

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-013049
1996 Between	)	
	)	ORDER APPROVING
AMERICAN FIBER NETWORK, INC.,	)	NEGOTIATED AGREEMENT
	)	FOR RESALE OF SERVICES
and	)	
	)	
UNITED TELEPHONE COMPANY OF	)	
THE NORTHWEST	)	
.....	)	

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated agreement for the resale of specified exchange services (Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Agreement is between American Fiber Network (American), and United Telephone Company of the Northwest (Sprint). The parties filed a joint request for approval of the Agreement on June 6, 2001.

**MEMORANDUM**

2 The agreement between American and Sprint was brought before the Commission at its regularly scheduled open public meeting of June 27, 2001, at its offices in Olympia, Washington. The Commission granted its approval of the 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:

- (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.

5 Sprint is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.

6 American is authorized to provide telecommunications services to the public in the state of Washington.

7 On June 6, 2001, the parties filed with the Commission a joint request for approval of a negotiated resale of services agreement pursuant to the Telecom Act.

8 American and Sprint voluntarily negotiated the entire Agreement.

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 American 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 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:

- 15 The Agreement for resale of services between American Fiber Network, Inc., and United Telephone Company of the Northwest, which the parties filed on June 6, 2001, is approved and effective.
- 16 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.
- 17 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 27<sup>th</sup> day of June, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

PATRICK J. OSHIE, Commissioner