

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 199(19 & 20)

In the Matter of)	
)	
ESCHELON TELECOM OF OREGON,)	
INC., and QWEST CORPORATION)	ORDER
)	
Nineteenth and Twentieth Amendments to)	
Interconnection Agreement, Submitted for)	
Commission Approval Pursuant to Section)	
252(e) of the Telecommunications Act of)	
1996.)	

DISPOSITION: AMENDMENTS APPROVED

On February 9, and March 1, 2005, Eschelon Telecom of Oregon, Inc., and Qwest Corporation (Qwest) filed nineteenth and twentieth amendments,¹ respectively, to the interconnection agreement previously acknowledged by the Public Utility Commission of Oregon (Commission), recognizing the adoption of ARB 3 terms.² Subsequent amendments have been approved with Orders No. 00-248, 00-371, 01-237, 01-309, 01-1041, 02-048, 02-176, 02-276, 02-480, 02-807, 03-325, 04-116, 04-498, and 05-006. 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/>.

Under the Act, the Commission must approve or reject an agreement or amendment thereto 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.

¹ Qwest included a letter and attachment with the ARB 199(19) filing. The attachment is captioned "Agreement Filing Under Protest and With Reservations of Rights." These documents inform the Commission that Qwest is filing the Qwest Platform Plus (QPP) portion of the ARB 199(19) amendment under protest. The Commission extended the comment due date to 45 days.

² The Commission took official notice of ARB 199(19), filed on February 9, 2005, and suspended review of that filing to consolidate it with the present filing, ARB 199(20), for review under Section 252 of the Telecommunications Act. The Commission used the filing date of this present filing for purposes of the 90-days review period, and extended the comment due date to 45 days.

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.

The amendments are nearly identical to a recent filing amending the ARB 6 interconnection agreement between Qwest and MCImetro Access Transmission Services, LLC (MCI). In that proceeding, the Commission determined that the QPP agreement was an interconnection agreement subject to filing obligations under Section 252 of the Act. *See* Order No. 04-661. The Commission subsequently approved both the QPP agreement and the Batch Hot Cut Amendment, which the parties had filed simultaneously. *See* Order No. 05-103. Because the present amendments in this docket are virtually the same as that approved in ARB 6, Staff recommends approval of the ARB 199(19 & 20) amendments.

OPINION

The Commission concludes that the amendments to the agreement do not appear to discriminate against telecommunications carriers who are not parties to the agreement and do not appear to be inconsistent with the public interest, convenience, and necessity. Accordingly, the amendments should be approved.

CONCLUSIONS

1. There is no basis for finding that the amendments to the previously acknowledged agreement discriminate against any telecommunications carrier who is 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 amendments should be approved.

ORDER

IT IS ORDERED that the amendments to the previously acknowledged agreement between Eschelon Telecom of Oregon, Inc., and Qwest Corporation are approved.

Made, entered, and effective MAY 03 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.