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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 199 (12)

In the Matter of)	
)	
ESCHELON TELECOM OF OREGON, INC.)	ORDER
and QWEST CORPORATION)	
)	
Twelfth Amendment to Interconnection)	
Agreement. Submitted for Commission)	
Approval Pursuant to Section 252 (e) of the)	
Telecommunications Act of 1996.)	

DISPOSITION: AMENDMENT APPROVED

On May 20, 2002, Eschelon Telecom of Oregon, Inc. and Qwest Corporation filed a twelfth amendment to the interconnection agreement previously acknowledged by the Public Utility Commission of Oregon (Commission) by letter issued February 8, 2000, recognizing the adoption of ARB 3 terms. Subsequent amendments have been approved by Order Nos. 00-248, 00-371, 01-237, 01-309, 01-1041, 02-048, 02-176, and 02-276. The parties seek approval of the current amendment under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting an electronic copy of the amendment 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 the amendment refers to an "Implementation Plan dated July 31, 2001/August 1, 2001." The amendment should have been submitted at the time of the implementation plan. Delay of this type is not acceptable and should not be repeated in further agreements or amendments.

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 amendment. Staff concluded that the amendment 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 amendment to the previously approved agreement. No participant in the proceeding has requested that the amendment be rejected or has presented any reason for rejection. Accordingly, 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.

ORDER

IT IS ORDERED that the amendment to the previously acknowledged and approved agreements, between Eschelon Telecom of Oregon, Inc. and Qwest Corporation, 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.