

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

In the Matter of the Request of)	DOCKET NO. UT-023037
)	
)	
ELECTRIC LIGHTWAVE, INC.,)	
)	
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 Electric Lightwave, Inc., (ELI) and Qwest Corporation (Qwest). The Commission approved an interconnection agreement and first amendment between the parties on August 14, 2002, a second amended agreement on November 27, 2002, and a third amended agreement on July 23, 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 fourth amendment on February 11, 2004.

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) ELI is authorized to provide telecommunications services to the public in
the state of Washington.
- 8 (5) The Commission approved an interconnection agreement and first
amendment between the parties on August 14, 2002, a second amended
agreement on November 27, 2002, and a third amended agreement on
July 23, 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 February 11, 2004, 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) The Amended Agreement between ELI and Qwest was brought before the Commission at its regularly scheduled meeting on March 12, 2004.
- 11 (8) ELI 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 ELI and Qwest on February 11, 2004, and giving consideration to all relevant

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

O R D E R

THE COMMISSION ORDERS:

- 18 (1) The Amended Agreement between Electric Lightwave, Inc., and Qwest Corporation, which the parties filed on February 11, 2004, 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.

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 12th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary