

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

In the Matter of the Request of	)	DOCKET NO. UT-013057
	)	
NEW ACCESS	)	
COMMUNICATIONS, LLC	)	
	)	
and	)	
	)	ORDER APPROVING
QWEST CORPORATION	)	NEGOTIATED SECOND
	)	AMENDED AGREEMENT
For Approval of Negotiated	)	ADDING PROVISIONS FOR
Agreement Under the	)	QWEST DSL (WITH DISCOUNT)
Telecommunications Act of 1996	)	PROVIDED WITH UNE-P
.....	)	

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated second amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between New Access Communications, LLC (New Access), and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on July 11, 2001, and a first amended agreement on January 8, 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 second amendment on March 29, 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) New Access 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 July 11, 2001, and a first amended agreement on January 8, 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 March 29, 2004, the parties filed with the Commission a joint request  
for approval of a second amendment to the previously approved  
interconnection agreement, pursuant to the Telecom Act.

- 10 (7) The Amended Agreement between New Access and Qwest was brought  
before the Commission at its regularly scheduled meeting on April 28,  
2004.
- 11 (8) New Access 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 New  
Access and Qwest on March 29, 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 New Access Communications, LLC and Qwest Corporation, which the parties filed on March 29, 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 28<sup>th</sup> day of April, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary