

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Request For)	
Approval of Negotiated Agreement)	
Under the Telecommunications Act of)	DOCKET NO. UT-003051
1996 Between)	
)	
TSS DIGITAL SERVICES, LLC)	ORDER APPROVING
)	NEGOTIATED FOURTH
and)	AMENDED AGREEMENT
)	ADDING PROVISIONS FOR
QWEST CORPORATION, f/k/a U S)	UNBUNDLED DARK FIBER
WEST COMMUNICATIONS, INC.)	
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fourth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between TSS Digital Services, LLC, (TSS), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc., (U S WEST). On June 28, 2000, the Commission accepted the parties' request that TSS receive all arrangements provided in an interconnection agreement previously approved by the Commission between Covad Communications Company (Covad) and U S WEST in Docket UT-980312, including a first and second amendment, and on March 28, 2001, the Commission approved a third amended agreement. 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 fourth amendment on March 27, 2002.

MEMORANDUM

2 The Amended Agreement between TSS 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
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:

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

9 On June 28, 2000, the Commission accepted the parties' request that TSS receive all
arrangements provided in an interconnection agreement previously approved by the
Commission between Covad and U S WEST in Docket UT-980312, including a first
and second amendment, and on March 28, 2001, the Commission approved a third
amended agreement. 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 fourth amendment to the previously approved interconnection agreement
pursuant to the Telecom Act.

11 TSS 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 TSS to enter 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 TSS Digital Services, LLC, 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 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.
- 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 24th day of April, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner