

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Request For Approval of)	DOCKET NO. UT-003051
Negotiated Agreement Under the)	
Telecommunications Act of 1996 Between)	
)	
TSS DIGITAL SERVICES, LLC)	ORDER APPROVING
)	NEGOTIATED THIRD
and)	AMENDED AGREEMENT
)	FOR INTERCONNECTION
QWEST CORPORATION, f/k/a U S WEST)	AND RESALE SERVICES
COMMUNICATIONS, INC.)	
.)	

BACKGROUND

1. This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated third 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), f/k/a U S WEST Communications, Inc., (U S WEST). On June 20, 2000, the parties filed a joint request that TSS receive all arrangements provided in an interconnection agreement previously approved by the Commission between Covad Communications Company (Covad), and U S WEST in Docket No. UT-980312, including a first and second amendment. The Commission accepted this request on June 28, 2000. On April 12, 2000, in Docket UT-990355 - Interpretive and Policy Statement regarding Section 252(i) of the Telecom Act - the Commission concluded amendments to original adopted agreements would be deemed new agreements under the Telecom Act and must be submitted to the Commission for approval. The parties filed a joint request for approval of a third amendment on March 9, 2001.

MEMORANDUM

2. The Amended Agreement between TSS and Qwest was brought before the Commission at its regularly scheduled open public meeting of March 28, 2001, 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

3. 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 transfers of public service companies, including telecommunications companies.

4. 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:

- (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

5. Qwest is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington.

6. TSS is authorized to provide telecommunications services to the public in the state of Washington.

7. On June 20, 2000, the parties filed a joint request that TSS receive all arrangements provided in an interconnection agreement previously approved by the Commission between Covad and Qwest in Docket No. UT-980312, including a first and second amendment. The Commission accepted this request on June 28, 2000. On April 12, 2000, in Docket UT-990355 - Interpretive and Policy Statement regarding Section 252(i) of the Telecom Act - the Commission concluded amendments to original adopted agreements would be deemed new agreements under the Telecom Act and must be submitted to the Commission for approval.

8. On March 9, 2001, the parties filed with the Commission a joint request for approval of a third amendment pursuant to the Telecom Act.

9. TSS and Qwest voluntarily negotiated the entire amendment.

10. The Amended Agreement does not discriminate against any other telecommunications carrier.

11. The Amended Agreement will facilitate local exchange competition in the state of Washington by enabling TSS to expand its presence in the local exchange market and increase customer choices for local exchange services.

CONCLUSIONS OF LAW

12. The Commission has jurisdiction over the subject matter and all parties to this proceeding.

13. The Amended Agreement is consistent with the public interest, convenience, and necessity.

14. The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).

15. 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 and the Washington courts.

ORDER

THE COMMISSION ORDERS:

16. The Amended Agreement between TSS Digital Services, LLC, and Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on March 9, 2001, is approved and effective.

17. In the event that the parties revise, modify, or amend the agreement approved herein, 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.

18. 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 and the Washington courts.

DATED at Olympia, Washington, and effective this 28th day of March, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner