

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

In the Matter of the Request of)	DOCKET NO. UT-990384
)	
ALLEGIANCE TELECOM OF)	
WASHINGTON, INC.,)	
)	
and)	ORDER APPROVING
)	NEGOTIATED TENTH AMENDED
QWEST CORPORATION)	AGREEMENT ADDING
)	PROVISIONS FOR DC POWER
For Approval of Negotiated)	MEASURING AND UNBUNDLED
Agreement Under the)	NETWORK ELEMENTS
Telecommunications Act of 1996)	COMBINATIONS
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated tenth amended agreement (Tenth Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between Allegiance Telecom of Washington, Inc., (Allegiance), and Qwest Corporation (Qwest). The Commission approved an interconnection agreement between the parties on September 22, 1999, a first amended agreement on March 10, 2000, a second amended agreement on February 23, 2001, a third amended agreement on February 27, 2002, a fourth amended agreement on September 11, 2002, a fifth amended agreement on November 27, 2002, a sixth amended agreement on January 8, 2003, a seventh amended agreement on March 12, 2003, an eighth amended agreement on August 27, 2003, and a ninth amended agreement on March 12, 2004. 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 Amended Agreement on February 4, 2004.¹

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) Qwest 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) Allegiance is authorized to provide telecommunications services to the public in the state of Washington.

¹ The Commission assigns numbers to amendments when it issues an order rather than on receipt of a filing. In this docket, two amendments were filed one week apart, on February 4 and February 11, 2004. The Commission approved the later-filed amendment before it approved the earlier-filed one. As a result, the later-filed amendment is the ninth amended agreement, and the February 4, 2004 filing is approved by this order as the tenth amended agreement (Order No. 11).

- 8 (5) The Commission approved an interconnection agreement between the parties on September 22, 1999, a first amended agreement on March 10, 2000, a second amended agreement on February 23, 2001, a third amended agreement on February 27, 2002, a fourth amended agreement on September 11, 2002, a fifth amended agreement on November 27, 2002, a sixth amended agreement on January 8, 2003, a seventh amended agreement on March 12, 2003, an eighth amended agreement on August 27, 2003, and a ninth amended agreement on March 12, 2004. 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.
- 9 (6) On February 11, 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.
- 10 (7) The Tenth Amended Agreement between Allegiance and Qwest was brought before the Commission at its regularly scheduled meeting on March 24, 2004.
- 11 (8) Allegiance and Qwest voluntarily negotiated the entire tenth amendment.
- 12 (9) The Tenth Amended Agreement does not discriminate against any other telecommunications carrier.
- 13 (10) The Tenth Amended Agreement is intended by the parties to give contractual effect to the Federal Communications Commission's (FCC) August 21, 2004, Triennial Review Order (TRO). *Amended Agreement at 1.* The parties' statements purporting to interpret the TRO are not binding on the Commission. There is a docket before the Commission (Docket No. UT-033044) in which the Commission anticipates addressing issues related

to the TRO. That docket is pending. The Commission issued an order suspending those proceedings indefinitely on March 3, 2004. *Order No. 14 Granting Qwest Motion to Suspend Proceedings Indefinitely; Canceling Procedural Schedule, March 3, 2004.*

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

ORDER

THE COMMISSION ORDERS:

- 18 (1) The Tenth Amended Agreement between Allegiance Telecom of Washington, Inc., and Qwest Corporation, which the parties filed on February 11, 2004, is approved and effective as of the date of this Order.
- 19 (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.

- 20 (3) The laws and regulations of the State of Washington and Commission Orders govern the construction and interpretation of the Tenth Amended Agreement. The Tenth Amended Agreement is subject to the jurisdiction of the Commission.

DATED at Olympia, Washington, and effective this 24th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary