

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

In the Matter of the Request of)	DOCKET NO. UT-043094
)	
AT&T WIRELESS SERVICES, INC.)	ORDER NO. 01
)	
and)	
)	
WHIDBEY TELEPHONE COMPANY)	
)	
)	
For Approval of Negotiated)	ORDER APPROVING
Agreement Under the)	NEGOTIATED TRAFFIC
Telecommunications Act of 1996)	EXCHANGE AGREEMENT
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated traffic exchange agreement (Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Agreement is between AT&T Wireless Services, Inc., (AWS), and Whidbey Telephone Company (Whidbey). The parties filed a joint request for approval of the Agreement on September 15, 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) Whidbey 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) AWS is licensed by the Federal Communications Commission as a commercial mobile radio service provider.
- 8 (5) On September 15, 2004, the parties filed with the Commission a joint request for approval of a negotiated traffic exchange agreement, pursuant to the Telecom Act.
- 9 (6) The Agreement between AWS and Whidbey was brought before the Commission at its regularly scheduled meeting on November 10, 2004.
- 10 (7) The Agreement does not discriminate against any other telecommunications carrier.
- 11 (8) The Agreement will facilitate local exchange competition in the state of Washington.

- 12 (9) The Agreement is consistent with the public interest, convenience, and necessity.
- 13 (10) The Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 14 (11) The laws and regulations of the State of Washington and Commission Orders govern the construction and interpretation of the Agreement. The Agreement is subject to the jurisdiction of the Commission.
- 15 (12) After examination of the proposed Agreement filed by AWS and Whidbey on September 15, 2004, and giving consideration to all relevant matters, the Commission finds the proposed Agreement should be approved.

ORDER

THE COMMISSION ORDERS:

- 16 (1) The traffic exchange agreement between AT&T Wireless Services, Inc., and Whidbey Telephone Company, which the parties filed on September 15, 2004, is approved and effective as of the date of this Order.
- 17 (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.

- 18 (3) The laws and regulations of the State of Washington and Commission Orders govern the construction and interpretation of the Agreement. The 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 10th day of November, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary