

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ARB 199(23)

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

DISPOSITION: AMENDMENT APPROVED

On December 19, 2005, Eschelon Telecom of Oregon, Inc., and Qwest Corporation (Qwest) filed a twenty-third amendment to the interconnection agreement previously acknowledged by the Public Utility Commission of Oregon (Commission), recognizing the adoption of ARB 3 terms. 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, 05-006, 05-221, 05-1099, and 06-044. The parties seek approval of the current 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.

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.

Qwest's interconnection agreements generally include a provision that allows the companies to make changes in the terms and prices of the agreements when a law changes. The amendment is made in accordance with the FCC Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand (TRRO) issued on February 4, 2005, with an effective of March 11, 2005. The amendment states that the parties will retroactively bill for the UNE's involved. Generally retroactive billing is cause for concern. However, the retroactive billing associated with this amendment is directly related to the changes brought about by the TRRO. The TRRO allows a transition period for implementation of the provisions. The transition period is coming to an end and this amendment acts as a bridge agreement between the parties while they negotiate a new interconnection agreement under the new provisions.

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 Eschelon Telecom of Oregon, Inc., and Qwest Corporation is approved.

Made, entered, and effective FEB 21 2006



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.