ORDER NO. 06-331

ENTERED JUN 27 2006

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 640(1)

In the Matter of	)	
	)	
MIDVALE TELEPHONE EXCHANGE,	)	
INCORPORATED and SPRINT	)	ORDER
SPECTRUM LP/NEXTEL WEST CORP.,	)	
	)	
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 April 10, 2006,[1] Midvale Telephone Exchange, Incorporated and Sprint Spectrum L.P./Nextel West Corp. filed a first amendment to the interconnection agreement previously approved by the Public Utility Commission of Oregon (Commission) by Order No. 05-055.[2] 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 reached through voluntary negotiation within 90 days of filing. The Commission may reject an agreement only if it finds that:

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[1] The Commission extended the comment due date to May 10, 2006, 21 days from the docketed process date of April 19, 2006.

[2] The Commission takes this opportunity to clarify an apparent error in Order No. 05-055. Relying on information contained in the Carrier-to-Carrier checklist submitted with the interconnection agreement, the Commission identified the requesting carrier to the original agreement as Sprint PCS. This identification was in error, as Sprint PCS was only the assumed business name of Sprint Spectrum, L.P. Order No. 05-055 is corrected accordingly.

The Carrier-to-Carrier checklist submitted with the amendment also contained a similar error. The purpose of the amendment, as described in a cover letter, is to "add Nextel to the previously approved Traffic Exchange Agreement." The amendment explains that Sprint Spectrum and Nextel have recently merged. The Carrier-to-Carrier Checklist identifies the "Nextel" entity as "Nextel Operations"; however, the amendment makes clear that "Nextel Operations, Inc., a Delaware Corporation, acting in its authority as an agent for the benefit of Nextel West Corp., a Delaware Corporation (Nextel)." Amendment at 1.

The Commission's order incorporates the correct names for both entities; Sprint Spectrum L.P. and Nextel West Corp.

(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.

The Commission rejects the carriers' assertion that 47 C.F.R § 20.11(f) allows the rates set for the pricing of terminating traffic in this amendment to relate back to the date that the request for interconnection was made. As Staff notes, the interim transport and termination pricing implicated by that rule, and described in 47 C.F.R § 51.175, only allows a true-up where a state commission has established rates for the transport and termination of telecommunications traffic under 47 C.F.R § 51.175. Because this Commission has not established such rates, the true up provision is not applicable.

Staff recommended approval of the amendment. Staff concluded that the amendment to the previously approved 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 approved 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 approved 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 a previously approved agreement filed by Midvale Telephone Exchange, Incorporated and Sprint Spectrum L.P./Nextel West Corp. is approved.

Made, entered, and effective JUN 2 7 2006.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

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.