

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of the Request for Approval	)	
of the Negotiated Agreement Under the	)	
Telecommunications Act of 1996 Between	)	DOCKET NO. UT-990313
	)	
FOCAL COMMUNICATIONS	)	
CORPORATION OF WASHINGTON	)	ORDER APPROVING
	)	NEGOTIATED FIFTH AMENDED
and	)	AGREEMENT ADDING
	)	PROVISIONS FOR DIRECTORY
QWEST CORPORATION, f/k/a U S	)	ASSISTANCE AND OPERATOR
WEST COMMUNICATIONS, INC.	)	SERVICES
.....	)	
	)	

**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 Focal Communications Corporation of Washington (Focal), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission approved an interconnection agreement between the parties on March 10, 1999, a first amended agreement on August 30, 2000, a second amended agreement on June 13, 2001, a third amended agreement on July 26, 2002, and a fourth amended agreement on August 14, 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 September 9, 2002.

**MEMORANDUM**

2 The Amended Agreement between Focal 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**

- 3 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 transfers of public service companies, including telecommunications companies.
- 4 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:
- 5 (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
  - 6 (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.
- 7 Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.
- 8 Focal is authorized to provide telecommunications services to the public in the state of Washington.
- 9 The Commission approved an interconnection agreement between the parties on March 10, 1999, a first amended agreement on August 30, 2000, a second amended agreement on June 13, 2001, a third amended agreement on July 26, 2002, and a fourth amended agreement on August 14, 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.
- 10 On September 9, 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.
- 11 Focal and Qwest voluntarily negotiated the entire amendment.
- 12 The Amended Agreement does not discriminate against any other telecommunications carrier.

13 The Amended Agreement will facilitate local exchange competition in the state of  
Washington by enabling Focal to expand its presence in the local exchange market and  
increase customer choices for local exchange services.

### CONCLUSIONS OF LAW

14 The Commission has jurisdiction over the subject matter and all parties to this proceeding.

15 The Amended Agreement is consistent with the public interest, convenience, and necessity.

16 The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom  
Act, including Section 252(e).

17 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:

18 The Amended Agreement between Focal Communications Corporation of Washington and  
Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on  
September 9, 2002, is approved and effective as of the date of this order.

19 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.

20 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