

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 662

In the Matter of)
)
OREGON RSA NUMBER 2 LIMITED) STAFF COMMENTS
PARTNERSHIP and MALHEUR HOME)
TELEPHONE COMPANY,)
)
Interconnection Agreement Submitted for)
Commission Approval Pursuant to Section)
252(e) of the Telecommunications Act of 1996.)

RECOMMENDATION: APPROVE AGREEMENT

On May 20, 2005, Oregon RSA Number 2 Limited Partnership and Malheur Home Telephone Company (Malheur) 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.

Section 2.2 of the agreement includes language regarding dispute resolution. Within that paragraph it states: "...the Parties agree that the first matter to be resolved during Dispute Resolution will be the implementation of in interim operating agreement between the

Parties regarding the disputed issues, to be effective during the pendency of Dispute Resolution." The section does not include any reference to the interim agreement being filed with the Commission. It is Staff's belief that changes of this nature must be filed with the Commission. If the parties desire to implement an interim operating agreement under Section 2.2 of the current agreement, the parties must file the interim operating agreement for Commission approval in accordance with Section 252 of the Act and the Commission's Division 16 rules.

Staff recommends approval of the agreement with the inclusion of the above interim operating agreement filing condition. 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 9th day of June, 2005.

Celeste Hari
Telecommunications Analyst
Competitive Issues