

Decision No. C03-0266

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 99T-067

RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT
BETWEEN U S WEST COMMUNICATIONS, INC. AND DIECA COMMUNICATIONS, INC.
D/B/A COVAD COMMUNICATIONS COMPANY.

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

Mailed Date: March 12, 2003
Adopted Date: March 12, 2003

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 a Previously Approved Amendment (Report of Adoption) filed by Qwest Corporation (Qwest) and DIECA Communications, doing business as Covad Communications (Covad), pursuant to Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-44-6.¹ The original Interconnection Agreement (Agreement) between Qwest and Covad for the provision of Qwest's local exchange services was approved in Decision No. C01-445 issued May 2, 2001.

2. The parties filed this Report of Adoption on February 27, 2003. The parties have agreed to amend their Agreement to add terms and conditions to incorporate the Colorado Performance Assurance Plan (CPAP) and the Performance Indicator Definitions (PIDs)

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.

previously approved by the Commission as Exhibits K and B respectively to Qwest's Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services Eighth Revision (SGAT), 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. Additionally, pursuant to Commission Docket No. 02M-259T, the changes approved to the CPAP and PIDs in that decision will apply to Attachments 1 and 2 to the application without further amendment. In conjunction with the adoption of the CPAP, the parties have also amended their Agreement to incorporate the *Force Majeure* provisions of Section 5.7 of the previously approved SGAT. 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. Section 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 DIECA Communications, doing business as Covad Communications, to amend their interconnection agreement to add terms and conditions to incorporate the Colorado Performance Assurance Plan and the Performance Indicator Definitions previously approved by the Commission as Exhibits K and B respectively to Qwest Corporation'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 subsequently amended in compliance filings filed on June 13 and 28, 2002, and as approved by the Commission on July 2, 2002, in Decision No. C02-739 in Docket No. 02M-260T and as further amended by the Commission on August 2, 2002, in Decision No. C02-932, is approved.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 12, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

JIM DYER

Commissioners

COMMISSIONER POLLY PAGE ABSENT.