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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 93 (26)

In the Matter of the Supplemental Application of)
GTE Northwest Incorporated for Approval of an) ORDER
Agreement with AG Communications Systems)
Corporation, an Affiliated Interest, for Software)
Improvements.)

**DISPOSITION: SUPPLEMENTAL APPLICATION APPROVED WITH
CONDITIONS**

On November 19, 1999, the Commission received a supplemental application from GTE Northwest Incorporated (Company), filed pursuant to ORS 759.375 and ORS 759.390, requesting approval of an agreement for software improvements with AG Communications Systems Corporation (AGCS), an affiliated interest.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on February 22, 2000, the Commission adopted Staff's recommendation to approve the application with conditions. Staff's recommendation is attached as Appendix A and is incorporated by reference.

OPINION

Jurisdiction

ORS 759.005 defines a "telecommunications utility" as anyone providing telecommunications service to the public in Oregon. The Company is a telecommunications utility subject to the Commission's jurisdiction.

Affiliation

An affiliated interest relationship between GTE Northwest Incorporated and AG Communications Systems Corporation exists under ORS 759.010.

Applicable Law

ORS 759.390 requires telecommunications utilities to seek approval of contracts with affiliated interests within 90 days of execution of the contract. The intent of the statute is to protect

ratepayers from the abuses which may arise from less than arm's length transactions. *Portland General Electric Company*, UF 3739, Order No. 81-737 at 6. Failure to file within the 90-day time limit may preclude the utility from recovering costs incurred under the contract. *See* ORS 759.390.

ORS 759.390(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission may reserve that issue for a subsequent proceeding.

Ratepayers should not be harmed by approval of this application.

CONCLUSIONS

1. The Company is a telecommunications utility subject to the jurisdiction of the Commission.
2. An affiliated interest relationship exists between GTE Northwest Incorporated and AG Communications Systems Corporation.
3. The agreement is fair, reasonable, and not contrary to the public interest.
4. The application should be granted.

ORDER

IT IS ORDERED that the supplemental application of GTE Northwest Incorporated for authority to engage in certain affiliated interest transactions with AG Communications Systems Corporation is granted, subject to the conditions stated in Appendix A.

Made, entered, and effective _____.

BY THE COMMISSION:

Vikie Bailey-Goggins
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070. A party may appeal this order pursuant to ORS 756.580.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: FEBRUARY 22, 2000**

REGULAR AGENDA__ **CONSENT AGENDA** **X** **EFFECTIVE DATE**_____

DATE: January 26, 2000
TO: Bill Warren through Marc Hellman and Mike Myers
FROM: Marion Anderson
SUBJECT: UI 93 (26) - GTE Northwest, Incorporated (GTE-NW) Supplemental Application for Approval of an Agreement with AG Communications Systems Corporation (AGCS) for Software Improvements

SUMMARY RECOMMENDATION:

Staff recommends approval with conditions.

DISCUSSION:

This filing was made on November 19, 1999, and does not require any immediate expenditure. Deployment of the features contained in the agreement will trigger a right-to-use fee that will be layered on the current multimillion dollar Oregon intrastate annual GTE-NW expenditure to AGCS (and is thereby unaffected by HB 3241).

The affiliated interest relationships are established under ORS 759.010 in that GTE Corporation has 100% equity positions in GTE-NW and GTE Communications Systems Corporation. The GTE Corporation equity position in AGCS is 19.99%. Under a joint venture agreement with AT&T, the latter position has declined by sale from an initial 51% and will be liquidated on the first business day following December 31, 2003.

PERTINENT ISSUES:

I have investigated the following issues to determine if this supplemental agreement is fair and reasonable, and not contrary to the public interest.

1. Scope of Services

“This agreement enables GTE-NW to purchase all the rights to use all application features on the GTD-5 switch that are available up to and including all features contained in System Version Release 4.0.0.0. There are 72 infrastructure and revenue-producing features bought out by this contract. This agreement allows GTE-NW to universally deploy the contained features in all sites at anytime.”
2. Transfer Pricing Methods

Due to the lack of system interchangeability, once the initial switching investment was made, no alternative suppliers existed. Detailed Recommendation Condition 1 allows staff to develop necessary information as needed.

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PERTINENT ISSUES: (continued)

3. Public Interest Compliance
Sterling Sawyer, Senior Economic Analyst, reviewed the technical descriptions in this agreement and made the following statement: "GTE-NW has 26 GTE-5 switches in Oregon. Without this agreement GTE-NW would need to maintain site specific license agreements. It also allows application of custom features if equipment is available at sites."
4. Records Availability, Audit Procedures and Reporting Requirements
I believe that Detailed Recommendation Conditions 1 and 4 afford the Commission adequate access to records and provide for the auditing of transactions between GTE-NW and AGCS.

CONCLUSIONS:

Based on an investigation and review of this application, my conclusions are as follows:

1. GTE Northwest, Incorporated, is a regulated telecommunications company subject to the jurisdiction of the Public Utility Commission of Oregon.
2. An affiliated interest relationship exists between GTE Northwest, Incorporated, and AG Communications Systems Corporation.
3. The application appears to be fair and reasonable and not contrary to the public interest.

DETAILED RECOMMENDATION:

Based on the preceding discussion and conclusions, I recommend that the supplemental application presenting this agreement for software improvements between GTE Northwest, Incorporated, and AG Communications Systems Corporation be approved with the following conditions:

1. GTE Northwest, Incorporated, shall provide Staff access to all books of account, as well as all documents, data and records of GTE Northwest, Incorporated, and AG Communications Systems Corporation that pertain to transactions between them.
2. The Commission reserves the right to review for reasonableness all financial aspects of this arrangement in any rate proceeding or earnings review under an alternative form of regulation.
3. GTE Northwest, Incorporated, shall notify the Commission in advance of any substantive changes to the agreement, including any material changes in any cost. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein shall be submitted for approval in an application for supplemental order (or other appropriate format) in this docket.
4. Condition 4 of Order No. 98-042 (carried over to all orders from Order No. 93-238 in this docket) remains in effect.

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