

- 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 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) Open Access is not currently authorized to provide telecommunications services to the public in the state of Washington.
- 8 (5) On July 15, 2003, the parties filed a joint request that Open Access adopt Qwest's SGAT and for approval of a first amendment. The Commission is treating the proposed adoption as a fully negotiated agreement under Section 252 of the Telecom Act.
- 9 (6) Open Access and Qwest voluntarily negotiated the entire Amended Agreement.
- 10 (7) The Amended Agreement between Open Access and Qwest was brought before the Commission at its regularly scheduled meeting on August 13, 2003.
- 11 (8) The Amended Agreement does not discriminate against any other telecommunications carrier.

- 12 (9) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 13 (10) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 14 (11) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 15 (12) Approval of the Amended Agreement does not in any way waive Open Access' requirement to become a registered telecommunications services provider in the state of Washington.
- 16 (13) 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.
- 17 (14) After examination of the proposed Agreement filed by Qwest Corporation and Open Access on July 15, 2003, and giving consideration to all relevant matters, the Commission finds the proposed Agreement should be approved.

ORDER

THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement for interconnection and resale of services between Open Access Communications, Inc., and Qwest Corporation, which the parties filed on July 15, 2003, is approved and effective as of the date of this Order.
- 19 (2) In the event that the parties revise, modify, or amend the amended 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 13th day of August, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary