

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

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

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated eleventh 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, an eighth amended agreement on March 13, 2002, a ninth amended agreement on April 24, 2002, and a tenth amended agreement on July 10, 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.

2 The parties filed a joint request for approval of an eleventh amendment on August 22, 2002. Qwest has expanded its policy to file all new contracts, agreements or letters of understanding between Qwest and CLECs (competitive local exchange carriers) that create obligations to meet the requirements of Section 251(b) or (c) on a going forward basis. The eleventh amendment is one of those agreements.

MEMORANDUM

3 The Amended Agreement between Eschelon and Qwest was brought before the
Commission at its regularly scheduled open meeting held on September 25, 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

4 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.

5 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:

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

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

9 Eschelon is authorized to provide telecommunications services to the public in the
state of Washington.

10 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, an
eighth amended agreement on March 13, 2002, a ninth amended agreement on
April 24, 2002, and a tenth amended agreement on July 10, 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.

11 On August 22, 2002, 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.

- 12 Eschelon and Qwest voluntarily negotiated the entire amendment.
- 13 The Amended Agreement does not discriminate against any other telecommunications carrier.
- 14 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

- 15 The Commission has jurisdiction over the subject matter and all parties to this proceeding.
- 16 The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 17 The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 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.

ORDER

THE COMMISSION ORDERS:

- 19 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 August 22, 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.

DATED at Olympia, Washington, and effective this 25th day of September, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

PATRICK J. OSHIE, Commissioner