

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

In the Matter of the Request of	)	DOCKET NO. UT-043114
	)	
	)	ORDER NO. 01
NORTHSTAR TELECOM, INC.	)	
	)	ORDER APPROVING
and	)	NEGOTIATED FIRST AND
	)	SECOND AMENDED
QWEST CORPORATION	)	AGREEMENTS REMOVING
	)	PROVISIONS FOR CERTAIN
	)	UNEs AND ADDING
For Approval of Negotiated	)	PROVISIONS FOR QWEST
Agreement Under the	)	PLATFORM PLUS MASTER
Telecommunications Act of 1996	)	SERVICES AGREEMENT
.....	)	

**BACKGROUND**

- 1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of negotiated first and second amended agreements (collectively the Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Northstar Telecom, Inc. (Northstar) and Qwest Corporation (Qwest).
- 2 On November 8, 2004, the parties filed a joint request that Northstar receive all arrangements provided in an interconnection agreement previously approved by the Commission between AT&T Communications of the Pacific Northwest, Inc., and Qwest in Docket UT-033035. The Commission approved this request on November 24, 2004. On April 12, 2000, in Docket UT-990355 – Interpretive and Policy Statement regarding Section 252 (i) of the Telecom Act – the Commission concluded that amendments to original adopted agreements would be deemed new agreements under the Telecom Act and must be submitted to the Commission for approval. The parties filed a joint request for approval of a first

amendment on November 3, 2004, and a joint request for approval of a second amendment on November 17, 2004.

### FINDINGS AND CONCLUSIONS

- 3 (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.*
- 4 (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:
  - 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 (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.
- 8 (4) Northstar is authorized to provide telecommunications services to the public in the state of Washington.

- 9 (5) On November 8, 2004, the parties filed with the Commission a joint request that Northstar receive all arrangements provided in an interconnection agreement previously approved by the Commission between AT&T Communications of the Pacific Northwest, Inc., and Qwest in Docket UT-033035. The Commission accepted this request on November 24, 2004. On April 12, 2000, in Docket UT-990355 – Interpretive and Policy Statement regarding Section 252(i) of the Telecom Act – the Commission concluded that amendments to original adopted agreements would be deemed new agreements under the Telecom Act and must be submitted to the Commission for approval.
- 10 (6) On November 3, 2004, and November 17, 2004, respectively, the parties filed with the Commission a joint request for approval of a first and a second amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 11 (7) Northstar and Qwest voluntarily negotiated the amendments in their entirety.
- 12 (8) The Amended Agreement between Northstar and Qwest was brought before the Commission at its regularly scheduled meeting on January 26, 2005.
- 13 (9) The Amended Agreement does not discriminate against any other telecommunications carrier.
- 14 (10) The first amended agreement is intended by the parties to give contractual effect to the parties' interpretations of the Federal Communications

Commission's (FCC) Triennial Review Order<sup>1</sup>, the US Court of Appeals USTA II Decision<sup>2</sup>, and the FCC's Interim Rules<sup>3</sup> without need for further amendment. *First Amended Agreement at 1 and 2.* The Commission, in approving any fully-negotiated agreement, does not endorse any particular interpretation of these documents, nor does the Amended Agreement abrogate either the parties' filing obligation or their rights under the Telecom Act.

- 15 (11) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 16 (12) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 17 (13) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 18 (14) 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.

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<sup>1</sup> *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, (effective October 2, 2003).

<sup>2</sup> *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (effective June 16, 2004).

<sup>3</sup> *In the Matter of Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338 (effective September 13, 2004).

- 19 (15) After examination of the proposed Amended Agreement filed by Qwest and Northstar on November 3, 2004, and November 17, 2004, and giving consideration to all relevant matters, the Commission finds the proposed Amended Agreement should be approved.

## ORDER

### THE COMMISSION ORDERS:

- 20 (1) The Amended Agreement between Northstar Telecom, Inc., and Qwest Corporation, which the parties filed on November 3, 2004, and November 17, 2004, is approved and effective as of the date of this Order.
- 21 (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.
- 22 (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.

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DATED at Olympia, Washington, and effective this 26<sup>th</sup> day of January, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary