

Decision No. C03-1115

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03T-385

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IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INTERCONNECTION  
AGREEMENT BETWEEN QWEST CORPORATION AND ALTICOMM, INC.

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**DECISION CONDITIONALLY APPROVING REPORT OF  
ADOPTION OF LANGUAGE IN A PREVIOUSLY  
APPROVED RESALE AGREEMENT**

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Mailed Date: September 30, 2003  
Adopted Date: September 24, 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 Previously Approved Interconnection Agreement](#) filed by Qwest Corporation (Qwest) and Alticom, Inc. (Alticom), pursuant to Commission Rule 4 [Code of Colorado Regulations \(CCR\)](#) 723-44-6.<sup>1</sup> This would be the first interconnection agreement between Qwest and Alticom.

2. The Parties filed this Report of Adoption on September 5, 2003. The Parties have agreed to adopt as their Resale Interconnection Agreement, the rates, terms, and conditions set forth in the Resale Agreement approved by the Commission in Decision No. C03-0608, adopted and mailed on June 4, 2003 (between Qwest and Wasichaq, LLC).

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<sup>1</sup> 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.

3. AltiComm filed for a Certificate of Public ~~Utility Convenience~~ and Necessity, Docket No. 03A-012T, ~~which has not yet been granted by the Commission.~~ At the September 17, 2003 Commission Weekly Meeting, the Commission ordered that AltiComm's application would be granted subject to the condition that they post a bond with the Commission, the terms of which was to be determined through negotiations with Commission Staff. A bond has not yet been posted, and the Certificate of Public Convenience and Necessity has not been issued.

4. 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.

5. 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.

6. 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.

7. The Commission has previously approved the ~~amended~~ rates, terms, and conditions in the Amendments agreement adopted by the parties. Under 4 CCR 723-44-6.7, “the Commission shall, at its earliest convenience, by order, either approve or reject the Report ~~(of a~~ adoption~~)~~ with written findings as to any deficiencies.” However, under 4 CCR 723-44-11, the “Commission may permit variance from these rules, if not contrary to law, for good cause shown, or if it finds compliance impossible, impracticable, or unreasonable.” Because AltComm has not yet obtained a Certificate of Public Utility Convenience and Necessity, and thus may not yet operate, we find it consistent with the directives of the Act, and our own interconnection agreement rules, to conditionally 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 AltComm, Inc., to adopt a previously approved resale Interconnection Agreement, as their interconnection agreement is conditionally approved.

2. The Report of Adoption~~is agreement~~ shall be approved if and when~~on the condition that~~ AltComm, Inc., ’s application is issued a for a Certificate of Public Utility Convenience and Necessity, pursuant to the application set forth in Docket No. 03A-012T, ~~is granted.~~

3. If AltComm, Inc., does not obtain the Certificate of Public Utility Convenience and Necessity applied for in Docket No. 03A-012T, the report of adoption shall be rejected.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS WEEKLY MEETING  
September 24, 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**

**POLLY PAGE**

**JIM DYER**

Commissioners