

Decision No. C03-0981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 00T-064

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INTERCONNECTION
AGREEMENT BETWEEN U S WEST COMMUNICATIONS, INC. AND ELECTRO-TEL,
INC.

**DECISION GRANTING APPLICATION
FOR APPROVAL OF CENTRALIZED MESSAGE
DATA SYSTEM HOSTING AND
MESSAGE DISTRIBUTION
FOR CO-PROVIDERS AGREEMENT**

Mailed Date: September 2, 2003
Adopted Date: August 27, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Colorado Public Utilities Commission (Commission) for consideration of an Application for Approval of a Centralized Message Data System Hosting and Message Distribution for Co-Providers (CMDS) Agreement between Qwest Corporation (Qwest) and Eschelon Telecom of Colorado, Inc., formerly known as Electro-Tel (Eschelon), filed on July 18, 2003. The Application seeks approval of the negotiated Agreement, dated March 7, 2001. Qwest represents that it filed the Agreement out of caution to ensure compliance with any filing obligations.

2. According to Qwest, the Agreement for CMDS is Qwest's standard form contract containing provisions that are and have been available to all competitive local exchange carriers through other approved interconnection agreements and Qwest's Statement of Generally

Available Terms and Conditions (SGAT), or through offers made by posting the contract forms on its wholesale website.

3. Commission Staff indicates that Hosting and Message Distribution is offered as a method of exchanging billing records between telecommunications providers in conjunction with operator services. CMDS is covered in Section 7.7 of Qwest's Ninth Revised SGAT. As such, the Agreement qualifies as an Interconnection Agreement.

4. The Application is filed pursuant to the Commission's Rules Establishing Procedures Relating to the Submission for Approval of Interconnection Agreements, and any Amendments to Interconnection Agreements within Colorado by Telecommunications Carriers, 4 *Code of Colorado Regulations (CCR)* 723-44 (Interconnection Agreement Rules) and 47 U.S.C. § 252(a)(1). As part of their Application, Qwest and Eschelon attached their Agreement.

5. Pursuant to 4 *CCR* 723-44-5.6 of the Interconnection Agreement Rules, notice of the submitted Application was given to the public. Interested persons were given an opportunity to file comments within 30 days of the notice. No comments were filed with the Commission. Likewise, no person has sought to intervene in this matter.

6. Now being duly advised in the premises, we will grant the Application.

B. Background

7. The Application was submitted following the successful completion of voluntary negotiations between Qwest and Eschelon. The requirements of Rule 44 have been included in the Application.

8. Pursuant to 4 CCR 723-44-5.7.3, the Commission shall approve or reject this negotiated interconnection agreement within 90 days after submission by the parties; otherwise the agreement shall be deemed approved.

9. In deciding whether to approve or reject the Agreement the Commission follows the Interconnection Agreement Rules. Those rules were promulgated to implement certain directives set forth in the Telecommunications Act of 1996 (Act), 47 U.S.C. § 251 *et seq.*

10. The Act sets forth the procedures for negotiation, arbitration, and approval of interconnection agreements and subsequent amendments between telecommunications providers. Notably, 47 U.S.C. §§ 252(a) and (e) mandate that all interconnection agreements and amendments between providers shall be submitted to the State commission (*e.g.*, the Colorado Public Utilities Commission) for review. The State commission may approve or reject any submitted agreement or amendment in accordance with the standards listed in 47 U.S.C. § 252(e)(2) (commission may reject an agreement adopted by negotiation if it discriminates against a telecommunications carrier not a party to the agreement or if the implementation of such agreement is not consistent with the public interest, convenience, and necessity).

11. In pertinent part, 47 U.S.C. § 251 and the regulations promulgated by the Federal Communications Commission (FCC) require telecommunications carriers to interconnect their facilities and equipment. 47 U.S.C. § 251(a). The Act further imposes upon all local exchange carriers duties concerning resale, number portability, dialing parity, access to rights-of-way, and reciprocal compensation. 47 U.S.C. § 251(b). Additionally, the Act obligates incumbent local exchange carriers to negotiate in good faith the particular terms and conditions of interconnection agreements for the transmission and routing of telephone exchange service and

exchange access. 47 U.S.C. § 251(c). The FCC's regulations implementing 47 U.S.C. § 251 are codified at 47 C.F.R. pt. 51.

12. Section 47 U.S.C. § 252(d) addresses pricing standards. In order to comply with this section, rates for interconnection and network elements must be just and reasonable, nondiscriminatory, and based on the cost of providing the interconnection or network element. This section also deals with charges for the transportation and termination of traffic and with wholesale prices for telecommunications services.

13. Since 47 U.S.C. § 252(e) compels State commissions to review interconnection agreements between telecommunications carriers, the Commission adopted the Interconnection Agreement Rules to establish the procedures for Commission review and approval of all interconnection agreements.

14. Under the 47 U.S.C. § 252(i) “pick and choose” provision of the Act, Eschelon may at some future date opt into the rates, terms, and conditions of Commission approved and effective agreements, amendments, or SGATs.

C. Findings

15. Rule 4 CCR 723-44-5.7.2.1 of the Interconnection Agreement Rules provides that the Commission may reject a submitted interconnection agreement or amendment entered into by negotiation only if:

(1) The agreement, or portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or

(2) The implementation of such agreement, or portion thereof, is not consistent with the public interest, convenience, and necessity; or

(3) The agreement is not in compliance with intrastate telecommunications service quality standards or requirements.

Accord 47 U.S.C. § 252(e)(2)(A). In light of the requirements of Rule 4 CCR 723-44-5.7.2.1, we find that the Agreement should be approved, and therefore that the Application should be granted.

16. The Agreement addresses all pertinent provisions of 47 U.S.C. § 251. With respect to 47 U.S.C. § 252(d), costing and pricing issues are governed by the Agreement which incorporates by reference interim and final orders of the Commission.

D. Conclusion

17. Based upon the record in the present proceeding and the standards for review of interconnection agreements as set forth in the Interconnection Agreement Rules, we conclude that the Application should be granted and that the Agreement between Qwest and Eschelon should be approved.

II. ORDER

A. The Commission Orders That:

1. The Application filed by Qwest Corporation and Eschelon Telecom of Colorado, Inc., formerly known as Electro-Tel, on July 18, 2003, which application incorporated their Interconnection Agreement is granted.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 27, 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