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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

ARB 190(1)

In the Matter of the First Amendment to the )  
Interconnection Agreement Between PATHNET, )  
INC. and QWEST CORPORATION (formerly )  
known as 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 July 5, 2000, Pathnet, Inc. (Pathnet) and U S WEST Communications (now known as Qwest), filed with the Public Utility Commission of Oregon (Commission), a fully executed amendment to an agreement previously approved by Commission Order No. 00-081. The amendment addresses provisioning of unbundled network elements (UNEs). 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.

Pathnet and Qwest agreed to allow the agreement to become effective upon the date of execution by both parties. This provision governing the effective date is not enforceable. Under Sections 252(a) and (e) of the Act, agreements do not have force or effect until approved by the Commission.

Staff 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.

### **ORDER**

IT IS ORDERED that the amendment to the previously approved agreement between Pathnet, Inc. and Qwest Corporation, is approved.

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

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**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.