

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

In the Matter of the Request of)	DOCKET NO. UT-003034
)	
ICG TELECOM GROUP, INC.,)	
)	
and)	
)	
QWEST CORPORATION)	ORDER APPROVING
)	NEGOTIATED SECOND
For Approval of Negotiated)	AMENDED AGREEMENT
Agreement Under the)	ADDING PROVISIONS FOR
Telecommunications Act of 1996)	UNBUNDLED NETWORK
)	ELEMENTS
.....)	

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 ICG Telecom Group, Inc. (ICG), and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on June 28, 2000, and a first amended agreement on February 27, 2002. 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 January 21, 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) ICG 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 June 28, 2000, and a first amended agreement on February 27,
2002. 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 January 21, 2003, 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 ICG and Qwest was brought before
the Commission at its regularly scheduled meeting on February 12, 2003.
- 11 (8) ICG 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 ICG and
Qwest on January 21, 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 ICG Telecom Group, Inc., and Qwest Corporation, which the parties filed on January 21, 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.

DATED at Olympia, Washington, and effective this 12th day of February, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner