

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03T-209

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF PAGING
INTERCONNECTION AGREEMENT BETWEEN QWEST CORPORATION AND
JOSEPH B. MCNEAL D/B/A PAGE DATA.

**DECISION REJECTING REPORT OF
ADOPTION OF PREVIOUSLY APPROVED
INTERCONNECTION AGREEMENT**

Mailed Date: August 4, 2003
Adopted Date: August 1, 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 interconnection agreement between Qwest Corporation (Qwest) and Arch Paging, Inc., filed by Qwest and Joseph B. McNeal, doing business as Page Data (Page Data) (collectively, the Parties) pursuant to Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-44-6.¹

2. The Parties filed this Report of Adoption on May 15, 2003. Page Data, however, has indicated to Commission Staff (Staff) that this Report of Adoption was not made through voluntary negotiations. Page Data has indicated that it does not wish to adopt this previously approved interconnection agreement on the grounds that the agreement on file at the Commission is not complete. According to Page Data, a billing settlement agreement (BSA)

¹ Colorado Public Utilities Commission Rules Establishing Procedures Relating to Interconnection Agreements, and any Amendment to Interconnection Agreements Within Colorado by Telecommunications Carriers.

exists between Qwest and Arch Paging, Inc., which was approved by the Iowa Utilities Board that is not included in the interconnection agreement approved by this Commission. As such, Page Data represents that without such a BSA, it does not wish to adopt the interconnection agreement between Qwest and Arch Paging, Inc., as indicated in Qwest's Report of Adoption filing.

3. In order to grant an application for a Report of Adoption, the Parties must comply with the requirements of 4 CCR 723-44 *et seq.* for the submission for approval of interconnection agreements. Additionally, the Report of Adoption must contain all information required pursuant to 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(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.

6. Pursuant to 47 U.S.C. § 252 *et seq.* and 4 CCR 723-44-6 we reject the Report of Adoption filed by Qwest and Page Data. Specifically, pursuant to 4 CCR 723-44-6.7.1.1 we determined that Page Data has failed to provide the proper identifying information required by Rule 44-6.1.1.4.1, a copy of the authority qualifying it to do business in Colorado; and Rule 44-6.1.1.4.3, a copy of its Articles of Incorporation.

7. We are further concerned with the representation of Page Data to Staff that the interconnection agreement the Parties wished to adopt as part of this Report of Adoption was not complete and the Report of Adoption was not made through voluntary negotiations. Based on these representations, we find it consistent with the terms of the Act, and of our own interconnection agreement rules, and in the best interests of the Parties and the public to reject this Report of Adoption.

8. However, we point out that pursuant to 4 CCR 723-44-6.7.2, the Parties may correct any deficiencies and resubmit an appropriate filing at a later date. We encourage the Parties to do so.

II. ORDER

A. The Commission Orders That:

1. The joint filing of a Report of Adoption by Qwest Corporation and Joseph B. McNeal, doing business as Page Data to opt into the previously approved interconnection agreement between Qwest Corporation and Arch Paging, Inc., is rejected.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 1, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners