

## - BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Negotiated Resale )  
 Agreement Between QWEST CORPORATION )  
 and ONE STAR LONG DISTANCE, INC. )

DOCKET NO. 00-049-36  
REPORT AND ORDER

Issued: August 29, 2000

SYNOPSIS

The parties to the agreement which is the subject of this proceeding having submitted the same for Commission Approval; and the agreement appearing to conform to the requirements of § 252(e)(1) of the Federal Telecommunications Act of 1996 and applicable Federal Communications Commission regulations; and the agreement appearing to conform to applicable Utah law and Commission Regulations; and approval of the agreement appearing to be in the public interest, the Commission approved the agreement notwithstanding the reseller's not being certificated by the Commission, since resellers only of telephone service are exempt under Utah law.

By the Commission:

PROCEDURAL HISTORY

Qwest Corporation and ONE STAR LONG DISTANCE, INC., ("Reseller") entered into a resale agreement (hereafter "the Agreement") dated May 4, 2000. The parties filed the Agreement with the Commission May 12, 2000 for review and approval in accordance with 47 USC 229 § 252(e)(1), a part of the Federal Telecommunications Act of 1996 (hereafter "the Act"). The Administrative Law Judge, having reviewed said agreement and having been fully advised in the matter, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

1. We find the instant agreement does not discriminate against any telecommunication carrier not a party to it.
2. The Agreement comports with the Act's § 251, and with currently effective Federal Communications Commission (FCC) regulations.
3. The Agreement comports with applicable Utah law and this Commission's rules.
4. The United States Congress and the Utah Legislature having established the fostering of competition in the telecommunications industry as sound public policy, the Agreement is in the public interest, since it comports with such policy.
5. The Division of Public Utilities, Utah Department of Commerce, ("DPU") has recommended disapproval of the agreement on grounds the reseller is not certificated by this Commission and has not sought such certification despite having been contacted concerning such certification.

CONCLUSIONS OF LAW

The Reseller's lack of certification does not bar our approval of the agreement, since entities offering *only* resold services are exempt from Commission jurisdiction under § 54-2-1, UCA 1953, as amended. Our review of the agreement does not disclose provisions which go beyond resale. Accordingly, we must overrule DPU's objections. The Agreement should be approved now as meeting the requirements of 47 USC § 252(e)(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

The Resale agreement between Qwest Corporation and ONE STAR LONG DISTANCE, INC., dated May 4, 2000, be and it hereby is, approved in conformance with 47 USC § 252(e)(1).

Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 29<sup>th</sup> day of August, 2000.

/s/ A. Robert Thurman  
Administrative Law Judge

Approved and Confirmed this 29<sup>th</sup> day of August, 2000, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary