

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 99T-067

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

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

Mailed Date: February 11, 2004
Adopted Date: February 11, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission on the joint motion of Qwest Corporation (Qwest) and DIECA Communications Inc., doing business as Covad Communications Company (Covad), for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was initially approved in Decision No. C99-319, issued March 26, 1999, and has been subsequently amended.

2. The Parties filed this Amendment on December 31, 2003, pursuant to 4 *Code of Colorado Regulations* 723-44-4. The Parties have voluntarily decided to amend the Agreement to replace their previously approved Joint Testing Amendment, which was originally fixed in an amendment to the Agreement approved in Decision No. C99-319, with new rates, terms, and conditions for Joint Testing at the Interconnection Collocation Distribution Frame. The new rates and terms are negotiated, unique to the parties, and are not in the Statement of Generally Available Terms and Conditions (SGAT).

3. Under the terms of 47 U.S.C. § 252(i), the “pick and choose” provision of the Telecommunications Act of 1996 (the Act), Covad may at some future date opt into the rates, terms, and conditions of Commission approved and currently effective agreements, amendments, SGATs, 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.* of the Act 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. The Commission has not previously approved all of the amended rates and conditions proposed here. However, we find it consistent with the directives of the Act and our own interconnection agreement rules to approve the present amended 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 DIECA Communications, Inc., doing business as Covad Communications Company, to amend their Interconnection Agreement is granted.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 11, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners