

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

In the Matter of the Request for	)	
Approval of Negotiated Agreement	)	
Under the Telecommunications Act of	)	DOCKET NO. UT-003049
1996 Between	)	
	)	
TIME WARNER TELECOM OF	)	ORDER APPROVING
WASHINGTON, LLC	)	NEGOTIATED FIFTH
	)	AMENDED AGREEMENT
and	)	AMENDING SECTION (C)2.3.2
	)	RELATED TO DIRECT TRUNK
QWEST CORPORATION, f/k/a U S	)	TRANSPORT
WEST COMMUNICATIONS, INC.	)	
.....	)	

**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 Time Warner Telecom of Washington, LLC (Time Warner), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc.
- 2     On May 17, 2000, GST Telecom Washington, Inc., (GST), filed for protection under Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. The Bankruptcy Court supervised an auction of GST’s assets, and approved an asset purchase agreement between GST and Time Warner, which included the interconnection agreement between GST and Qwest. In Docket UT-001502, GST notified the Commission of the transfer of assets from GST to Time Warner, and in Docket UT-001551, Time Warner petitioned the Commission for authority to acquire the customer base of GST.
- 3     The Commission approved an interconnection agreement between GST and Qwest on July 31, 2000, a first amended agreement between Qwest and Time Warner, as assignee to GST’s interconnection agreement, on

March 13, 2002, a second amended agreement on March 27, 2002, a third amended agreement on June 26, 2002, and a fourth amended agreement on October 9, 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 October 17, 2002.

### MEMORANDUM

- 4 The Amended Agreement between Time Warner and Qwest was brought before the Commission at its regularly scheduled open meeting held on November 15, 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

- 5 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 transfer of public service companies, including telecommunications companies.
- 6 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:
- 7 (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- 8 (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.
- 9 Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.

- 10 Time Warner is authorized to provide telecommunications services to the public in the state of Washington.
- 11 The Commission approved an interconnection agreement between GST and Qwest on July 31, 2000, a first amended agreement between Qwest and Time Warner, as assignee to GST's interconnection agreement, on March 13, 2002, a second amended agreement on March 27, 2002, a third amended agreement on June 26, 2002, and a fourth amended agreement on October 9, 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.
- 12 On October 17, 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.
- 13 Qwest and Time Warner voluntarily negotiated the entire amendment.
- 14 The Amended Agreement does not discriminate against any other telecommunications carrier.
- 15 The Amended Agreement will facilitate local exchange competition in the state of Washington by enabling Time Warner to expand its presence in the local exchange market and increase customer choices for local exchange services.

#### CONCLUSIONS OF LAW

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

- 19 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:

- 20 The Amended Agreement between Qwest Corporation, f/k/a U S WEST Communications, Inc., and Time Warner Telecom of Washington, LLC, as assignee to GST Telecom of Washington, Inc.'s interconnection agreement, which the parties filed on October 17, 2002, is approved and effective as of the date of this order.
- 21 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.
- 22 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 15<sup>th</sup> day of November, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner