

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 99T-067

RE: 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 AMENDMENTS
TO INTERCONNECTION AGREEMENT**

Mailed Date: July 26, 2004
Adopted Date: July 20, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a joint motion of Qwest Corporation, formerly known as U S WEST Communications, Inc. (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 then subsequently amended.

2. The Parties filed a voluntarily negotiated Amendment on May 14, 2004, pursuant to 4 *Code of Colorado Regulations* 723-44-4. The motion amends the interconnection agreement by adding rates, terms, and conditions for line sharing on a commercial basis from October 2, 2003 until October 1, 2004. It is of note that Qwest asserts that “Qwest and Covad disagree as to whether the Commercial Line Sharing Amendment is a final agreement that reflects the intent of

the parties and a meeting of the minds.” Qwest does not believe that the document constitutes a final, binding agreement. Covad believes that it is a binding final agreement.

3. The Commission believes that the parties intend for the amendment to be approved by the Commission. The parties have filed the motion for approval of the amendment, the motion contains all of the required information, and the language of the contract indicates that the parties intend to be bound by the agreement:

This Amendment (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of this Amendment and supersedes any prior understandings, agreements, amendments, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of this Amendment.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts each of which is deemed an original, but all of which shall constitute one and the same instrument.

Qwest notes that it will, in the future, file a revised document which will replace the amendment at issue

4. Under the terms of 47 U.S.C. § 252(i) of the Telecommunications Act of 1996 (the Act), Covad may at some future date opt into the terms and conditions of Commission approved and currently effective agreements:

[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.

5. 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.

6. 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 formerly known as U S WEST Communications, Inc., and DIECA Communications, Inc., doing business as Covad Communications Company, to amend their Interconnection Agreement is granted.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Order.

3. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 20, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners