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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 159

In the Matter of the Resale Agreement between	)	
NOW COMMUNICATIONS, INC., and GTE	)	
NORTHWEST INCORPORATED Submitted for	)	ORDER
Commission Approval Pursuant to Section 252 (e)	)	
of the Telecommunications Act of 1996.	)	

**DISPOSITION: AGREEMENT APPROVED**

On September 27, 1999, Now Communications, Inc., (NOW) and GTE Northwest Incorporated (GTE) filed a Resale Agreement with the Commission. The agreement provides that NOW may resell local exchange service only if NOW agrees to pay directly to GTE a monthly interim universal service support charge. According to the agreement, NOW will not pay the surcharge until it is approved by either the Commission or a relevant court. The parties seek approval of the agreement under Section 252(e)(2) of the Telecommunications Act of 1996.

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 noted that the Commission has not approved a monthly interim universal service support charge as proposed by GTE in the agreement, nor is Staff aware of any relevant court ruling in favor of a surcharge as proposed by GTE. Recognizing that approval of the agreement does not constitute approval of GTE's proposed surcharge, Staff concluded that the 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 has reviewed the agreement and the comments. We conclude that there is no basis under the Act to reject the agreement. No participant in the proceeding has requested that the agreement be rejected or has presented any reason for rejection. We conclude that the agreement should be approved.

**CONCLUSIONS**

1. Approval of the agreement does not constitute approval of the surcharge proposed by GTE.
2. There is no basis for finding that the agreement discriminates against any telecommunications carrier not a party to the agreement.
3. There is no basis for finding that implementation of the agreement is not consistent with the public interest, convenience, and necessity.
4. The agreement should be approved.

**ORDER**

IT IS ORDERED that:

1. Approval of this agreement does not constitute Commission approval of the monthly interim universal service support charge proposed by GTE Northwest Incorporated.
2. The agreement between Now Communications, Inc., and GTE Northwest Incorporated is 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.