

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

In the Matter of the Request of	)	DOCKET NO. UT-003051
	)	
TSS DIGITAL SERVICES, LLC	)	
	)	
and	)	
	)	
QWEST CORPORATION, f/k/a U S	)	
WEST COMMUNICATIONS, INC.	)	ORDER APPROVING
	)	NEGOTIATED FIFTH AMENDED
For Approval of Negotiated	)	AGREEMENT ADDING
Agreement Under the	)	PROVISIONS FOR UNBUNDLED
Telecommunications Act of 1996	)	NETWORK ELEMENT
.....	)	COMBINATIONS

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fifth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between TSS Digital Services, LLC (TSS), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission approved an interconnection agreement between the parties on June 28, 2000, including a first and second amendment, a third amended agreement on March 28, 2001, and a fourth amended agreement on April 24, 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 fifth amendment on December 10, 2002.

## 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) TSS 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 June 28, 2000, including a first and second amendment, a third  
amended agreement on March 28, 2001, and a fourth amended agreement  
on April 24, 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 December 10, 2002, the parties filed with the Commission a joint request for approval of a fifth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 10 (7) The Amended Agreement between TSS and Qwest was brought before the Commission at its regularly scheduled meeting on January 8, 2003.
- 11 (8) TSS 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 Agreement. The Amended Agreement is subject to the jurisdiction of the Commission.
- 17 (14) After examination of the proposed Amended Agreement filed by TSS and Qwest on December 10, 2002, and giving consideration to all relevant

matters, the Commission finds the proposed Amended Agreement should be approved.

## ORDER

### THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement between TSS Digital Services, LLC, and Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on December 10, 2002, 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.

DATED at Olympia, Washington, and effective this 8<sup>th</sup> day of January, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner