

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02T-371

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

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

Mailed Date: June 1, 2004
Adopted Date: May 26, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission on the joint motion of Qwest Corporation (Qwest) and Excel Telecommunications, Inc. (Excel), for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was initially approved in Decision No. C02-916, adopted August 27, 2002.

2. The Parties filed this Amendment on April 14, 2004, pursuant to 4 *Code of Colorado Regulations* 723-44-4. The Parties have voluntarily decided to amend the Agreement to add rates, terms, and conditions for Qwest DSL (with discount) provided with the Unbundled Network Element-Platform. Rates are contained in Qwest's applicable retail tariff, catalog, or price list less the applicable discount.

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

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 26, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners