authorized to provide telecommunications services to the public in the state of Washington.

7. On January 31, 2001, the parties filed a joint request that Pac-West receive all arrangements provided in an interconnection agreement previously approved by the Commission between Northwest and Qwest in Docket No. UT-990379. The Commission accepted this request on February 14, 2001. On April 12, 2000, in Docket UT-990355 - Interpretive and Policy Statement regarding Section 252(i) of the Telecom Act - the Commission concluded that amendments to original adopted agreements would be deemed new agreements under the Telecom Act and must be submitted to the Commission for approval.

8. On April 5, 2001, 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.

9. Pac-West and Qwest voluntarily negotiated the entire amendment.

10. The Amended Agreement does not discriminate against any other telecommunications carrier.

11. The Amended Agreement will facilitate local exchange competition in the state of Washington by enabling Pac-West to expand its presence in the local exchange market and increase customer choices for local exchange services.

### **CONCLUSIONS OF LAW**

12. The Commission has jurisdiction over the subject matter and all parties to this proceeding.

13. The Amended Agreement is consistent with the public interest, convenience, and necessity.

14. The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).

15. 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 and the Washington courts.

### **ORDER**

#### **THE COMMISSION ORDERS:**

16. The Amended Agreement between Pac-West Telecomm, Inc., and Qwest Corporation, which the parties filed on April 5, 2001, is approved and effective.

17. 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.

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 and the Washington courts.

DATED at Olympia, Washington, and effective this 25<sup>th</sup> day of April, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner