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OPEN MEETING ITEM

MEMORANDUM

Arizona Corporation Commission

DOCKETED

MAR 08 2001

TO: THE COMMISSION

FROM: Utilities Division

DATE: March 7, 2001

DOCKETED BY *nae*

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AZ CORP COMMISSION DOCUMENT CONTROL

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4-25

RE: IN THE MATTER OF THE APPLICATION OF QWEST CORPORATION F/K/A/ U S WEST COMMUNICATIONS, INC., FOR APPROVAL OF THE FIFTH AMENDMENT TO THE WIRELINE INTERCONNECTION AGREEMENT WITH TESS COMMUNICATIONS, INC. (DOCKET NOS. T-01051B-01-0136 AND T-03754A-01-0136)

On February 16, 2001, Qwest Corporation ("Qwest"), f/k/a U S WEST Communications, Inc., filed an application for approval of the Fifth Amendment to the Interconnection Agreement between Qwest and TESS Communications, Inc. ("TESS"). The original Interconnection Agreement was approved by the Commission on October 8, 1999, in Decision No. 61983.

The Telecommunications Act of 1996 ("1996 Act"), directed incumbent local exchange carriers to make their networks available for interconnection and resale by new entrants to the local exchange market. The 1996 Act provides for interconnection and resale agreements to be concluded by voluntary negotiation. This Fifth Amendment to the Interconnection Agreement between Qwest and TESS was voluntarily negotiated, without resort to arbitration.

Under the terms of this Fifth Amendment, terms and conditions relating to Composite Clock/Central Office Synchronization are added to the underlying agreement.

According to the 1996 Act, the Commission must approve voluntarily negotiated interconnection and resale agreements, if their provisions are non-discriminatory and in the public interest. Staff has reviewed the Fifth Amendment and finds it to be non-discriminatory and in the public interest. Qwest is offering the same terms and conditions of the Agreement to all other interested parties. The Agreement is in the public interest because it will act to further competition in the local exchange market in Arizona.

Since there are no grounds for rejection of the Fifth Amendment pursuant to Section 252(e)(2)(A), of the 1996 Act, Staff has recommended that the Commission approve the Fifth Amendment to the Interconnection Agreement between Qwest and TESS.

Deborah R. Scott
Director
Utilities Division

DRS:EAA:jbc/TIW

ORIGINATOR: Erinn Andreasen

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
Chairman
3 JIM IRVIN
Commissioner
4 MARC SPITZER
Commissioner
5

6 IN THE MATTER OF THE APPLICATION) DOCKET NOS. T-01051B-01-0136
OF QWEST CORPORATION F/K/A U S WEST) T-03754A-01-0136
7 COMMUNICATIONS, INC., FOR APPROVAL)
OF THE FIFTH AMENDMENT TO THE) DECISION NO. _____
8 INTERCONNECTION AGREEMENT WITH)
9 TESS COMMUNICATIONS, INC.) ORDER

10 Open Meeting
March 27 and 28, 2001
11 Phoenix, Arizona

12 BY THE COMMISSION:

13 FINDINGS OF FACT

14 1. On February 16, 2001, Qwest Corporation ("Qwest"), f/k/a U S WEST
15 Communications, Inc., filed an application for approval of the Fifth Amendment to the
16 Interconnection Agreement between Qwest and TESS Communications Inc. ("TESS"). The
17 original Interconnection Agreement was approved by the Commission on October 8, 1999, in
18 Decision No. 61983.

19 2. The Telecommunications Act of 1996 ("1996 Act") directed incumbent local
20 exchange carriers to make their networks available for interconnection and resale by new entrants
21 to the local exchange market. The 1996 Act provides for interconnection and resale agreements to
22 be concluded by voluntary negotiation.

23 3. This Fifth Amendment to the Interconnection Agreement between Qwest and TESS
24 was voluntarily negotiated, without resort to arbitration.

25 4. Under the terms of this Fifth Amendment, terms and conditions relating to
26 Composite Clock/Central Office Synchronization are added to the underlying agreement.

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5. According to the 1996 Act, the Commission must approve voluntarily negotiated interconnection and resale agreements, if their provisions are non-discriminatory and in the public interest.

6. Staff has reviewed the Fifth Amendment and finds it to be non-discriminatory and in the public interest. Qwest is offering the same terms and conditions of the Agreement to all other interested parties. The Agreement is in the public interest because it will act to further competition in the local exchange market in Arizona.

7. Since there are no grounds for rejection of the Fifth Amendment pursuant to Section 252(e)(2)(A), of the 1996 Act, Staff has recommended that the Commission approve the Fifth Amendment to the Interconnection Agreement between Qwest and TESS.

CONCLUSIONS OF LAW

1. Qwest is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over TESS and over the subject matter of the Application.

3. The Commission, having reviewed the Application and Staff's Memorandum has determined that the Fifth Amendment to the Interconnection Agreement negotiated between Qwest and TESS meets the requirements of Section 252(e)(2)(A), of the 1996 Act, which governs the approval of voluntarily-negotiated agreements and is in the public interest.

4. The Commission maintains jurisdiction over the subject matter of the Agreement and Amendments thereof, to the extent permitted pursuant to the powers granted the Commission by the Arizona Constitution, Statutes, Commission Rule, and the 1996 Act and the Rules promulgated thereunder.

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ORDER

IT IS THEREFORE ORDERED that the Commission hereby approves the Fifth Amendment to the Interconnection Agreement between Qwest and TESS filed on February 16, 2001.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2001.

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DRS:EAA:jbc/TIW

1 SERVICE LIST FOR: QWEST CORPORATION AND TESS COMMUNICATIONS, INC.

2 DOCKET NOS. T-01051B-01-00136 AND T-03754A-01-0136

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