

ORDER NO. 00-346

ENTERED JUN 30 2000

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ARB 135(1)

In the Matter of the First Amendment to the)
Interconnection Agreement Between AVISTA)
COMMUNICATIONS OF OREGON, INC., and U)
S WEST COMMUNICATIONS, INC., Submitted)
for Commission Approval Pursuant to Section 252(e))
of the Telecommunications Act of 1996.)
)

ORDER

DISPOSITION: AMENDMENT APPROVED

On April 3, 2000, Avista Communications of Oregon, Inc. (Avista), and U S WEST Communications, Inc. (USWC), filed with the Public Utility Commission of Oregon (Commission), a fully executed amendment to the agreement initially approved by Commission Order No. 99-455. The amendment addresses provisioning of unbundled network element (UNE) combinations, customized routing, and shared interoffice transport. The parties seek approval of the amendment under Section 252(e) 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. PUC Staff filed comments.

Staff noted that under the terms of the amendment USWC will provision UNE combinations in a manner more limited than is available under a recent order of the United States Court of Appeals for the Ninth Circuit.¹ Staff also noted that this is a voluntary agreement and that Avista has agreed to the limitations on UNE combinations. Staff, therefore, concluded that the amendment to the previously filed 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 amendment to the previously approved agreement and the comments. No participant in the proceeding has requested that the amendment be rejected or has presented any reason for rejection. The Commission concludes that there is no basis under the Act to reject the amendment and that 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.

¹ 193 F.3d 112, 1121 (9th Cir. 1999)

ORDER

IT IS ORDERED that the amendment to the previously approved agreement between Avista Communications of Oregon, Inc., and U S WEST Communications, Inc., is approved.

Made, entered, and effective _____.

William G. Warren

Director

Utility Program

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.