

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of the Request for	)	
Approval of Negotiated Agreement	)	DOCKET NO. UT-960310
Under the Telecommunications Act of	)	
1996 Between	)	ORDER APPROVING NEGOTIATED
	)	FIFTH AMENDED AGREEMENT
MCIMETRO ACCESS	)	ADDING PROVISIONS FOR LINE
TRANSMISSION SERVICES, LLC,	)	SHARING, UNBUNDLED PACKET
	)	SWITCHING, UNBUNDLED
and	)	NETWORK ELEMENTS
	)	PLATFORM, LINE SPLITTING,
QWEST CORPORATION, f/k/a U S	)	LOOP SPLITTING, AND A CHANGE
WEST COMMUNICATIONS, INC.	)	OF LAW
.....	)	

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fifth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between MCImetro Access Transmission Services, LLC, (MCIm), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission approved an interconnection agreement between the parties on August 18, 1997, a first amended agreement on December 29, 1999, a second amended agreement on March 28, 2001, a third amended agreement on October 31, 2001, and a fourth amended agreement on November 28, 2001. 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 fifth amendment on October 2, 2002.

**MEMORANDUM**

2 The Amended Agreement between MCIm and Qwest was brought before the Commission at its regularly scheduled open meeting held on October 30, 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 MCIIm is authorized to provide telecommunications services to the public in the state  
of Washington.

9 The Commission approved an interconnection agreement between the parties on  
August 18, 1997, a first amended agreement on December 29, 1999, a second  
amended agreement on March 28, 2001, a third amended agreement on October 31,  
2001, and a fourth amended agreement on November 28, 2001. 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 October 2, 2002, the parties filed with the Commission a joint request for  
approval of a fifth amendment to the previously approved interconnection agreement,  
pursuant to the Telecom Act.

11 MCIIm 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 MCIIm 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 and the courts of Washington state.

**ORDER**

- 18 THE COMMISSION ORDERS:
- 19 The Amended Agreement between MCImetro Access Transmission Services, LLC, and Qwest Corporation, f/k/a US WEST Communications, Inc., which the parties filed on October 2, 2002, is approved and effective as of the date of this order.
- 20 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.
- 21 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 courts of Washington state.

DATED at Olympia, Washington, and effective this 30<sup>th</sup> day of October, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner