

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ARB 772

In the Matter of)
)
In the Matter of MCIMETRO ACCESS) STAFF COMMENTS
TRANSMISSION SERVICES, LLC and)
QWEST CORPORATION.)
)
Interconnection Agreement Submitted for)
Commission Approval Pursuant to Section)
252(e) of the Telecommunications Act of 1996.)

RECOMMENDATION: APPROVE AGREEMENT

On October 6, 2006, MCImetro Access Transmission Service, LLC and Qwest Corporation filed an interconnection agreement with the Public Utility Commission of Oregon (Commission). The agreement replaces ARB 1 and ARB 6. The Parties seek approval of this agreement 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 thereof is not consistent with the public interest, convenience, and necessity.

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.

The agreement contains a section stating that several amendments from ARB 6 are to remain intact and are incorporated into the new ARB 772 agreement by reference. Staff had concerns about simply incorporating various amendments into the new agreement by

reference rather than integrating the amending provisions into the body of the agreement. The Parties did not initially identify the amendments from ARB 6 by supplying the amendment numbers or Order Numbers. The agreement also states that "For administrative ease, the Parties have not undertaken a complete rationalization of the remaining language of the body of this agreement and in each of the Amendments." The agreement as originally filed was difficult for Staff to follow and would be very burdensome for another party to try to follow and adopt.

Staff conducted a telephone conference with the Parties and requested more information and clarification of the agreement. The Parties agreed to supply more identifying information regarding the amendments. However, they were not willing to rationalize the entire agreement stating that the amendments prevail in the event of inconsistencies. The Parties also stated that it was burdensome to conduct a complete rationalization. Staff considered the additional information provided by the Parties.

The approach taken by the parties to the agreement makes it somewhat more difficult for other carriers to know what is in the agreement so they may consider adoption. It places the burden of discovery on Staff as well as others who are not a party to the agreement. Parties should take the time to submit clear information in order to avoid delay of approval or possible rejection of the agreement. However, the agreement, as modified, does contain sufficient information to allow other carriers to gather the information they would need to make an assessment. Staff prefers that carriers not take this approach in the future, but concludes that the agreement meets the standards of the act.

Staff recommends approval of the agreement. Staff concludes that the agreement itself 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.

Dated at Salem, Oregon, this 15th day of November, 2006.

Celeste Hari
Telecommunications Analyst
Competitive Issues
Telecommunications Division