

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 378(5)

In the Matter of)
)
TEL WEST COMMUNICATIONS LLC and) STAFF COMMENTS
QWEST CORPORATION.)
)
Fifth Amendment to the Interconnection)
Agreement Submitted for Commission)
Approval Pursuant to Section 252(e) of the)
Telecommunications Act of 1996.)

RECOMMENDATION: APPROVE AMENDMENT

On May 6, 2004, Tel West Communications LLC and Qwest Corporation filed the fifth amendment to the interconnection agreement previously approved by the Public Utility Commission of Oregon (Commission). The parties seek approval of the amendment under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting an electronic copy of the agreement on the World Wide Web, at: <http://www.puc.state.or.us/caragmnt/>. The Commission Staff (Staff) offers these comments.

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 amendment is a promotion of available inventory collocation sites. Qwest advised Staff that it announced the offer, making it available to all competitive telecommunications carriers. The amendments offer discounts varying from 50% to 75% of nonrecurring charges for available inventory collocations on available inventory sites. The available sites are identified on Qwest's website.

The promotion runs for a very short time period. Filing the

amendments for these situations should allow enough time for the entire process to be completed prior to the ending of the promotion. In fact, the process should be completed prior to the effective date for the promotion. Staff warns Qwest that filings of this nature may not be accepted in the future.

However, Staff recommends the Commission approve the amendments to the agreement. Staff concludes that the amendments do not appear to discriminate against telecommunications carriers who are not parties to the agreement and do not appear to be inconsistent with the public interest, convenience, and necessity since the offer is available on Qwest's website.

Staff notes that an interconnection agreement or amendment thereto has no effect or force until approved by a state Commission. *See* 47 U.S.C. Sections 252 (a) and (e). Accordingly, Staff points out that the effective date of this filing will be the date the Commission signs an order approving it, and that any provision stating that the parties' agreement is effective prior to that date is not enforceable.

Dated at Salem, this 26th day of May, 2004.

Celeste Hari
Telecommunications Analyst