

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-980312
1996 Between	)	
	)	
COVAD COMMUNICATIONS	)	ORDER APPROVING NEGOTIATED
COMPANY	)	FOURTH AMENDED AGREEMENT
	)	CONSISTING OF A SETTLEMENT
and	)	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 negotiated fourth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Covad Communications Company (Covad), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission approved an interconnection agreement between the parties on April 22, 1998, a first amended agreement on September 30, 1998, a second amended agreement on March 10, 1999, and a third amended agreement on March 28, 2001. 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 fourth 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 fourth amendment is one of those agreements.

**MEMORANDUM**

- 3 The Amended Agreement between Covad and Qwest was brought before the Commission at its regularly scheduled open meeting held on September 25, 2002, at its offices in Olympia, Washington. The Commission granted its approval of the Amended Agreement as negotiated and requested by the parties.

**FINDINGS OF FACT**

- 4 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.
- 5 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:
- 6 (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- 7 (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.
- 8 Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.
- 9 Covad is authorized to provide telecommunications services to the public in the state of Washington.
- 10 The Commission approved an interconnection agreement between the parties on April 22, 1998, a first amended agreement on September 30, 1998, a second amended agreement on March 10, 1999, and a third amended agreement on March 28, 2001. 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.
- 11 On August 22, 2002, 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.
- 12 Covad and Qwest voluntarily negotiated both amendment in their entirety.
- 13 The Amended Agreement does not discriminate against any other telecommunications carrier.
- 14 The Amended Agreement will facilitate local exchange competition in the state of Washington by enabling Covad to expand its presence in the local exchange market and increase customer choices for local exchange services.

**CONCLUSIONS OF LAW**

- 15 The Commission has jurisdiction over the subject matter and all parties to this proceeding.
- 16 The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 17 The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 18 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:

- 19 The Amended Agreement between Covad Communications Company 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.
- 20 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.
- 21 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 25<sup>th</sup> day of September, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

PATRICK J. OSHIE, Commissioner