

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

In the Matter of the Request of)	DOCKET NO. UT-003051
)	
TSS DIGITAL SERVICES, LLC)	
)	
and)	
)	
QWEST CORPORATION)	ORDER APPROVING
)	NEGOTIATED SIXTH AMENDED
For Approval of Negotiated)	AGREEMENT ADDING
Agreement Under the)	PROVISIONS FOR SINGLE POINT
Telecommunications Act of 1996)	OF PRESENCE
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated sixth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between TSS Digital Services, LLC (TSS), and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on June 28, 2000, including a first and second amendment, a third amended agreement on March 28, 2001, a fourth amended agreement on April 24, 2002, and a fifth amended agreement on January 8, 2003. 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 sixth amendment on December 23, 2002.

FINDINGS AND CONCLUSIONS

2 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies, including

telecommunications companies. *RCW 80.01.040; Chapter 80.04 RCW and Chapter 80.36 RCW.*

- 3 (2) 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:
- 4 (i) the agreement (or any portion thereof) discriminates against a
telecommunications carrier not a party to the agreement; or
- 5 (ii) the implementation of such agreement or portion is not consistent
with the public interest, convenience, and necessity.
- 6 (3) Qwest is engaged in the business of furnishing telecommunications
services including, but not limited to, basic local exchange service within
the state of Washington.
- 7 (4) TSS is authorized to provide telecommunications services to the public in
the state of Washington.
- 8 (5) The Commission approved an interconnection agreement between the
parties on June 28, 2000, including a first and second amendment, a third
amended agreement on March 28, 2001, a fourth amended agreement on
April 24, 2002, and a fifth amended agreement on January 8, 2003. 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.

- 9 (6) On December 23, 2002, the parties filed with the Commission a joint request for approval of a sixth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 10 (7) The Amended Agreement between TSS and Qwest was brought before the Commission at its regularly scheduled meeting on January 22, 2003.
- 11 (8) TSS and Qwest voluntarily negotiated the entire amendment.
- 12 (9) The Amended Agreement does not discriminate against any other telecommunications carrier.
- 13 (10) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 14 (11) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 15 (12) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 16 (13) 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.
- 17 (14) After examination of the proposed Amended Agreement filed by TSS and Qwest on December 23, 2002, and giving consideration to all relevant matters, the Commission finds the proposed Amended Agreement should be approved.

ORDER

THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement between TSS Digital Services, LLC, and Qwest Corporation, which the parties filed on December 23, 2002, is approved and effective as of the date of this Order.
- 19 (2) 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 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 (3) 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 22nd day of January, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner