

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of the Request for )  
Approval of Negotiated Agreement )  
Under the Telecommunications Act of ) DOCKET NO. UT-003034  
1996 Between )  
 ) ORDER APPROVING NEGOTIATED  
ICG TELECOM GROUP, INC., ) FIRST AMENDED AGREEMENT  
 ) ADDING PROVISIONS FOR SINGLE  
and ) POINT OF PRESENCE  
 )  
QWEST CORPORATION, f/k/a U S )  
WEST COMMUNICATIONS, INC. )  
..... )

**BACKGROUND**

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated first amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between, ICG Telecom Group, Inc., (ICG), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. The Commission approved an interconnection agreement between the parties on June 28, 2000. 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 first amendment on January 24, 2002.

**MEMORANDUM**

2 The Amended Agreement between ICG and Qwest was brought before the Commission at its regularly scheduled open meeting held on February 27, 2002, 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 transfer 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:

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

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

8 ICG is authorized to provide telecommunications services to the public in the state of  
Washington.

9 The Commission approved an interconnection agreement between the parties on  
June 28, 2000. 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.

10 On January 24, 2002, the parties filed with the Commission a joint request for  
approval of a first amendment to the previously approved interconnection agreement,  
pursuant to the Telecom Act.

11 ICG and Qwest voluntarily negotiated the entire amendment.

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

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

### CONCLUSIONS OF LAW

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

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

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

17 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 courts of Washington state.

**O R D E R**

THE COMMISSION ORDERS:

18 The Amended Agreement between ICG Telecom Group, Inc., and Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on January 24, 2002, is approved and effective as of the date of this order.

19 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.

20 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 courts of Washington state.

DATED at Olympia, Washington, and effective this 27<sup>th</sup> day of February, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner