

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 GRANTING JOINT MOTION FOR
APPROVAL OF AMENDMENT TO THE
INTERCONNECTION AGREEMENT**

Mailed Date: January 22, 2003
Adopted Date: January 22, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission on the joint motion of Qwest Corporation (Qwest) and Cbeyond Communications, LLC (Cbeyond) for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was approved by the Commission in Decision No. C01-712, issued July 13, 2001.

2. The parties filed this Amendment on December 12, 2002. The parties have agreed to amend the Agreement to add rates, terms, and conditions for LIS Trunking and Loop Mux Combination, as set forth in the Amendment referred to as the Amendment for LIS Trunking and Loop Mux Combination to the Agreement.

3. Any amended rates proposed here are at issue in Docket No. 99A-577T and are subject to influence by decisions in Docket Nos. 02M-259T and 02M-260T. Additionally, the terms and conditions of the Agreement are all matters addressed in the Statement of Generally Available Terms and Conditions Docket No. 97I-198T, and may be affected by decisions in

Docket Nos. 99A-577T, 02M-259T, and 02M-260T. Upon completion of these dockets, Cbeyond may pick and choose the rates and terms from those dockets favorable to it by virtue of § 252(i) of the Telecommunications Act of 1996 (Act), 47 U.S.C. § 252(i), which states that:

[a] local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

4. Title 47 U.S.C. § 251 *et seq.*, of the Act requires that the Commission review and approve or reject interconnection agreements involving incumbent local exchange carriers 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(e). 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.

5. The Commission has not previously approved all the amended terms and conditions proposed here. However, 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 present amended terms and conditions subject to our own rules and general ratemaking proceedings.

II. ORDER

A. The Commission Orders That:

1. The joint motion of Qwest Corporation and Cbeyond Communications, LLC to amend their Interconnection Agreement is granted.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 22, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners