

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

In the Matter of the Request of	)	DOCKET NO. UT-960310
	)	
MCIMETRO ACCESS	)	
TRANSMISSION SERVICES, LLC	)	
	)	
and	)	
	)	
QWEST CORPORATION	)	ORDER APPROVING
	)	NEGOTIATED TWELFTH
For Approval of Negotiated	)	AMENDED AGREEMENT
Agreement Under the	)	ADDING BUSINESS ESCALATION
Telecommunications Act of 1996	)	PROCEDURES
.....	)	

**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 MCImetro Access Transmission Services, LLC (MCImetro), and Qwest Corporation (Qwest). 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, a fourth amended agreement on November 28, 2001, a fifth amended agreement on October 30, 2002, a sixth amended agreement on November 15, 2002, a seventh amended agreement on December 31, 2002, an eighth amended agreement on March 26, 2003, a ninth amended agreement on April 30, 2003, a tenth amended agreement on September 10, 2003, and an eleventh amended agreement on March 24, 2004. 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 May 3, 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) 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) MCImetro 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 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, a fourth amended agreement on November 28, 2001, a fifth amended agreement on October 30, 2002, a sixth amended agreement on November 15, 2002, a seventh amended agreement on December 31, 2002, an eighth amended agreement on March 26, 2003, a ninth amended agreement on April 30, 2003, a tenth amended agreement on September 10, 2003, and an eleventh amended agreement on March 24, 2004. 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 May 3, 2004, 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 MCImetro and Qwest was brought before the Commission at its regularly scheduled meeting on June 30, 2004.
- 11 (8) MCImetro 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  
MCImetro and Qwest on May 3, 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 MCImetro Access Transmission  
Services, LLC, and Qwest Corporation, which the parties filed on May 3,  
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 30<sup>th</sup> day of June, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary