

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

In the Matter of the Request of)	DOCKET NO. UT-003049
)	
TIME WARNER TELECOM OF)	
WASHINGTON, LLC)	
)	
and)	
)	ORDER APPROVING
QWEST CORPORATION)	NEGOTIATED TENTH AMENDED
)	AGREEMENT FOR SPECIAL
For Approval of Negotiated)	PROMOTIONAL RATES FOR
Agreement Under the)	AVAILABLE INVENTORY
Telecommunications Act of 1996)	COLLOCATION SITES
.....)	

BACKGROUND

- 1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of negotiated tenth amendment (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Time Warner Telecom of Washington, LLC (Time Warner) and Qwest Corporation (Qwest).

- 2 In Docket UT-001502, Time Warner notified the Commission that it had acquired assets and the first of the six amended interconnection agreements with Qwest discussed herein by purchasing them from GST Telecom Washington, Inc. (GST). The Commission approved an interconnection agreement between GST and Qwest on July 31, 2000, a first amended agreement between Qwest and Time Warner on March 13, 2002, a second amended agreement on March 27, 2002, a third amended agreement on June 26, 2002, a fourth amended agreement on October 9, 2002, a fifth amended agreement on November 15, 2002, a sixth amended agreement on January 29, 2003, a seventh amended agreement on June 11, 2003, and the eighth and ninth amended agreements on March 24, 2004.

3 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 the tenth amendments on April 30, 2004.

FINDINGS AND CONCLUSIONS

- 4 (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.*
- 5 (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:
- 6 (i) the agreement (or any portion thereof) discriminates against a
telecommunications carrier not a party to the agreement; or
- 7 (ii) the implementation of such agreement or portion is not consistent
with the public interest, convenience, and necessity.
- 8 (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.
- 9 (4) Time Warner is authorized to provide telecommunications services to the
public in the state of Washington.

- 10 (5) In Docket UT-001502, Time Warner notified the Commission that it had acquired assets and the first of the six amended interconnection agreements with Qwest discussed herein through a purchase from GST. The Commission approved an interconnection agreement between GST and Qwest on July 31, 2000, a first amended agreement between Qwest and Time Warner on March 13, 2002, a second amended agreement on March 27, 2002, a third amended agreement on June 26, 2002, a fourth amended agreement on October 9, 2002, a fifth amended agreement on November 15, 2002, a sixth amended agreement on January 29, 2003, a seventh amended agreement on June 11, 2003, and the eighth and ninth amended agreements on March 24, 2004.
- 11 (6) On April 30, 2004, the parties filed with the Commission a joint request for approval of the tenth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 12 (7) The Amended Agreement between Time Warner and Qwest was brought before the Commission at its regularly scheduled meeting on June 9, 2004.
- 13 (8) Time Warner and Qwest voluntarily negotiated the entire amendment.
- 14 (9) The Amended Agreement does not discriminate against any other telecommunications carrier.
- 15 (10) The Amended Agreement will facilitate local exchange competition in the state of Washington.
- 16 (11) The Amended Agreement is consistent with the public interest, convenience, and necessity.

- 17 (12) The Amended Agreement meets the requirements of Sections 251 and 252
of the Telecom Act, including Section 252(e).
- 18 (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.
- 19 (14) After examination of the proposed Amended Agreement filed by Time
Warner and Qwest on April 30, 2004, and giving consideration to all
relevant matters, the Commission finds the proposed Amended
Agreement should be approved.

ORDER

THE COMMISSION ORDERS:

- 20 (1) The Amended Agreement between Time Warner Telecom of Washington,
LLC and Qwest Corporation, which the parties filed on April 30, 2004, is
approved and effective as of the date of this Order.
- 21 (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.
- 22 (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 9th day of June, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary