



0000132263

BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

DEC 18 1996

DOCKETED BY

1
2 RENZ D. JENNINGS
CHAIRMAN
3 MARCIA WEEKS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER
5

6 IN THE MATTER OF THE PETITION OF TCG)
PHOENIX ARBITRATION PURSUANT TO)
7 § 252(b) OF THE TELECOMMUNICATIONS)
ACT OF 1996 TO ESTABLISH AN INTER-)
8 CONNECTION AGREEMENT WITH U S)
WEST COMMUNICATIONS, INC.,)
9 PURSUANT TO § 252(b) OF THE TELE-)
COMMUNICATIONS ACT OF 1996.)
10

DOCKET NO. U-3016-96-402
DOCKET NO. E-1051-96-402

DECISION NO. 59937

ORDER

11 Open Meeting
December 17, 1996
12 Phoenix, Arizona

13 BY THE COMMISSION:

14 On July 17, 1996, TCG Phoenix (TCG) filed with the Arizona Corporation Commission
15 (Commission), a petition for arbitration pursuant to § 252(b) of the Telecommunications Act of
16 1996 (Act) to establish an interconnection agreement with U S WEST Communications, Inc. (U S
17 WEST).

18 The Federal Telecommunications Act of 1996 directed incumbent local exchange carriers
19 to make their networks available for interconnection to new entrants to the local exchange market.
20 The Act provided for Interconnection Agreements to be concluded by voluntary agreement. If
21 the parties could not successfully negotiate all of the rates, terms, and conditions of an
22 interconnection agreement, any party could request the Commission to arbitrate any open issues.

23 On October 29, 1996, the Commission issued Decision No. 59873, setting forth its
24 resolution of the issues in dispute and directing the parties to file a written Interconnection
25 Agreement within thirty days containing the terms and conditions of interconnection, including
26 both those items that were voluntarily resolved between the parties and those on which the
27 Commission

28 ...

1 directed a resolution. On November 29, 1996, the parties filed the Agreement. On December 6,
2 1996, the parties filed a substitute Agreement that contained some items that were not included
3 in the originally-submitted Agreement due to time constraints.

4 According to the federal act and state rule, the Commission must approve (or reject) the
5 final Interconnection Agreement, deciding if its voluntarily-negotiated provisions are non-
6 discriminatory and in the public interest. The Commission must also decide whether the
7 arbitrated provisions are in compliance with the provisions of the Act.

8 In the arbitration proceedings conducted by the Commission's Hearing Division, only those
9 matters in dispute were considered and included in Decision No. 59873. The Hearing Division
10 has reviewed the Interconnection Agreement between TCG and U S WEST in so far as the issues
11 subject to arbitration are concerned and has indicated that it is in compliance with
12 Decision No. 59873 and that there are no grounds for rejection pursuant to § 252 (e)(2)(B) of the
13 Act.

14 Staff has reviewed the voluntarily-negotiated provisions of the Interconnection Agreement,
15 that were not part of the arbitration proceedings, and has found them to be non-discriminatory
16 and in the public interest. Both U S WEST and TCG have indicated that the negotiated
17 provisions of the Interconnection Agreement are non-discriminatory and in the public interest.

18 Having considered the entire record herein and being fully advised in the premises, the
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

- 21 1. TCG has applied to the Commission for authority to provide competitive
22 telecommunications services to the public in Arizona.
- 23 2. U S WEST is certificated to provide local exchange and intraLATA
24 telecommunications services to the public in Arizona pursuant to Article XV of the Arizona
25 Constitution.
- 26 3. On July 17, 1996, TCG filed a petition for arbitration to establish an Interconnection
27 Agreement, pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996.

28

1 4. Arbitration proceedings regarding the disputed issues commenced September 18, 1996,
2 at the Commission's offices in Phoenix.

3 5. In the arbitration proceedings, which were conducted by the Commission's Hearing
4 Division, only those matters in dispute were considered.

5 6. On September 30, 1996, each party submitted a closing memorandum, which
6 summarized the issues still unresolved and presented each party's proposed resolution of the
7 issues.

