

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of	)	DOCKET NO. UT-990385
	)	
ESCHELON TELECOM OF	)	
WASHINGTON, INC., f/k/a	)	
AMERICAN TELEPHONE AND	)	
TECHNOLOGY, INC.	)	
	)	
and	)	
	)	ORDER APPROVING
QWEST CORPORATION	)	NEGOTIATED TWELFTH
	)	AMENDED AGREEMENT
For Approval of Negotiated	)	ADDING PROVISIONS FOR A
Agreement Under the	)	PERFORMANCE ASSURANCE
Telecommunications Act of 1996	)	PLAN
.....	)	

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated twelfth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Eschelon Telecom of Washington, Inc., f/k/a American Telephone and Technology, Inc., (Eschelon) and Qwest Corporation, (Qwest). The Commission approved an interconnection agreement between the parties on February 24, 2000, the first and second amended agreements 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 22, 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, a tenth amended agreement on July 10, 2002, and an eleventh amended agreement on September 25, 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. The parties filed a joint request for approval of a twelfth amendment on April 4, 2003.

### 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) Eschelon 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 February 24, 2000, the first and second amended agreements 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 22, 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, a tenth amended agreement on July 10, 2002, and an eleventh amended agreement on September 25, 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) On April 4, 2003, 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.
- 10 (7) The Amended Agreement between Eschelon and Qwest was brought before the Commission at its regularly scheduled meeting on April 30, 2003.
- 11 (8) Eschelon and Qwest voluntarily negotiated the entire amendment.
- 12 (9) The Amended Agreement does not discriminate against any other telecommunications carrier.
- 13 (10) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 14 (11) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 15 (12) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).

- 16 (13) 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.
- 17 (14) After examination of the proposed Amended Agreement filed by Eschelon and Qwest on April 4, 2003, and giving consideration to all relevant matters, the Commission finds the proposed Amended Agreement should be approved.

## ORDER

### THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement between Eschelon Telecom of Washington, Inc., f/k/a American Telephone and Technology, Inc., and Qwest Corporation, which the parties filed on April 4, 2003, is approved and effective as of the date of this Order.
- 19 (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.
- 20 (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.

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 30<sup>th</sup> day of April, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary