

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Request For Approval of)
Negotiated Agreement Under the)
Telecommunications Act of 1996 Between) DOCKET NO. UT-013044
)
FUZION WIRELESS COMMUNICATIONS)
) ORDER APPROVING
and) NEGOTIATED AGREEMENT
) FOR INTERCONNECTION
VERIZON NORTHWEST INC.) AND RESALE OF SERVICES
.....)

BACKGROUND

- 1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated agreement for interconnection and the resale of specified exchange services (Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Agreement is between Fuzion Wireless Communications (Fuzion) and Verizon Northwest Inc. (Verizon). The parties filed a joint request for approval of the Agreement on May 9, 2001.
- 2 The parties ask the Commission to allow them to adopt, pursuant to the FCC’s Bell Atlantic/GTE Merger Conditions (Merger Conditions), released on June 16, 2000, in CC Docket No. 98-184, an agreement between Verizon and Fuzion approved in the state of Florida.

MEMORANDUM

- 3 The request of Fuzion and Verizon comes before the Commission at its regularly scheduled open public meeting of May 30, 2001, at its offices in Olympia, Washington. The Commission has a complaint before it in Docket No. UT-013019, in which one disputed issue is whether the Merger Conditions require Verizon to make available in Washington state the terms of interconnection agreements approved by other state commissions. The Commission has not determined in that proceeding the effect of the Merger Conditions and, therefore, approves the request of Fuzion and Verizon in this docket as a fully negotiated agreement, pursuant to 47 U.S.C. § 252, state law, and the Commission’s rules.

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 transfers 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:
- (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
 - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.
- 6 Verizon is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.
- 7 Fuzion is not currently authorized to provide telecommunications services to the public in the state of Washington.
- 8 On May 9, 2001, the parties filed with the Commission a joint request for approval of an agreement for interconnection and resale of services.
- 9 The Agreement does not discriminate against any other telecommunications carrier.
- 10 The Agreement will facilitate local exchange competition in the state of Washington by enabling Fuzion to enter the local exchange market and increase customer choices for local exchange services.

CONCLUSIONS OF LAW

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

- 14 Approval of the Agreement does not in any way waive Fusion's requirement to become a registered telecommunications service provider in the state of Washington.
- 15 The laws and regulations of the State of Washington, and Commission orders govern the construction and interpretation of the Agreement. The Agreement is subject to the jurisdiction of the Commission and the Washington courts.

ORDER

THE COMMISSION ORDERS:

- 16 The Agreement for interconnection and resale of services between Fuzion Wireless Communications and Verizon Northwest Inc., which the parties filed on May 9, 2001, is approved.
- 17 Fuzion Wireless Communications is not currently authorized to provide telecommunications services in the state of Washington. Approval of the Agreement does not in any way waive Fuzion Wireless Communications' requirement to become a registered telecommunications service provider in the state of Washington. The Agreement will not become operable until such time as Fuzion Wireless Communications has been registered as a telecommunications service provider by this Commission.
- 18 In the event that the parties revise, modify, or amend the agreement approved herein, 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.
- 19 The laws and regulations of the State of Washington, and Commission orders govern the construction and interpretation of the Agreement. The Agreement is subject to the jurisdiction of the Commission and the Washington courts.

DATED at Olympia, Washington, and effective this 30th day of May, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner