

Decision No. C04-0244

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 APPROVING REPORT OF ADOPTION OF
PREVIOUSLY APPROVED AMENDMENT**

Mailed Date: March 11, 2004
Adopted Date: March 10, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Colorado Public Utilities Commission (Commission) for consideration of a Report of Adoption filed by 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.), pursuant to 4 *Code of Colorado Regulations* (CCR) 723-44-6.¹ The original Interconnection Agreement (Agreement) between Qwest and Xspedius for the provision of Qwest's local exchange services was approved in Decision No. C97-931 issued September 10, 1997, and subsequently amended.

¹ 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.

2. The Parties filed this Report of Adoption on February 20, 2004. The Parties have decided to amend their Agreement to add rates, terms, and conditions for Unbundled Network Elements. These rates, terms, and conditions are taken directly from the Ninth Revised Colorado Statement of Generally Available Terms and Conditions (SGAT), effective by operation of law on May 3, 2003, subject to the terms and conditions set forth in Decision No. C03-0464, mailed on May 5, 2003. Rates are identical to those taken from SGAT Exhibit A.

3. 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.

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(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.

6. The Commission has previously approved the amended rates, terms, and conditions in the Amendments adopted by the parties. We find it consistent with the directives of the Act, and our own interconnection agreement rules to 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 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
March 10, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

