

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Petitioners,

v.

ADVANCED TELECOM GROUP, INC.,
et al,

Respondents.

DOCKET NO. UT-033011

ELECTRIC LIGHTWAVE, LLC.
SETTLEMENT AGREEMENT

PARTIES

1 The Parties to this Settlement Agreement are Commission Staff (Staff), and
Electric Lightwave, LLC., a competitive local exchange carrier (CLEC).

INTRODUCTION

2 The Parties stipulate to this Settlement Agreement to resolve all matters in
dispute between them regarding the Washington Utilities and Transportation
Commission (Commission) Complaint and Amended Complaint in this docket.
The Parties request a Commission order approving this Settlement Agreement.

DEFINITIONS

3 The term “Interconnection Agreement” as used in this Settlement Agreement shall include any agreement required to be filed and/or approved by the Commission pursuant to RCW 80.36.150 and 47 U.S.C. § 252. “Interconnection Agreement” shall also include any future agreement required to be filed and/or approved by then existing law.

PROCEDURAL HISTORY

4 On August 13, 2003, and August 15, 2003, respectively, the Commission issued a complaint and an amended complaint against Electric Lightwave, LLC (ELI) and several other telecommunication companies. The Commission alleged that ELI failed to file and seek Commission approval for four agreements (hereafter referred to as the “Agreements”) between ELI and Qwest Corporation, an incumbent local exchange carrier, as required by 47 U.S.C. § 252(a)(1), (e), and RCW 80.36.150. These Agreements are identified as follows: Agreement 28A, dated December 30, 1999, Agreement 29A, dated June 12, 2000, Agreement 48A, dated July 19, 2001, Agreement 49A, dated July 19, 2001. Staff maintained that ELI shares a legal obligation to file and seek Commission approval for the Agreements as they constitute Interconnection Agreements. ELI believes it had no obligation to file the Agreements as it believed they were settlement agreements regarding billing

disputes. Order Number 05 granted Staff's Motion for Partial Summary Disposition and ruled against ELI's position.

SPECIFIC TERMS

5 Staff and ELI agree to the following terms and conditions:

6 1. ELI accepts and agrees to be bound by the terms of Commission
Order Number 05, attached hereto and incorporated by reference.

7 2. Staff and ELI agree that Agreement 49A, dated July 19, 2001, between
ELI and Qwest is not an Interconnection Agreement. Because Agreement 49A is not
an Interconnection Agreement, Staff agrees to bring a motion to dismiss this
agreement from the complaint at the time this Settlement Agreement is filed.

3. ELI admits that the referenced Agreements, with the exception of
Agreement 49A, between it and Qwest constitute Interconnection Agreements
under current FCC and Washington Utilities and Transportation Commission
(WUTC) orders, but emphasizes that at the time it entered into each Agreement it
believed, based on law in existence at the time, that the Agreements did not
constitute interconnection agreements. ELI also believed Qwest was the only party
obligated to file interconnection agreements.

8 4. ELI admits it shares a legal obligation to file with and seek
Commission approval for all Interconnection Agreements.

9 5. ELI accepts its shared obligation to file and seek Commission approval for all future Interconnection Agreements in compliance with this Settlement Agreement and then existing law. ELI agrees that all Interconnection Agreements shall be filed within thirty (30) days of execution.

10 6. ELI agrees that if an Interconnection Agreement is presently in existence and not yet filed for approval, the Interconnection Agreement will be filed within forty-five (45) days of approval of this Settlement Agreement by the Commission.

11 7. ELI agrees that if a conflict arises between the law in existence in the future and the terms of this Settlement Agreement, existing law will control. Either party may give the other party written notice of its belief that a change in the law has affected this Settlement Agreement. The parties agree to meet and negotiate in good faith to bring this Settlement Agreement into compliance with existing law. If the parties cannot reach agreement within sixty (60) days of the date notice was given that a change in the law has occurred, either party may petition any state or federal court in Washington State for appropriate relief.

12 8. ELI agrees to pay a penalty of three thousand (\$3000.00) dollars.

GENERAL TERMS

13 The Parties stipulate to the following general terms of the Settlement

Agreement:

14 1. The Parties agree to use their best efforts to secure the approval by the Commission and, as necessary, other parties to this proceeding, of the Specific Terms of this Settlement Agreement. The Parties understand that the Specific Terms listed do not apply unless approved by the Commission.

15 2. The Settlement Agreement represents an integrated resolution of issues. Accordingly, the Parties recommend that the Commission adopt this Settlement Agreement in its entirety. Each party reserves the right to withdraw from the Settlement Agreement if the Commission does not approve the Settlement Agreement in its entirety or conditions approval of the Settlement Agreement on material revisions to its terms and conditions.

16 3. The Parties agree to cooperate to assure compliance with WAC 480-07-730 – 750, including providing at least one witness at the time the Settlement Agreement is presented to the Commission to provide testimony in support of the Settlement Agreement and answer any questions the Commission may have. The Parties agree to cooperate, in good faith, in the development of such other information as may be necessary to support and explain the basis of this Settlement

Agreement, and to supplement the record accordingly.

17 4. The Parties enter into this Settlement Agreement to avoid further expense, uncertainty, and delay in resolving the issues between them in this docket. By executing this Settlement Agreement, The Parties shall not be deemed to have accepted or consented to the facts, principles, methods, or theories employed in arriving at the Settlement Agreement. The Parties shall not use, advocate or otherwise employ—itsself or in conjunction with any other individual or entity—this Settlement Agreement for disputing, arguing, or resolving any issues in any other proceeding.

REQUEST FOR APPROVAL

18 This Settlement Agreement and the attachments are presented to the Commission under WAC 480-07-730 - 750 for the Commission's approval. If approved, this Settlement Agreement constitutes a full settlement of all issues raised against ELI in the Complaint and Amended Complaint by the Commission.

DATED this _____ day of May, 2004.

ELECTRIC LIGHTWAVE, LLC.

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