

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 783

In the Matter of )  
 )  
In the Matter of STEPHOUSE HOLDINGS ) **STAFF COMMENTS**  
COMPANY, LLC dba STEPHOUSE )  
NETWORKS and QWEST CORPORATION. )  
 )  
Interconnection Agreement Submitted for )  
Commission Approval Pursuant to Section )  
252(e) of the Telecommunications Act of 1996. )

**RECOMMENDATION: APPROVE AGREEMENT**

On December 19, 2006, Stephouse Holdings Company dba Stephouse Networks and Qwest Corporation 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. More specifically, Section 1.7.1.2 of this agreement

includes the following provision:

"The rates and to the extent practicable, other terms and conditions contained in the final amendment will relate back to the date the Interim Advice Adoption Letter was executed."

This gives the appearance of backdating the agreement. The Commission can only approve the agreement on a going-forward basis and any backdating of the agreement or provisions contained within the agreement is not enforceable. Backdating may be considered discriminatory to other carriers who are not parties to the agreement.

While Staff recognizes that the language cited above is part of the current template agreement that Qwest offers to other carriers. Staff also recognized that the Commission has approved without specific comment previously filed agreements that included this same language. Regardless, the Commission has consistently stated in its order approving interconnection agreement that the effective date is the date the Commission signs and order approving it, and that any provision stating that the parties' agreement is effective prior to that date is not enforceable. Staff recommends that Qwest amend it's template to remove the above quoted statement to avoid future comments or issues surrounding the effective date of agreements or amendments.

Staff recommends approval of the agreement on a going-forward basis only. Staff concludes that the going-forward agreement 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 4<sup>th</sup> day of January, 2007.

---

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