

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 646(1)

In the Matter)	
)	
AMERICAN FIBER NETWORK, INC., and)	
VERIZON NORTHWEST INC.,)	ORDER
)	
First Amendment to the Interconnection)	
Agreement, Submitted for Commission)	
Approval Pursuant to Section 252(e) of the)	
Telecommunications Act of 1996.)	

DISPOSITION: AMENDMENT APPROVED

On May 27, 2005, American Fiber Network, Inc. (AFN), and Verizon Northwest Inc. (Verizon) filed a first amendment to the interconnection agreement previously acknowledged by the Public Utility Commission of Oregon (Commission), recognizing the adoption of ARB 271 terms. 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 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.

In paragraph 2.3 of the amendment, the parties state that if Verizon becomes obligated to provide discontinued facilities or UNEs...to the CLEC (AFN) in the future, it will do so according to a tariff that Verizon “revises or establishes” or pursuant to the parties’ mutual agreement. Staff noted that there are no UNE Tariffs filed or approved in Oregon. Should Verizon become obligated to provide such services, it would do so under a tariff that is properly filed and approved by the Commission or as mutually agreed upon by the parties and filed as an amendment to the agreement.

Staff stated that it would be beneficial to all the parties if the template used in these types of amendments were changed to incorporate language stating that any changes in terms or offering would be filed with and approved by the Commission. This would eliminate any misunderstanding that the parties may operate under a tariff or conditions that have not been approved by the Commission.

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' agreement is effective prior to that date is not enforceable.

Staff recommended approval of the amendment. Staff concluded that the amendment to the previously acknowledged 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 acknowledged 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 acknowledged 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 agreement between American Fiber Network, Inc., and Verizon Northwest Inc. is approved.

Made, entered, and effective AUG 23 2005



A handwritten signature in black ink, appearing to read "Michael Grant", 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.