

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

In the Matter of the Petition for)	DOCKET UT-083041
Arbitration of an Interconnection)	
Agreement Between)	
)	ORDER 11
CHARTER FIBERLINK WA-CCVII,)	
LLC,)	ORDER APPROVING
)	INTERCONNECTION
with)	AGREEMENT
)	
QWEST CORPORATION,)	
)	
Pursuant to 47 U.S.C. Section 252(b).)	
)	
.....)	

1 **SYNOPSIS.** *The Commission approves the Interconnection Agreement between Charter and Qwest filed on August 24, 2009, as amended by the filing on September 2, 2009.*

2 **NATURE OF THE PROCEEDING.** This proceeding involves a petition by Charter Fiberlink WA-CCVII, LLC (Charter), to arbitrate an interconnection agreement (ICA) with Qwest Corporation (Qwest) under 47 U.S.C. § 252(b), Section 252(b) of the Telecommunications Act of 1996 (the Act).¹

3 **PROCEDURAL HISTORY.** On July 23, 2009, the Washington Utilities and Transportation (Commission) entered Order 10, a final order in the arbitration proceeding, denying Charter’s Petition for Administrative Review, denying Qwest’s Petition for Review, and affirming, with one clarification, the Arbitrator's Report and Decision. The Order required the parties to file a conforming ICA within 30 days.

¹ Public Law No. 104-104, 101 Stat. 56 (1996).

4 On August 24, 2009, Qwest filed with the Commission an ICA pursuant to Order 10. On September 2, 2009, Qwest filed an amended Section 10.4.2.6, page 105 of the ICA.²

5 **APPEARANCES.** Gregory J. Kopta, Davis Wright Tremaine LLP, Seattle, Washington, and K.C. Halm, Davis Wright Tremaine LLP, Washington, D.C., represent Charter. Lisa Anderl, Associate General Counsel, Seattle, Washington, and Thomas M. Dethlefs, Senior Attorney, Denver, Colorado, represent Qwest.

MEMORANDUM

The Interconnection Agreement

6 On August 24, 2009, Qwest timely filed an interconnection agreement that it asserted complied with all arbitrated terms consistent with the Order 10. On September 2, 2009, Qwest filed an amended Section 10.4.2.6, page 105 of the ICA.

7 We find the ICA between Charter and Qwest filed on August 24, 2009, and modified by the amended Section 10.4.2.6, page 105 of the ICA, consistent with the Commission's decisions in Order 10, and Section 251 of the Act. We approve the ICA and find that the negotiated and arbitrated terms of the parties' Interconnection Agreement are consistent with the public interest and do not discriminate against any other telecommunications carrier.

²In Order 10, the Commission directed the parties to include language within Section 10.4.2.6, Limitation of Liability for Directory Services, which clarified that Qwest's tariff section numbers are subject to change over time. Specifically, the Commission ordered the parties to insert the phrase "or other applicable sections regarding limitation of liability for Listings" in Section 10.4.2.6. Order 10, ¶ 23 (July 23, 2009). The August 24, 2009, ICA did not contain this language, and the parties rectified this oversight with the September 2, 2009, amendment.

FINDINGS OF FACT

The Commission makes the following summary findings of fact.

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate in the public interest the rates, services, facilities, and practices of telecommunications companies in the state.
- 9 (2) Charter Fiberlink WA-CCVII, LLC, is authorized to operate in the state of Washington as a competitive local exchange carrier.
- 10 (3) Qwest Corporation is an incumbent local exchange carrier, providing local exchange telecommunications service to the public for compensation within the state of Washington.
- 11 (4) On August 8, 2008, Charter filed a petition with the Commission requesting arbitration of a new ICA with Qwest.
- 12 (5) On March 30, 2009, after evidentiary hearing and briefing, the Arbitrator entered an Arbitrator's Report and Decision resolving all disputed issues between the parties.
- 13 (6) On July 23, 2009, the Commission entered a final order in this arbitration proceeding, Order 10, requiring the parties to file an interconnection agreement consistent with the Order within 30 days of service.
- 14 (7) On August 24, 2009, Qwest filed with the Commission an Interconnection Agreement between Qwest and Charter. Qwest filed an amendment to the Interconnection Agreement on September 2, 2009, that replaced Section 10.4.2.6, page 105 of the Interconnection Agreement.

CONCLUSIONS OF LAW

- 15 Having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 16 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter and the parties to this proceeding.
- 17 (2) The Telecommunications Act of 1996 authorizes the Commission to arbitrate and approve interconnection agreements between telecommunications carriers, pursuant to Section 252 of the Act. The Commission is specifically authorized by state law to engage in that activity. *RCW 80.36.610*. This arbitration and approval process was conducted pursuant to and in compliance with 47 U.S.C. § 252 and *RCW 80.36.610*.
- 18 (3) The negotiated and arbitrated terms of the parties' August 24, 2009, Interconnection Agreement, as modified by the parties' September 2, 2009, amendment are consistent with the public interest and do not discriminate against any other telecommunications carrier.
- 19 (4) The laws and regulations of the state of Washington and Commission orders shall govern the construction and interpretation of the parties' Interconnection Agreement. The parties' Interconnection Agreement is subject to the jurisdiction of the Commission and Washington courts.

ORDER

20 THE COMMISSION ORDERS That the negotiated and arbitrated Interconnection Agreement of Charter Fiberlink WA-CCVII, LLC and Qwest Corporation, filed with the Commission on August 24, 2009, as amended on September 2, 2009, including all negotiated and arbitrated terms, is consistent with the Commission's Final Order, Order 10 in this proceeding, and is approved.

DATED at Olympia, Washington, and effective September 8, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner