

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 97(2)

In the Matter of)
)
 COVAD COMMUNICATIONS COMPANY)
 and VERIZON NORTHWEST INC.)
)
 Adopting the Terms of the Interconnection)
 Agreement between NUI TELECOM, INC. and)
 VERIZON MARYLAND INC., which was)
 previously approved by the Maryland Public)
 Utilities Commission; Submitted Pursuant to)
 Section 252(e) of the Telecommunications Act)
 of 1996.)

ORDER

DISPOSITION: AMENDMENT APPROVED

On May 13, 2005, Covad Communications Company (Covad) and Verizon Northwest Inc. (Verizon) filed a second amendment to the negotiated interconnection agreement previously approved by the Public Utility Commission of Oregon (Commission) in Order No. 99-551. A subsequent amendment was approved with Order No. 00-162.

The parties seek approval of this agreement under Section 252(e) of the Telecommunications Act of 1996. The filing was made pursuant to the conditions placed on the Bell Atlantic/GTE merger. The Federal Communications Commission requires Verizon to offer out-of-state agreements to other telecommunications providers. Those provisions, however, do not require the Commission to approve the agreements without review. Accordingly, we review the agreement pursuant to the standards set forth in Section 252(e)(2)(A) of the Act. The Commission provided notice by posting an electronic copy of the agreement on the World Wide Web, at: <http://www.puc.state.or.us/caragmnt/>.

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 filed original comments regarding this amendment on June 7, 2005, recommending that the Commission reject the amendment as moot. The amendment is a most favored nation clause (MFN) that appeared to have expired prior to being filed, and did not contain an Evergreen Clause to continue the terms after the expiration date.

On June 22 and 29, 2005, respectively, Verizon filed reply comments, and additional material. The additional material filed by Verizon included an Evergreen Clause found in the original underlying Maryland agreement. Since the amendment in question is an MFN, the Maryland clause is integrated into the Oregon agreement. The amendment is therefore still in effect, and does need Commission approval.

On July 12, 2005, Staff filed reply comments, and recommended approval of the amendment. Staff concluded 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.

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 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. No participant in the proceeding has requested that the agreement 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 discriminates against any telecommunications carrier not a party to the agreement.
2. There is no basis for finding that implementation of the amendment is not consistent with the public interest, convenience, and necessity.
3. The amendment should be approved.

ORDER

IT IS ORDERED that the amendment, between Covad Communications Company and Verizon Northwest Inc., is approved.

Made, entered, and effective AUG 02 2005



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.