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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 180 (1+2)

In the Matter of)	
)	
SPRINT SPECTRUM L.P. and VERIZON)	ORDER
NORTHWEST INC.)	
)	
First and Second Amendments to)	
Interconnection Agreement, Submitted for)	
Commission Approval Pursuant to Section)	
252(e) of the Telecommunications Act of 1996.)	

DISPOSITION: AMENDMENTS APPROVED

On May 24, 2002, Sprint Spectrum, L.P. and Verizon Northwest Inc. (Verizon) filed a first amendment to the interconnection agreement previously approved by the Public Utility Commission of Oregon (Commission) with Order No. 00-030. On June 13, 2002, the parties filed a second amendment. The parties seek approval of the current amendments under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting electronic copies of the amendments 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.

The amendments included effective dates of June 14, 2001. This date gives the appearance of backdating the amendments. A backdated agreement would appear to be discriminatory since the amendment may only be adopted on a going-forward basis.

After further investigation, Staff determined that Verizon’s interconnection agreements, including ARB 180, include a provision that allows Verizon to make changes in the terms and prices of the agreements when a law changes. Pursuant to this contract clause, the change mandated by order of the FCC (Federal Communications Commission) was made a part of the ARB 180 agreement “automatically” as of the day the FCC issued its Order. The

amendments under consideration here merely confirm these facts. For these reasons, Staff concluded that the amendments merely clarify what occurred “automatically” under the “change in law” provision of the ARB 180 agreement. As such, Staff does not find the amendments to be discriminatory merely because they were filed almost one year after the FCC Order was issued.

Nevertheless, Staff advised all parties to interconnection agreements to file changes of this type immediately after the rule or law changes. In these instances, as stated, there was a lag time of nearly one year before the change was signed and filed with the Commission. These kinds of delays only cause further delays in approving the amendments or agreements upon receipt by the Commission. Indeed, all agreements and amendments should be filed immediately upon signature to avoid further delay in approval.

Staff noted that an interconnection agreement or amendments thereto have 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 these filings will be the date the Commission signs an order approving them, and that any provision stating that the parties’ agreements are effective prior to that date is not enforceable.

Staff recommended approval of the amendments. Staff concluded that the amendments to the previously approved agreement does not appear to discriminate against telecommunications carriers who are not parties to the agreement and do 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 amendments to the previously approved agreement. No participant in the proceeding has requested that the amendments be rejected or has presented any reason for rejection. Accordingly, the amendments should be approved.

CONCLUSIONS

1. There is no basis for finding that the amendments to the previously approved agreement discriminate 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 amendments should be approved.

ORDER

IT IS ORDERED that the amendments to the previously approved agreement, between Sprint Spectrum, L.P. and Verizon Northwest Inc., are 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.