

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01T-238

RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT
BETWEEN QWEST CORPORATION AND CBeyond COMMUNICATIONS, LLC.

**DECISION APPROVING REPORT OF ADOPTION OF
PREVIOUSLY APPROVED AMENDMENT**

Mailed Date: January 3, 2003
Adopted Date: December 30, 2002

I. BY THE COMMISSION:

A. Statement

1. This matter comes before the Colorado Public Utilities Commission (Commission) on the submittal of a Report of Adoption of Previously Approved Amendment (Report of Adoption) filed by Qwest Corporation (Qwest) and Cbeyond Communications, LLC (Cbeyond), pursuant to Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-44-6.¹ The original Interconnection Agreement (Agreement) between Qwest and Cbeyond for the provision of Qwest's local exchange services was approved in Decision No. C01-712 issued July 13, 2001.

2. The parties filed this Report of Adoption on December 12, 2002. The parties have agreed to amend their Agreement, adopting amendments that have been previously approved by the Commission. Specifically, Qwest and Cbeyond have amended their Agreement to add rates, terms, and conditions to incorporate Colorado Performance Assurance Plan (CPAP),

¹ Colorado Public Utilities Commission Rules Establishing Procedures Relating to Submission for Approval of Interconnection Agreements, and any Amendments to Interconnection Agreements within Colorado by Telecommunications Carriers.

Performance Indicator Definitions (PIDs), and a *Force Majeure*. The CPAP and PID rates, terms, and conditions, and the *Force Majeure* have been previously approved by the Commission as Exhibits K and B, and Section 5.7, respectively, of Qwest's Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services Eighth Revision, filed on April 29, 2002, as amended in compliance filings filed June 13 and 28, 2002, and as approved by the Commission on July 2, 2002 by Decision No. C02-739 in Docket No. 02M-260T, and as amended by the Commission by Decision No. C02-932 on August 2, 2002. A copy of the provisions are attached to the Report of Adoption.

3. The parties have complied with the requirements of 4 CCR 723-44 *et seq.* for the submission for approval of amendments to interconnection agreements. Additionally, the Report of Adoption contains all information required in 4 CCR 723-44-6.

4. Pursuant to § 252(i) of the Telecommunications Act of 1996 (Act), 47 U.S.C. § 252(i), an incumbent local exchange carrier (ILEC) shall make available any interconnection, service, or network element provided under an agreement or amendment previously approved by this Commission to which the ILEC is a party to any other requesting local exchange carrier upon the same terms and conditions as those provided in the Agreement.

5. Part 47 U.S.C. § 251 *et seq.*, of the Act requires that the Commission review and approve or reject interconnection agreements involving ILECs like Qwest. To comply with the Act, rates in negotiated agreements must be just and reasonable, nondiscriminatory, and based on the cost of providing the interconnection or network element. 47 U.S.C. § 252(d). In reviewing agreements (or portions thereof) the Commission, generally, is guided by 47 U.S.C. § 252(e)(2),

requiring that interconnection agreements not discriminate against non-parties and be consistent with the public interest, convenience, and necessity.

6. The Commission has previously approved the amended rates, terms, and conditions in the Amendments adopted by the parties. We find it consistent with the terms of the Agreement, the directives of the Act, and the spirit of our own interconnection agreement rules to approve the Report of Adoption subject to our own rules and general rate-making proceedings.

II. ORDER

A. The Commission Orders That:

1. The joint filing of a Report of Adoption by Qwest Corporation and Cbeyond Communications, LLC to amend their Interconnection Agreement is approved.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 30, 2002.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

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JIM DYER

Commissioners

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