

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 98T-042

RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT
BETWEEN U S WEST COMMUNICATIONS, INC. AND NEXTLINK COLORADO, L.L.C.

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

Mailed Date: June 18, 2004
Adopted Date: June 16, 2004

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 XO Colorado, LLC formerly known as Nextlink Colorado L.L.C. (XO) for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was initially approved in Decision No. C98-259, issued March 12, 1998, and subsequently amended.

2. This motion seeks approval of rates, terms, and conditions for the availability of Unbundled Network Elements under the Federal Communications (FCC) Triennial Review Order (TRO), FCC 03-36, issued August 21, 2003. The Parties filed this voluntarily negotiated Amendment on May 6, 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), XO 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. We note that we are not bound to the parties' interpretation of the FCC's TRO, and take no position with respect to impairment of network elements in Colorado. However, because this agreement was freely negotiated between Qwest and XO, 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 XO Colorado, LLC to amend their Interconnection Agreement is granted.

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 16, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER POLLY PAGE
ABSENT.