

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

In the Matter of the Request of)	DOCKET NO. UT-013052
)	
VERIZON NORTHWEST INC.,)	
and)	
)	
ONE POINT COMMUNICATIONS -)	
COLORADO, LLC, d/b/a VERIZON)	
AVENUE,)	
)	
For Approval of Negotiated)	ORDER APPROVING
Agreement Under the)	NEGOTIATED THIRD AMENDED
Telecommunications Act of 1996)	AGREEMENT
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated third amended interconnection agreement (Third Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Third Amended Agreement is between OnePoint Communications Colorado, LLC, d/b/a Verizon Avenue (VZA), and Verizon Northwest Inc. (Verizon). The Commission approved an interconnection agreement between the parties on July 11, 2001, a first amended agreement on July 12, 2002, and a second¹ amended agreement on September 10, 2003. The Commission ordered that in the event the parties amended their agreement in the future, that amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for

¹ The order approving the second amended agreement is captioned as one approving a tenth amended agreement. The complete record in this docket reveals that a second amended agreement was approved by order dated September 10, 2003.

approval.² The parties filed a joint request for approval of the Third Amended Agreement on January 21, 2004.

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) Verizon 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) VZA is authorized to provide telecommunications services to the public in the state of Washington.

² After the original and first two amended agreements were filed and approved, the Commission began a practice of adding an order number in captions. This order is captioned, in part, "ORDER NO. 4" notwithstanding the three previously issued orders were not numbered in the caption.

- 8 (5) The Commission approved an interconnection agreement between the parties on July 11, 2001, a first amended agreement on July 12, 2002, and a second amended agreement on September 10, 2003. The Commission ordered that in the event the parties amended their agreement in the future, that amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for approval.
- 9 (6) On January 21, 2004, the parties filed with the Commission a joint request for approval of a third amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 10 (7) The Third Amended Agreement between VZA and Verizon was brought before the Commission at its regularly scheduled meeting on March 24, 2004.
- 11 (8) VZA and Verizon voluntarily negotiated the entire third amendment.
- 12 (9) The Third Amended Agreement does not discriminate against any other telecommunications carrier.
- 13 (10) The Third Amended Agreement is intended by the parties to give contractual effect to the Federal Communications Commission's (FCC) August 21, 2004, Triennial Review Order (TRO). *Amended Agreement at 1.* The parties' statements purporting to interpret the TRO are not binding on the Commission. There is a docket before the Commission (Docket No. UT-033044) in which the Commission anticipates addressing issues related to the TRO. That docket is pending. The Commission issued an order suspending those proceedings indefinitely on March 3, 2004. *Order No. 14 Granting Qwest Motion to Suspend Proceedings Indefinitely; Canceling Procedural Schedule, March 3, 2004.*

- 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 Verizon and VZA on January 21, 2004, 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 One Point Communications - Colorado, LLC, d/b/a Verizon Avenue and Verizon Northwest Inc., which the parties filed on January 21, 2004, 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 24th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary