

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 105(6)

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

DISPOSITION: REVISED AMENDMENT APPROVED

On June 3, 2005, Ernest Communications, Inc., and Qwest Corporation filed a sixth amendment¹ to the interconnection agreement and subsequent amendments previously approved by the Public Utility Commission of Oregon (Commission) by Orders No. 98-497, 00-426, 01-938, 02-806, 04-283 and 05-640. The parties filed a revised version of the sixth amendment on August 26, 2005.² 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.

The original sixth amendment filing referred to an “approved” SGAT. The Commission does not approve SGAT filings. There is no approved SGAT on file in Oregon. Stating the terms in the amendment rely on a Commission approved SGAT is incorrect. Failing to state which version of the SGAT the amendment refers to leaves the

¹ The Commission extended the comment due date to July 12, 2005, 21 days from the docketed process date of June 21, 2005.

² The Commission will use the filing date of the revised filing for the purposes of the 90-day review period under Section 252 of the Telecommunications Act. Thus, the order due date is November 23, 2005.

terms of the amendment ambiguous. Staff could not recommend approval of the amendment as such, and had a telephone conference with the parties. After that discussion, a revised version of the sixth amendment was filed with the Commission. The revised version removes the incorrect statement, and specifically states the version of the SGAT that applies to the amendment.

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, the effective date of this filing will be the date the Commission signs an order approving it, and any provision stating that the parties' amendment 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 Ernest Communications, Inc., and Qwest Corporation is approved.

Made, entered, and effective OCT 19 2005.



A handwritten signature in black ink, appearing to read "Michael Grant", is written over a horizontal line.

Michael Grant
Chief Administrative Law Judge
Administrative Hearings Division

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.