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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 417

In the Matter of	)	
	)	
KMC TELECOM V, INC. and QWEST	)	ORDER
CORPORATION,	)	
	)	
Negotiated Interconnection Agreement	)	
Submitted for Commission Approval Pursuant	)	
to Section 252 (e) of the Telecommunications	)	
Act of 1996.	)	

DISPOSITION:        AGREEMENT APPROVED

On March 29, 2002, KMC Telecom V, Inc. 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/>. Only the Commission Staff (Staff) filed 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 is not consistent with the public interest, convenience, and necessity.

Staff noted that page 2 of the agreement discusses amendments and "Advice Adoption Letters." The parties provide two options regarding new products and the filing of Advice Adoption Letters. Paragraph 1.7.1.1 specifically states that the Advice Adoption Letter shall be submitted to the Commission for approval. Paragraph 1.7.1.2 does not state this same requirement should the parties choose that option. All amendments or changes in an interconnection agreement are required to be filed with the Commission for approval. Staff reminded the parties that if the second option is taken, it is required to be filed with the Commission for approval.

The parties stated the agreement is a Statement of Generally Accepted Terms (SGAT). The terms and conditions of the agreement may be similar to the SGAT currently under review; however, at this time there is no approved SGAT on file with the Commission. As such, the agreement has been processed as a negotiated agreement.

Staff noted that an interconnection agreement or amendment thereto has no effect or force until approved by a state Commission. *See* 47 U.S.C. Sections 251 (a) and (e). Accordingly, Staff pointed 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.

Staff recommended approval of the agreement. Staff concluded that the 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 adopts Staff's recommendation and concludes that there is no basis under the Act to reject the agreement. No participant in the proceeding has requested that the agreement be rejected or has presented any reason for rejection. Accordingly, the agreement should be approved.

### **CONCLUSIONS**

1. There is no basis for finding that the agreement discriminates against any telecommunications carrier not a party to the agreement.
2. There is no basis for finding that implementation of the agreement is not consistent with the public interest, convenience, and necessity.
3. The agreement should be approved.

### **ORDER**

IT IS ORDERED that the agreement, between KMC Telecom V, Inc. and Qwest Corporation, is approved.

Made, entered, and effective \_\_\_\_\_.

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**John Savage**  
Director  
Utility Program

ORDER NO. 02-306

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.