

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

| | | |
|----------------------------------|---|--------------------------|
| In the Matter of the Request for |) | |
| Approval of Negotiated Agreement |) | |
| Under the Telecommunications Act |) | DOCKET NO. UT-023004 |
| of 1996 Between |) | |
| |) | ORDER APPROVING |
| SBC TELECOM, INC., |) | NEGOTIATED SECOND |
| |) | AMENDED AGREEMENT |
| and |) | ADDING PROVISIONS FOR |
| |) | ACCESS TO POLES, DUCTS, |
| QWEST CORPORATION |) | CONDUITS, AND RIGHTS-OF- |
| |) | WAY |

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 SBC Telecom, Inc., (SBC), and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on April 24, 2002, and a first amended agreement on September 25, 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 November 12, 2002.

MEMORANDUM

2 The Amended Agreement between SBC and Qwest was brought before the Commission at its regularly scheduled open meeting held on December 11, 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 transfer 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 SBC is authorized to provide telecommunications services to the public in the
state of Washington.

9 The Commission approved an interconnection agreement between the parties on
April 24, 2002, and a first amended agreement on September 25, 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.

- 10 On November 12, 2002, 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.
- 11 SBC 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 SBC to expand its presence in 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 SBC Telecom, Inc., and Qwest Corporation, which the parties filed on November 12, 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 in this order, 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 11th day of December, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner