

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 543

In the Matter of )  
 )  
AMERICAN FIBER NETWORK, INC. and ) STAFF COMMENTS  
QWEST CORPORATION, )  
 )  
Interconnection Agreement Submitted for )  
Commission Approval Pursuant to Section )  
252(e) of the Telecommunications Act of 1996. )

RECOMMENDATION: APPROVE AGREEMENT

On March 25, 2004, American Fiber Network, Inc. and Qwest Corporation (Qwest) filed an interconnection agreement with the Public Utility Commission of Oregon (Commission). The parties seek approval of this agreement under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting an electronic copy of the agreement on the World Wide Web, at: <http://www.puc.state.or.us/caragmnt/>. The Commission Staff (Staff) offers these comments.

Under the Act, the Commission must approve or reject an agreement reached through voluntary negotiation within 90 days of filing. The Commission may reject an agreement only if it finds that:

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

Staff notes that an interconnection agreement or amendment thereto has no effect or force until approved by a state Commission. *See* 47 U.S.C. Sections 252 (a) and (e). Accordingly, Staff points out that the effective date of this filing will be the date the Commission signs an order approving it, and that any provision stating that the parties' agreement is effective prior to that date is not enforceable.

Staff recommends approval of the agreement. Staff concludes that the agreement itself does not appear to discriminate against telecommunications carriers who are not parties to the agreement and does not appear to be inconsistent with the public interest, convenience, and necessity.

Dated at Salem, Oregon this 13th day of April, 2004.

---

**Celeste Hari**  
Telecommunications Analyst