

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Request for Approval of)	
Negotiated Agreement Under the)	
Telecommunications Act of 1996 Between)	DOCKET NO. UT-990343
)	
FAIRPOINT COMMUNICATIONS)	
SOLUTIONS CORP. f/k/a FAIRPOINT)	ORDER APPROVING
COMMUNICATIONS CORP.)	NEGOTIATED SEVENTH
)	AMENDED AGREEMENT
and)	CONSISTING OF A
)	SETTLEMENT AGREEMENT
QWEST CORPORATION, f/k/a U S WEST)	
COMMUNICATIONS, INC.)	
.....)	

BACKGROUND

- 1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated seventh amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement consists of a settlement agreement between Fairpoint Communications Solutions Corp. (Fairpoint), f/k/a Fairpoint Communications Corp., and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission approved an interconnection agreement between the parties on May 26, 1999, a first amended agreement on July 31, 2000, a second, third, and fourth amended agreement on February 23, 2001, a fifth amended agreement on May 30, 2001, and a sixth amended agreement on March 13, 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.
- 2 The parties filed a joint request for approval of a seventh amendment on August 22, 2002. Qwest has expanded its policy to file all new contracts, agreements or letters of understanding between Qwest and CLECs (competitive local exchange carriers) that create obligations to meet the requirements of Section 251(b) or (c) on a going forward basis. The seventh amendment is one of those agreements.
- 3 On May 10, 2002, Fairpoint filed with the Commission, a request to cease doing business in the state of Washington, Docket UT-020591. This request was allowed to go into effect on May 24, 2002. Consequently, Fairpoint is an unregistered telecommunications company in Washington.

4 The parties entered into the Amended Agreement prior to Fairpoint ceasing to do business. The Amended Agreement should be made a part of the interconnection agreement, pursuant to the Telecom Act. Approval of the Amended Agreement should not be construed to alter Fairpoint's status as an unregistered telecommunications company.

MEMORANDUM

5 The Amended Agreement between Fairpoint and Qwest was brought before the Commission at its regularly scheduled open meeting held on October 23, 2002, at its offices in Olympia, Washington. The Commission approved the Amended Agreement as negotiated and requested by the parties.

FINDINGS OF FACT

6 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.

7 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:

8 (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

9 (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

10 Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.

11 Fairpoint is not currently authorized to provide telecommunications services to the public in the state of Washington.

12 The Commission approved an interconnection agreement between the parties on May 26, 1999, a first amended agreement on July 31, 2000, a second, third, and fourth amended agreement on February 23, 2001, a fifth amended agreement on May 30, 2001, and a sixth amended agreement on March 13, 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.

13 On August 22, 2002, the parties filed with the Commission a joint request for approval of a seventh amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.

14 Fairpoint and Qwest voluntarily negotiated the entire amendment.

15 The Amended Agreement does not discriminate against any other telecommunications carrier.

16 The Amended Agreement will facilitate local exchange competition in the state of Washington by increasing customer choices for local exchange services.

CONCLUSIONS OF LAW

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

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

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

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.

ORDER

THE COMMISSION ORDERS:

21 The Amended Agreement between Fairpoint Communications Solutions Corp., f/k/a Fairpoint Communications Corp., and Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on August 22, 2002, is approved and effective as of the date of this order.

22 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.

23 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 23rd day of October, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner