ORDER NO.00-323

ENTERED JUN 19 2000

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 85(1)

In the Matter of the Amendment to the Interconnection Agreement Between INTERNATIONAL TELCOM, INC., and U S WEST COMMUNICATIONS, INC., Submitted for Commission Approval Pursuant to Section 252 (e) of the Telecommunications Act of 1996.	)))))))	ORDER

DISPOSITION: AMENDMENT APPROVED

On April 28, 2000, International Telcom, Inc. and U S WEST Communications, Inc. (USWC), filed with the Public Utility Commission of Oregon (Commission), a fully executed amendment to the agreement initially approved by Commission Order No. 98-402. The amendment addresses provisioning of unbundled network element (UNE) combinations, customized routing, and shared interoffice transport. The parties seek approval of the amendment under Section 252(e)(1),(2) of the Telecommunications Act of 1996 (Act).

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 is not consistent with the public interest, convenience, and necessity.

The Commission provided notice of the request for approval and an opportunity to comment to a list of persons who have participated in arbitrations under the Act. PUC Staff filed comments.

While Staff recommended approval of the amendment, Staff comments included notes regarding some of the terms (see Staff comments, Appendix A).

Additionally, Staff noted that International Telcom and USWC agreed to allow the amendment to become effective upon execution and prior to approval or disapproval by the Commission. Staff further noted that Sections 252(a) and (e) of the Telecommunications Act of 1996 require parties to an interconnection agreement to submit the agreement to the state commission for approval or rejection and that agreements do not have force or effect until approved by the relevant state commission. Therefore, according to Staff, the provision allowing the amendment to the agreement to become effective upon execution is not enforceable.

Staff concluded that, with the understanding that the provision governing the effective date is unenforceable, the amendment to the previously filed 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.

OPINION

The Commission has reviewed the amendment to the previously approved agreement and the comments. No participant in the proceeding has requested that the amendment be rejected or has presented any reason for rejection. The Commission concludes that there is no basis under the Act to reject the amendment and that the amendment should be approved.

CONCLUSIONS

1. There is no basis for finding that the amendment to the previously approved agreement discriminates against any telecommunications carrier not a party to the agreement.

2. There is no basis for finding that implementation of the amended agreement is not consistent with the public interest, convenience, and necessity.

3. The amendment should be approved with the understanding that the provision governing the effective date is unenforceable.

ORDER

IT IS ORDERED that the amendment to the previously approved agreement between International Telcom, Inc. and U S WEST Communications, Inc., is approved with the understanding that the provision governing the effective date is unenforceable.

Made, entered, and effective _____.

_____

William G. Warren
Director
Utility Program

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 in 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(2). A party may appeal this order to a court pursuant to applicable law.