

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 97T-312

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INTERCONNECTION
AGREEMENT BETWEEN U S WEST COMMUNICATIONS, INC. AND AMERICAN
COMMUNICATIONS SERVICES, INC.

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

Mailed Date: October 1, 2003
Adopted Date: October 1, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission on the joint motion of Qwest Corporation, formerly known as U S WEST Communications, Inc. (Qwest), and Xspedius Management Company Switched Services, LLC and Xspedius Management Company of Colorado Springs, LLC (Xspedius) (formerly known as parent company Xspedius Management Company, LLC; formerly known as e.spire Communications; formerly known as American Communications Services, Inc.) for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was initially approved in Decision No. C97-931, issued September 10, 1997, as amended.

2. The Parties filed this Amendment on August 25, 2003, pursuant to 4 *Code of Colorado Regulations* 723-44-4. The Parties have decided to amend the Agreement by adding terms and conditions for a Bill and Keep mechanism for Internet Service Provider bound traffic. This is consistent with prior Commission decisions.

3. Under the terms of 47 U.S.C. § 252(i), the “pick and choose” provision of the Telecommunications Act of 1996 (the Act), Xspedius may at some future date opt into the rates, terms, and conditions of Commission approved and currently effective agreements, amendments, Statements of Generally Available Terms and Conditions, or tariffs:

[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. Section 47 U.S.C. § 251 *et seq.* 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. We find it consistent with the directives of the Act, and our own interconnection agreement rules to approve the present 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 Xspedius Management Company Switched Services, LLC and Xspedius Management Company of Colorado Springs, LLC to amend their Interconnection Agreement is granted.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 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