

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

TSS DIGITAL SERVICES, INC.,)	DOCKET UT-063021
)	
Petitioner,)	ORDER 02
)	
v.)	
)	GRANTING PETITIONER LEAVE
QWEST CORPORATION,)	TO WITHDRAW
)	and
Respondent.)	DISMISSING PETITION
.....)	

MEMORANDUM

- 1 **PROCEEDINGS:** TSS Digital Services, Inc. (TSS), filed a petition for enforcement of interconnection agreement with Qwest Corporation (Qwest) on March 16, 2006. TSS alleged that Qwest breached the terms of the parties’ interconnection agreement, violating its dispute resolution provisions by refusing to submit a billing dispute to arbitration as required by the agreement. TSS states that Qwest has filed suit against TSS in Thurston County Superior Court to resolve the billing dispute.

- 2 Qwest filed its Answer on March 28, 2006, and denied the allegations in the petition. Qwest, among other things, stated that the interconnection agreement between Qwest and TSS Digital Services LLC, an entity related to petitioner, does not apply to the accounts or circuits identified in the Petition, that those circuits were purchased under retail contracts, and that there is no prohibition on Qwest pursuing relief for non-payment on those circuits in Superior Court.

- 3 The Commission conducted a prehearing conference on April 12, 2006, before Administrative Law Judge Dennis J. Moss.

- 4 **PARTY REPRESENTATIVES:** James P. Richmond, Richmond Law Group, PLLC, Olympia, Washington represents TSS. Lisa Anderl, attorney, Qwest

Corporation, represents her company. Neither Public Counsel nor the Commission's regulatory staff entered an appearance.¹

5 **DISCOVERY:** The Commission authorized TSS to depose a Qwest representative as part of the discovery process. That was done on May 15, 2006.

6 **REQUEST TO WITHDRAW:** On May 22, 2006, TSS and Qwest contacted the presiding Administrative Law Judge by telephone. Mr. Richmond, for TSS, stated that on the basis of its deposition of Qwest's representative, Mr. McIntyre, TSS was convinced that the circuits at issue were purchased under retail contracts, not an interconnection agreement. Accordingly, TSS stated it wished to withdraw its petition. TSS confirmed its wish to withdraw by letter filed with the Commission on May 24, 2006.

7 **DETERMINATION:** The Commission finds good cause to grant TSS's request for leave to withdraw. On that basis, the Commission concludes it should dismiss the petition and close this docket.

ORDER

8 THE COMMISSION ORDERS that the Petition for Enforcement of an interconnection agreement brought by TSS Digital Services, Inc., on March 16, 2006, is dismissed.

DATED at Olympia, Washington, and effective May 26, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

¹ Public Counsel filed a letter with the Commission on March 24, 2006, stating that it does not intend to participate in this proceeding.

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.