

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of the Request for Approval of	)	
Negotiated Agreement Under the	)	
Telecommunications Act of 1996 Between	)	DOCKET NO. UT-990385
	)	
ESCHELON TELECOM OF	)	
WASHINGTON, INC., f/k/a AMERICAN	)	ORDER APPROVING
TELEPHONE & TECHNOLOGY, INC.,	)	NEGOTIATED NINTH
	)	AMENDED AGREEMENT
and	)	ADDING PROVISIONS FOR
	)	COLLOCATION
QWEST CORPORATION, f/k/a U S	)	DECOMMISSION
WEST COMMUNICATIONS, INC.	)	
.....	)	

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated ninth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Eschelon Telecom of Washington, Inc., (Eschelon), f/k/a American Telephone & Technology, Inc., and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission previously approved an interconnection agreement between the parties on February 24, 2000, a first and second amended agreement on July 31, 2000, a third amended agreement on October 11, 2000, a fourth amended agreement on January 24, 2001, a fifth amended agreement on February 23, 2001, a sixth amended agreement on January 9, 2002, a seventh amended agreement on January 30, 2002, and an eighth amended agreement on March 13, 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 ninth amendment on March 27, 2002.

**MEMORANDUM**

2 The Amended Agreement between Eschelon and Qwest was brought before the Commission at its regularly scheduled open meeting held on April 24, 2002, 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  
transfer 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 Eschelon is authorized to provide telecommunications services to the public in the  
state of Washington.

9 The Commission previously approved an interconnection agreement between the  
parties on February 24, 2000, a first and second amended agreement on July 31, 2000,  
a third amended agreement on October 11, 2000, a fourth amended agreement on  
January 24, 2001, a fifth amended agreement on February 23, 2001, a sixth amended  
agreement on January 9, 2002, a seventh amended agreement on January 30, 2002,  
and an eighth amended agreement on March 13, 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 March 27, 2002, the parties filed with the Commission a joint request for approval  
of a ninth amendment to the previously approved interconnection agreement,  
pursuant to the Telecom Act.

11 Eschelon 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 Eschelon to expand its presence in 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 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:

- 18 The Amended Agreement between Eschelon Telecom of Washington, Inc., f/k/a American Telephone & Technology, Inc., and Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on March 27, 2002, is approved and effective as of the date of this order.
- 19 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 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.
- 20 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 24<sup>th</sup> day of April, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner