

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Request for)	
Approval of Negotiated Agreement)	
Under the Telecommunications Act of)	DOCKET NO. UT-023009
1996 Between)	
)	
KMC TELECOM V, INC.,)	ORDER APPROVING NEGOTIATED
)	AGREEMENT FOR
and)	INTERCONNECTION AND RESALE
)	OF SERVICES
QWEST CORPORATION)	
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated agreement for interconnection and the resale of specified exchange services (Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Agreement is between KMC Telecom V, Inc., (KMC), and Qwest Corporation (Qwest). On March 28, 2002, the parties filed a joint request that KMC adopt Qwest's Statement of Generally Available Terms (SGAT). The SGAT has not been approved by the Commission. Accordingly, the Commission is treating the joint request as a fully negotiated agreement under Section 252 of the Telecom Act.

MEMORANDUM

2 The Agreement between KMC and Qwest was brought before the Commission at its regularly scheduled open meeting held on April 24, 2002, at its offices in Olympia, Washington. The Commission granted its approval of the 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 transfers 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 KMC is authorized to provide telecommunications services to the public in the state
of Washington.

9 On March 28, 2002, the parties filed a joint request that KMC adopt Qwest's SGAT.
The SGAT has not been approved by the Commission. Accordingly, the Commission
is treating the joint request as a fully negotiated agreement under Section 252 of the
Telecom Act.

10 KMC and Qwest voluntarily negotiated the entire Agreement.

11 The Agreement does not discriminate against any other telecommunications carrier.

12 The Agreement will facilitate local exchange competition in the state of Washington
by enabling KMC to enter the local exchange market and increase customer choices
for local exchange services.

CONCLUSIONS OF LAW

13 The Commission has jurisdiction over the subject matter and all parties to this
proceeding.

14 The Agreement is consistent with the public interest, convenience, and necessity.

15 The Agreement meets the requirements of Sections 251 and 252 of the Telecom Act,
including Section 252(e).

16 The laws and regulations of the State of Washington and Commission orders govern
the construction and interpretation of the Agreement. The Agreement is subject to the
jurisdiction of the Commission.

ORDER

THE COMMISSION ORDERS:

- 17 The Agreement for interconnection and resale of services between KMC Telecom V, Inc., and Qwest Corporation, which the parties filed on March 28, 2002, is approved and effective as of the date of this order.
- 18 In the event that the parties revise, modify, or amend the agreement approved herein, 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.
- 19 The laws and regulations of the State of Washington and Commission orders govern the construction and interpretation of the Agreement. The Agreement is subject to the jurisdiction of the Commission.

DATED at Olympia, Washington, and effective this 24th day of April, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner