

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

In the Matter of the Request of)	DOCKET NO. UT-023015
)	
ONEEIGHTY NETWORKS, INC.)	ORDER NO. 01
)	
and)	
)	
QWEST CORPORATION)	ORDER APPROVING
)	NEGOTIATED FOURTH
For Approval of Negotiated)	AMENDED AGREEMENT
Agreement Under the)	ADDING PROVISIONS FOR
Telecommunications Act of 1996.)	UNBUNDLED DARK FIBER
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fourth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between OneEighty Networks, Inc. (OneEighty), and Qwest Corporation (Qwest). On April 26, 2002, the parties filed a joint request that OneEighty receive all arrangements provided in an interconnection agreement previously approved by the Commission between Other Avista Communications of Washington, Inc. (Avista), and Qwest Corporation (Qwest) in Docket UT-003105. The Commission accepted this request on May 8, 2002. The Commission approved a first amended agreement on May 24, 2002, a second amended agreement on July 10, 2002, and a third amended agreement on January 14, 2004. 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 fourth amendment on December 1, 2003.

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) OneEighty is authorized to provide telecommunications services to the
public in the state of Washington.
- 8 (5) On April 26, 2002, the parties filed with the Commission a joint request
that OneEighty receive all arrangements provided in an interconnection
agreement previously approved by the Commission between Avista
Communications of Washington, Inc. and Qwest in Docket UT-003105.
The Commission accepted this request on May 8, 2002. The Commission
approved a first amended agreement on May 24, 2002, a second amended

agreement on July 10, 2002, and a third amended agreement on July 26, 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.

- 9 (6) On December 1, 2003, the parties filed with the Commission a joint request for approval of a fourth amendment to the previously approved interconnection agreement pursuant to the Telecom Act.
- 10 (7) OneEighty and Qwest voluntarily negotiated the entire amendment.
- 11 (8) The Amended Agreement does not discriminate against any other telecommunications carrier.
- 12 (9) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 13 (10) The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 14 (11) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 15 (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.
- 16 (14) After examination of the proposed Amended Agreement filed by Qwest and OneEighty on December 1, 2003, and giving consideration to all

relevant matters, the Commission finds the proposed Amended Agreement should be approved.

ORDER

THE COMMISSION ORDERS:

- 17 (1) The Amended Agreement OneEighty Networks, Inc., and Qwest Corporation, which the parties filed on December 1, 2003, is approved and effective as of the date of this Order.
- 18 (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 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 (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.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 14th Day of January, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary