

Decision No. C04-0278

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

DOCKET NO. 02T-532

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RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT  
BETWEEN QWEST CORPORATION AND BRAINSTORM INDUSTRIES, INC.  
CORPORATION.

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

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Mailed Date: March 18, 2004  
Adopted Date: March 17, 2004

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission on the joint motion of Qwest Corporation (Qwest) and Brainstorm Industries, Inc. (Brainstorm), for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was initially approved in Decision No. C02-1290, issued November 20, 2002, and then subsequently amended.

2. This motion seeks approval of special promotional rates for available inventory of collocation sites. The Parties filed this voluntarily negotiated Amendment on February 9, 2004, pursuant to 4 *Code of Colorado Regulations* 723-44-4.

3. Under the terms of 47 U.S.C. § 252(i), the “pick and choose” provision of the Telecommunications Act of 1996 (the Act), Brainstorm 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.* 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 Brainstorm Industries, Inc., to amend their Interconnection Agreement is granted.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
March 17, 2004.**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners