

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

In the Matter of the Request of)	DOCKET NO. UT-980396
)	
ERNEST COMMUNICATIONS, INC.,)	
)	
and)	ORDER APPROVING
)	NEGOTIATED FOURTH
QWEST CORPORATION)	AMENDED AGREEMENT
)	FOR LOCAL WIRELINE
for Approval of Negotiated Agreement)	NETWORK CONNECTION
Under the Telecommunications Act of)	AND SERVICE RESALE
1996)	ADDING MISCELLANEOUS
)	RATES
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fourth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Ernest Communications, Inc., (Ernest), and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on January 13, 1999¹, a first amended agreement on July 31, 2000, a second amended agreement on October 10, 2001², and a third amended agreement on October 9, 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 fourth amendment on April 12, 2004.

¹ Paragraphs one and seven of the order issued under Docket UT-980396 on October 10, 2001 and paragraphs one and ten of the order issued under this docket on October 9, 2002 incorrectly identify the original approval of the interconnection agreement as occurring on January 31, 1999.

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 RCW 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) Ernest is authorized to provide telecommunications services to the public in the state of Washington.
- 8 (5) The Commission approved an interconnection agreement between the parties on January 13, 1999³, a first amended agreement on July 31,

² Paragraph one of the order issued under Docket UT-980396 on October 9, 2002 incorrectly identifies the approval date of the second amended agreement as October 10, 2000.

³ Paragraphs one and seven of the order issued under Docket UT-980396 on October 10, 2001 and paragraphs one and ten of the order issued under this docket on October 9, 2002 incorrectly identify the original approval of the interconnection agreement as occurring on January 31, 1999.

2000, a second amended agreement on October 10, 2001⁴, and a third amended agreement on October 9, 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 April 12, 2004, the parties filed with the Commission a joint request for approval of a fourth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 10 (7) The Amended Agreement between Ernest and Qwest was brought before the Commission at its regularly scheduled meeting on May 12, 2004.
- 11 (8) Ernest and Qwest voluntarily negotiated the entire amendment.
- 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

⁴ Paragraph one of the order issued under Docket UT-980396 on October 9, 2002 incorrectly identifies the approval date of the second amended agreement as October 10, 2000.

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 Ernest on April 12, 2004, and giving consideration to all relevant matters, the Commission finds the proposed Amended Agreement should be approved.

O R D E R

THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement between Ernest Communications, Inc., and Qwest Corporation, which the parties filed on April 12, 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 12th day of May, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary