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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ARB 198 (4)

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

DISPOSITION: AMENDMENT APPROVED

On February 12, 2003, PacWest, Inc., and Qwest Corporation filed a fourth amendment to the agreement previously approved by the Public Utility Commission of Oregon (Commission). The parties seek approval of the amendment under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice of the request by posting an electronic copy of the amendment 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 recommends approval of the amendment. Staff concludes that the amendment 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.

In its comments, Staff acknowledges that the amendment includes an effective date of June 14, 2001. Generally, an amendment has no effect or force until approved by a state Commission. See 47 U.S.C. Sections 252 (a) and (e). Staff explains, however, that the amendment incorporates 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 decision is June 14, 2001. Because the underlying interconnection agreement allows Qwest to make changes in the terms and prices of the agreement when a law changes, the change mandated by the FCC Order was, in essence, automatically incorporated in the ARB 198 agreement the day the FCC issued its Order. Since the amendment under consideration merely confirms this fact, Staff does not consider the amendment to be discriminatory.

Staff emphasizes, however that all parties to interconnection agreements should file changes of this type immediately after the rule or law changes. In this instance, there was a lag time of 18 months before the change was signed and filed with the Commission. This kind of delay only causes further delay in approving the amendments upon receipt by the Commission. Indeed, all agreements should be filed immediately upon signature to avoid further delay in approval.

### **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 Pac-West , Inc. and Qwest Corporation, is approved.

Made, entered, and effective \_\_\_\_\_.

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**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.