

**This is an electronic copy. Attachments may not appear.
BEFORE THE PUBLIC UTILITY COMMISSION**

OF OREGON

ARB 310

In the Matter of the Negotiated Interconnection)	
Agreement Between ESSEX COMMUNICATIONS,)	
INC. (dba ELEC COMMUNICATIONS) and QWEST)	ORDER
CORPORATION Submitted for Commission)	
Approval Pursuant to Section 252(e) of the)	
Telecommunications Act of 1996.)	

DISPOSITION: AGREEMENT APPROVED

On January 25, 2001, Essex Communications, Inc., dba eLEC Communications (Essex), and Qwest Corporation (Qwest) filed a negotiated interconnection agreement with the Public Utility Commission of Oregon (Commission). The parties seek approval of the agreement under Section 252(e) 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. The Commission Staff filed comments.

Staff recommends approval of the agreement. Staff concludes 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.

Staff notes that, in the agreement, the parties included a provision stating that "At the time any amendment is filed, the section amended shall be considered withdrawn, and no CLEC may adopt the section considered withdrawn following the filing of any amendment, even if such amendment has not yet been approved or allowed to take effect." Staff notes that parties to an agreement cannot dictate to the Commission how it will process adoptions. By approving

the agreement, the Commission should make no commitment regarding the adoption issues presented in this provision. Staff also notes that the parties appear to have inadvertently referred to the agreement as an SGAT in one provision and that it will be treated as an error.

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 with the understanding that the Commission makes no commitment regarding the adoption issues presented in paragraph 1.4, and that the Commission does not consider the agreement to be an SGAT.

ORDER

IT IS ORDERED that the agreement, between Essex Communications, Inc. (dba eLEC Communications), and Qwest Corporation, is approved.

Made, entered, and effective _____.

Phil Nyegaard
Acting 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.