8 7. On October 29, 1996, the Commission issued Decision No. 59873, setting forth its
9 resolution of the issues in dispute and directing the parties to file a written Interconnection
10 Agreement within thirty days. The Interconnection Agreement was to incorporate the issues as
11 resolved by the Commission.

12 8. On November 29, 1996, the parties filed the Interconnection Agreement. On
13 December 6, 1996, the parties filed an amended Interconnection Agreement that contained some
14 provisions that were not included in the originally submitted Interconnection Agreement due to
15 time constraints. In addition to the issues resolved by the arbitration, the Interconnection
16 Agreement contained provisions that were resolved by the parties pursuant to negotiation.

17 9. Pursuant to 47 U.S.C. § 252(e)(2)(A), the Commission must determine whether an
18 agreement (or any portion thereof) adopted by negotiation is nondiscriminatory as to
19 telecommunications carriers not parties to the Interconnection Agreement and that the
20 implementation of such agreement or portion thereof is consistent with the public interest,
21 convenience, and necessity.

22 10. Pursuant to 47 U.S.C. § 252 (e)(2)(B), the Commission must determine whether an
23 agreement (or any portion thereof) adopted by arbitration meets the requirements of 47 U.S.C.
24 § 251, F.C.C. regulations, and the standards set forth in 47 U.S.C. § 252 (d).

25 ...

26 ...

27 ...

28

WDCO - JSC - JUS

1 11. Staff has reviewed the Interconnection Agreement and has determined that the
2 negotiated portions do not discriminate against telecommunications carriers not parties to the
3 agreement, and that the implementation of such negotiated portions are consistent with the public
4 interest, convenience and necessity.

5 12. U S WEST and TCG have both indicated that the voluntarily-negotiated provisions
6 of the Interconnection Agreement are non-discriminatory and in the public interest.

7 13. On December 13, 1996, the parties filed a Notice of Supplemental Interconnection
8 Agreement Language, which included modifications to the Interconnection Agreement submitted
9 by the parties.

10 14. The Hearing Division has reviewed the Interconnection Agreement, as modified by
11 the parties in the filing on December 13, 1996, as to the issues subject to arbitration and has
12 indicated that the agreement is in compliance with Commission Decision No. 59873, and has
13 determined that the portions adopted by arbitration pursuant to 47 U.S.C. § 252 (b), meet the
14 requirements of 47 U.S.C. § 251, federal and state regulations, and the standards set forth in 47
15 U.S.C. § 252 (d).

16 15. The Commission hereby approves the Interconnection Agreement as submitted and
17 modified by the parties and reviewed by Commission Staff.

18 **CONCLUSIONS OF LAW**

19 1. TCG is a public service corporation within the meaning of Article XV of the Arizona
20 Constitution.

21 2. TCG is a telecommunications carrier within the meaning of 47 U.S.C. § 252.

22 3. U S WEST is a public service corporation within the meaning of Article XV of the
23 Arizona Constitution.

24 4. U S WEST is an incumbent local exchange carrier (ILEC) within the meaning of 47
25 U.S.C. § 252.

26 . . .

27 . . .

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. The Commission has jurisdiction over TCG and U S WEST and the subject matter of the Interconnection Agreement and the modifications filed by the parties on December 13, 1996.

6. The Commission's approval of the Interconnection Agreement as modified by the parties on December 13, 1996, is just and reasonable, meets the requirements of the Act and regulations prescribed by the FCC pursuant to the Act, and is in the public interest.

7. The Commission maintains jurisdiction over the subject matter of the Interconnection Agreement and amendments thereto to the extent permitted pursuant to the powers granted the Commission by the Arizona Constitution, Statutes, Commission Rule, and the Federal Act and the rules promulgated thereunder.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS THEREFORE ORDERED that the Commission hereby approves the Interconnection Agreement as modified by the parties on December 13, 1996.

IT IS FURTHER ORDERED that the parties shall file a signed Interconnection Agreement incorporating the modifications filed on December 13, 1996, with Docket Control, within thirty days from the date of this Decision.

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, JAMES MATTHEWS, 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 18 day of December, 1996.


JAMES MATTHEWS
Executive Secretary

DISSENT _____

GY:DPJ:lh