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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 468 (1)

In the Matter)	
)	
FRONTIER TELENET and QWEST CORPORATION)	ORDER
)	
First 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 9, 2003, Frontier TeleNet and Qwest Corporation filed a first amendment to the interconnection agreement previously acknowledged by the Public Utility Commission of Oregon (Commission), recognizing the adoption of ARB 455 terms. 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 the amendment included changes to rates for ISP-Bound traffic. The rate changes were due to the Federal Communications Commission's (FCC) ruling regarding the proper treatment of telecommunications traffic delivered to Internet Service Providers for purposes of inter-carrier compensation. The effective date of the FCC Order is June 14, 2001. Part of the agreement discussed compensation dating back to the 2001. However, the current agreement to which the amendment applies was effective on January 9, 2003. Staff noted that this is well after the FCC ruling took effective and as such, nothing in the amendment can logically be effective prior to January 9, 2003. Staff believes that the language referring to

prior dates is extraneous and has no bearing on the amendment since there was no interconnection agreement between Frontier TeleNet and Qwest Corporation prior to January 9, 2003.

Staff recommended approval of the amendment with the requirement that the effective date of the ISP-compensation rate change is the date of the Commission's order approving the amendment, not the effective date of the FCC order as the contracting parties proposed. 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.

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 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.

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 Frontier TeleNet 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.