

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ARB 473 and ARB 473(1&2)

In the Matter of	)	
	)	
ELECTRIC LIGHTWAVE, INC. and	)	PUC STAFF'S COMMENTS
VERIZON NORTHWEST INC.	)	
	)	
Adopting and Supplementing the Negotiated	)	
Interconnection Agreement between XO	)	
WASHINGTON, INC. (fka NEXTLINK	)	
WASHINGTON, INC.) and VERIZON	)	
NORTHWEST, INC. (fka GTE	)	
NORTHWEST INCORPORATED) which was	)	
previously approved by the Washington	)	
Utilities & Transportation Commission,	)	
Submitted Pursuant to Section 252(e) of the	)	
Telecommunications Act of 1996.	)	

RECOMMENDATION:      APPROVE AGREEMENT and AMENDMENTS

The Public Utility Commission of Oregon's staff (Staff) submits the following comments regarding the interconnection agreement between Electric Lightwave, Inc. (ELI) and Verizon Northwest Incorporated (Verizon). ELI and Verizon filed the agreement with the Commission on February 5, 2003 as provided under Section 252(e) of the Telecommunications Act of 1996.

The cover letter of the filing submitted by Verizon and signed by ELI, state that the agreement is an "adoption" of the terms and is "adopting" the terms, respectively, of an agreement approved in the State of Washington. The filing is pursuant to the conditions of the Most Favored Nation terms of the Federal Communications Commission conditions of the Bell Atlantic/GTE Merger. *See* CC Docket No. 98-184. The terms of the merger bind Verizon to the offering of out of state agreements to other telecommunications providers, but they are not binding on the Oregon Public Utility

Commission to approve these agreements. While companies are free to use language and terms from whatever agreement they desire, it does not constitute an “adoption” upon filing with the Oregon Public Utility Commission. The underlying agreement referenced in the filing (Interconnection Agreement between Verizon Northwest, Inc. fka GTE Incorporated and XO Washington Inc. f/k/a NEXTLINK Washington, Inc. (XO)) is not an agreement previously approved by the Oregon Public Commission. Therefore, it cannot be processed as an adoption in Oregon.

The filing is not an adoption and Verizon holds that it is not a negotiated agreement. Staff views this filing as a Merger Most Favored Nation agreement filed pursuant to FCC Order No. 00-221. Staff contends that the filing merits review as set forth in 252(e)(2)(A) of the Act. Staff makes no representations as to what the implications of such a filing constitutes.

Page three of the cover letter states: “ELI’s adoption of the Verizon Northwest/XO Terms shall become effective on November 15, 2002.” The document was filed with the Commission on February 5, 2003. Both stated dates are prior to approval or disapproval by the Commission. Under Sections 252(a) and (e) of the Telecommunications Act of 1996, parties to an interconnection agreement are required to submit the agreement “to the State commission” for approval or rejection. Agreements do not have force or effect until approved by the relevant state commission, in this case the Public Utility Commission of Oregon.

The cover letter notes that ELI is to be inserted in the agreement wherever XO or NEXTLINK appears. Staff notes that a similar exchange does not take place regarding the portion of the agreement regarding Washington law. Staff believes that “Oregon law” is the appropriate replacement and is assuming this was just an oversight in the agreement.

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After reviewing the filing under the standards established by the Telecommunications Act of 1996, Staff recommends the Commission approve the filing. The agreement does not appear to discriminate against telecommunications carriers that are not party to the agreement. Implementation of the agreement does not appear to be inconsistent with the public interest, convenience, and necessity.

Dated at Salem, this 26th day of February, 2003.

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**Celeste Hari**  
Telecommunications Analyst