

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ARB 322(5)

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

DISPOSITION: AMENDMENT APPROVED

On April 12, 2005, Ionex Communications North, Inc., and Qwest Corporation (Qwest) filed a fifth amendment¹ to the interconnection agreement previously acknowledged by the Public Utility Commission of Oregon (Commission), recognizing the adoption of ARB 250 terms. Subsequent amendments were approved in Orders. No. 01-936 and 02-691. 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.²

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 322(5) 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 322(5) amendment under protest.

² Although Staff's Comments state the interconnection agreement was approved, the agreement was acknowledged by letter, as detailed above.

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.

This amendment is nearly identical to 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 amendment in this docket is virtually the same as that approved in ARB 6, Staff recommends approval of the ARB 322(5) amendment.

OPINION

The Commission concludes that the amendment to the 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. Accordingly, the amendment should be approved.

CONCLUSIONS

1. There is no basis for finding that the amendment to the previously acknowledged agreement discriminates 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 amendment should be approved.

ORDER

IT IS ORDERED that the amendment to the previously acknowledged agreement between Ionex Communications North, Inc., and Qwest Corporation is approved.

Made, entered, and effective MAY 13 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.