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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 132

In the Matter of the First and Second Amendments to	)	
the Interconnection Agreement Between	)	
HighSpeed.Com of Oregon L.L.C., and U S WEST	)	ORDER
Communications, Inc., Submitted for Commission	)	
Approval Pursuant to Section 252 (e) of the	)	
Telecommunications Act of 1996.	)	

**DISPOSITION: AMENDMENTS APPROVED**

On July 16, 1999, HighSpeed.Com of Oregon L.L.C., and U S WEST Communications, Inc., filed with the Public Utility Commission of Oregon (Commission), two fully executed amendments to the agreement approved by Commission Order No. 99-377. The amendments add language regarding collocation. The parties seek approval of the amendment under Section 252(e)(1),(2) of the Telecommunications Act of 1996 (Act).

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.

The Commission provided notice of the request for approval and an opportunity to comment to a list of persons who have participated in arbitrations under the Act. Comments were filed by the PUC Staff.

Staff's comments, attached as Appendix A to this order, stated concern with language in Amendment 1, section 2.6.1.8. Staff offered two interpretations of the provision with which it was concerned and stated that if the parties intended the second interpretation, then the amendment should be approved. On August 19, 1999, the Commission received confirmation from the parties that Staff's second interpretation of the language is correct.

With the above clarification, Staff concluded that the amendments to the previously filed agreement do not appear to discriminate against telecommunications carriers who are not parties to the agreement and do not appear to be inconsistent with the public interest, convenience, and necessity.

**OPINION**

The Commission has reviewed the amendments to the previously approved agreement and the comments. We conclude that there is no basis under the Act to reject the amendments as clarified. No participant in the proceeding has requested that the amendments be rejected or has presented any reason for rejection. We conclude that the amendments should be approved.

**CONCLUSIONS**

1. There is no basis for finding that the amendments to the previously approved agreement discriminate 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 amendments should be approved.

**ORDER**

IT IS ORDERED that the amendments to the previously approved agreement between HighSpeed.Com of Oregon L.L.C., and U S WEST Communications, Inc., are approved.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**  
Chairman

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**Roger Hamilton**  
Commissioner

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**Joan H. Smith**  
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.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ARB 132 (1)

In the Matter of the First and Second )  
Amendments to the Interconnection Agreement )  
Between HighSpeed.Com of Oregon L.L.C., and ) PUC STAFF’S COMMENTS  
U S WEST Communications, Inc., Submitted for )  
Commission Approval Pursuant to Section 252 (e) )  
of the Telecommunications Act of 1996. )

The Public Utility Commission of Oregon’s staff (Staff) submits the following comments regarding the first and second amendments to the agreement between HighSpeed.Com L.L.C. (HighSpeed) and U S WEST Communications, Inc. (USWC). HighSpeed and USWC filed the amendments with the Commission on June 9, 1999, as provided under Section 252(e) of the Telecommunications Act of 1996.

After reviewing the filing under standards established by the Telecommunications Act of 1996, Staff has the following concern. Amendment 1 at section 2.6.1.8 includes the following provision, “Requests for Collocation from HighSpeed.Com will be prioritized by USWC...” the preceding language could reasonably be interpreted to mean that USWC has agreed to give priority to (i.e., preference to ) collocation requests from HighSpeed.Com compared to requests by other carriers. If that is the intended meaning, the agreement discriminates against telecommunications carriers that are not party to the agreement, and should not be approved. However, if parties to the agreement intended to say that USWC will put in priority order requests for collocation form all carriers, including HighSpeed.Com, and will do so in a non-discriminatory manner, the amendment should be approved.

Since the language in Amendment 1, section 2.6.1.8 is ambiguous, Staff recommends the Commission approve the amendments to the agreement, but only with the understanding that the language in Amendment 1, section 2.6.1.8 has the second meaning described above. Given that understanding, Staff concludes the amendments do not appear to discriminate against telecommunications carriers that are not party to the agreement, and implementation of the amendments does not appear to be inconsistent with the public interest, convenience, and necessity.