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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

ARB 257

In the Matter of the Resale Interconnection)
Agreement between MGC COMMUNICATIONS,)
INC. dba MPOWER COMMUNICATIONS) ORDER
CORP. and QWEST CORPORATION (fka U S)
WEST COMMUNICATIONS, INC.) Submitted)
for Commission Approval Pursuant to)
Section 252(e) of the Telecommunications Act of)
1996.)

DISPOSITION: AGREEMENT APPROVED

On July 12, 2000, MGC Communications, Inc. dba Mpower Communications Corp. (Mpower) and Qwest Corporation (Qwest) formerly known as U S West Communications, Inc. filed a Resale Agreement with the Public Utility Commission of Oregon (Commission) declaring the agreement was an SGAT (Statement of Generally Available Terms)¹. 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 advised that the agreement is not an SGAT agreement and that it differs from the SGAT in several respects. On August 23, 2000, Qwest filed correspondence verifying

¹ On April 24, 2000, Qwest filed a statement of generally available terms (SGAT) under Section 252(f) of the Telecommunications Act of 1996. In Order No. 00-327, the Commission allowed Qwest's SGAT to go into effect subject to further investigation and review in proceedings in Docket UM823.

that even though this agreement is based upon the Qwest Corporation SGAT, it is more accurately defined as a negotiated Qwest Corporation template agreement.

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. There is no basis for finding that the agreement discriminates against any telecommunications carrier not a party to the agreement.
2. There is no basis for finding that implementation of the agreement is not consistent with the public interest, convenience, and necessity.
3. The agreement should be approved.

ORDER

IT IS ORDERED that the agreement, between MGC Communications, Inc. dba Mpower Communications Corp. and Qwest Corporation (formerly known as 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.