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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 458

In the Matter)	
)	
SPRINT SPECTRUM L.P. and QWEST CORPORATION)	ORDER
)	
Negotiated Interconnection Agreement Submitted for Commission Approval Pursuant to Section 252(e) of the Telecommunications Act of 1996.)	

DISPOSITION: AGREEMENT APPROVED

On October 17, 2002, Sprint Spectrum L.P. (Sprint) and Qwest Corporation (Qwest) filed an negotiated interconnection agreement with the Public Utility Commission of Oregon (Commission), which replaces ARB 13. The parties seek approval of this agreement under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice of the request for approval and an opportunity to comment. 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 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 points 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 also noted that the agreement included an effective date of May 1, 2002. However the agreement was not signed until September 20, 2002, and not filed with the Commission until October 21, 2002. Untimely filing of agreements is becoming a more common occurrence. This is an unacceptable practice. An unfiled agreement is not available to any other company for adoption as required by the Act. This can give the agreement the appearance of being discriminatory since other carriers may adopt an agreement only after approval by the Commission.

Staff recommended approval of the agreement. Staff also cautioned all parties to interconnection agreements to file agreements immediately after final signature and within a reasonable time period relative to the stated effective date. Staff concluded that the agreement itself 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 Sprint Spectrum L.P. 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.