

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

In the Matter of the Request of)	DOCKET NO. UT-980309
)	
NEXTEL WEST CORP.)	
)	
and)	
)	
QWEST CORPORATION)	ORDER APPROVING
)	NEGOTIATED THIRD
For Approval of Negotiated)	AMENDED AGREEMENT
Agreement Under the)	ADDING PROVISIONS FOR
Telecommunications Act of 1996)	SINGLE POINT OF PRESENCE
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated third amendment to a wireless interconnection agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Nextel West Corp. (Nextel) and Qwest Corporation (Qwest). The Commission approved a wireless interconnection agreement between the parties on April 8, 1998, an Errata page on August 11, 1999, a first amended agreement on September 27, 2000, and a second amended agreement on June 14, 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 third amendment on January 20, 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 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) Nextel is licensed by the Federal Communications Commission as a
commercial mobile radio service provider.
- 8 (5) The Commission approved a wireless interconnection agreement between
the parties on April 8, 1998, an Errata page on August 11, 1999, a first
amended agreement on September 27, 2000, and a second amended
agreement on June 14, 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 20, 2004, the parties filed with the Commission a joint request for approval of a third amendment to the previously approved wireless interconnection agreement, pursuant to the Telecom Act.
- 10 (7) Nextel and Qwest voluntarily negotiated the entire amendment.
- 11 (8) The Amended Agreement between Nextel and Qwest was brought before the Commission at its regularly scheduled meeting held on February 11, 2004.
- 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 Qwest and Nextel on January 20, 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 Nextel West Corp. and Qwest Corporation, which the parties filed on January 20, 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 11th day of February, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary