

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 534

In the Matter of)
)
ICG TELECOM GROUP, INC. and) STAFF COMMENTS
CENTURYTEL OF OREGON, INC.,)
)
Interconnection Agreement Submitted for)
Commission Approval Pursuant to Section)
252(e) of the Telecommunications Act of 1996.)

RECOMMENDATION: APPROVE AGREEMENT

On March 8, 2004, ICG Telecom Group, 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.

The execution date of the agreement was August 9, 2002, which means the agreement was held for over 16 months prior to filing it with the Commission. This is an unacceptable practice and appears to be discriminatory since no other carrier had access to the agreement during this delay. Staff contacted CenturyTel to discuss the issues related to this agreement. The terms of the agreement are typical of all agreements between CenturyTel and other carriers and the agreement does not include special features not already available in other approved agreements. Staff accepts the explanation. However, Staff warns CenturyTel as well as all carriers that agreements must be filed promptly upon execution to avoid difficulties with the discrimination issue. CenturyTel informed Staff that there may be another agreement filed

that also is very late. Staff will allow that filing but warns CenturyTel as well as other carriers that the practice of late filing will not be tolerated in the future.

The initial stated termination date of July 1, 2003, has already passed. The terms within the agreement include an “evergreen clause” for six-month extensions until one of the parties terminate the agreement in writing. Staff interprets the agreement to exist under the evergreen clause at this time. There is no initial termination period upon Commission approval of the agreement.

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 also cautions all parties to interconnection agreements to file agreements immediately after final signature and within a reasonable time period relative to the stated effective date. 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, this 29th day of March, 2004.

Celeste Hari
Telecommunications Analyst