

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 771

In the Matter of )  
 )  
In the Matter of QWEST CORPORATION ) STAFF COMMENTS  
Wholesale Promotion. )  
 )  
Interconnection Agreement Submitted for )  
Commission Approval Pursuant to Section )  
252(e) of the Telecommunications Act of 1996. )

RECOMMENDATION: APPROVE AGREEMENT

On October 5, 2006, Qwest Corporation filed a wholesale promotion form interconnection agreement with the Public Utility Commission of Oregon (Commission). Qwest seeks approval of this form agreement under Section 252(e) of the Telecommunications Act of 1996 and under Oregon Administrative Rule 860-016-0021. 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.

OAR 860-0016-0021 provides in relevant part that:

(1) A carrier intending to offer a wholesale promotion that would modify the terms of a Carrier-to-Carrier Agreement must provide the Commission and other telecommunications carriers notice of the promotion at least 30 days prior to the effective date of the promotion.

The effective date stated in the promotion is October 1, 2006. This is a date prior to even filing the agreement and therefore, does not comply with of OAR 860-0016-0021.

Qwest filed the agreement without regard to the rule, relying instead on a prior temporary rule. However, even the temporary rule required the agreement to be filed 15 days prior to the effective date. Regardless of what rule Qwest believed they were operating under, the agreement does not comply with the rules' filing requirements. Qwest did provide information indicating that notice of the promotion was provided to telecommunications carriers 30 days prior to the stated effective date.

Staff believes the form promotional agreement can still be approved, but the effective date of the promotion will be the date of Commission approval, not the stated date of October 1, 2006. 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 recommends the Commission make clear that the effective date of this promotional 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 concludes that the form promotional 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.

Staff cautions Qwest to make certain that future promotional interconnection agreements are filed in compliance with the current OAR 860-0016-0021.

Dated at Salem, Oregon, this 19<sup>th</sup> day of October, 2006.

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**Celeste Hari**  
Telecommunications Analyst  
Competitive Issues  
Telecommunications Division