

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ARB 428

In the Matter of)	
)	
WINSTAR COMMUNICATIONS, LLC and)	ORDER
VERIZON NORTHWEST, INC.)	
)	
Adopting the Terms of the Interconnection)	
Agreement between BUSINESS TELECOM,)	
INC. and VERIZON MARYLAND, INC. (fka)	
BELL ATLANTIC - MARYLAND, INC.),)	
which was previously approved in the state of)	
Maryland; Submitted Pursuant to the)	
Telecommunications Act of 1996.)	

DISPOSITION: AGREEMENT APPROVED

On April 25, 2002, Winstar Communications, LLC (Winstar) and Verizon Northwest, Inc. (Verizon) filed an interconnection agreement with the Public Utility Commission of Oregon (Commission or Oregon Commission). The underlying agreement referenced in the filing is not an agreement previously approved by the Oregon Commission; therefore, it cannot be processed as an adoption in Oregon. Consequently, the agreement warrants staff review and an established comment deadline procedure required for all negotiated agreements. 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 views this filing as a Merger Most Favored Nation agreement filed pursuant to FCC Order No. 00-221. Staff noted that page three of the parties' cover letter states:

“Winstar’s adoption of the Verizon Maryland Terms shall become effective on March 22, 2002.”

The document was filed with the Oregon Commission on April 25, 2002. Both stated dates are prior to approval or disapproval by the Commission. 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.

Verizon’s cover letter also notes that Winstar is to be inserted in the agreement wherever Business Telecom Inc. appears. Staff noted that a similar exchange does not take place regarding the portion of the agreement regarding Maryland law. Staff believes that “Oregon law” is the appropriate replacement and assumes this was an oversight in the agreement.

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 Winstar Communications, LLC and Verizon Northwest, Inc., is approved.

Made, entered, and effective _____.

John Savage
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.