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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 80 (3)

In the Matter)	
)	
CDS NETWORKS, INC. and QWEST CORPORATION)	ORDER
)	
Third Amendment to the Interconnection Agreement, Submitted for Commission Approval Pursuant to Section 252(e) of the Telecommunications Act of 1996.)	

DISPOSITION: AMENDMENT APPROVED

On January 10, 2003, CDS Networks, Inc. and Qwest Corporation filed a third amendment to the interconnection agreement and subsequent amendments previously approved by the Public Utility Commission of Oregon (Commission) in Order Nos. 98-439, 99-254 and 00-673. The parties seek approval of the amendment under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting an electronic copy of the agreement and 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 this amendment was entered into almost three years ago, but was not filed for approval at that time. Staff asked Qwest to explain the delay in filing. Qwest responded that it had now filed the amendment for Commission approval in response to Federal Communications Commission (FCC) Order No. 02-332, citing footnote number 1746 of the order. The order approved Qwest's request to provide InterLATA service in nine states. In footnote 1746, the FCC concluded that similar agreements dealing with Internet Calling Name Delivery Service (ICNAM) "likely should have been filed with the states." Staff noted that the terms included in the amendment are currently available in the Qwest SGAT at § 9.17 and other providers are not being discriminated against since the same provisions are available to them via the SGAT.

Staff further 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 252 (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 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 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 approved agreement, between CDS Networks, 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.