

Decision No. C04-0817

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01T-238

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INTERCONNECTION
AGREEMENT BETWEEN QWEST CORPORATION AND CBeyond
COMMUNICATIONS, LLC.

**DECISION GRANTING JOINT MOTION FOR
APPROVAL OF AMENDMENT
TO THE 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 on the joint motion of Qwest Corporation (Qwest) and Cbeyond Communications, LLC (Cbeyond) for approval of an Amendment to their Interconnection Agreement (Agreement). The Agreement was initially approved in Decision No. C01-712, issued July 13, 2001.

2. This motion seeks approval of rates, terms, and conditions for Collocation Available Inventory and for Special Promotional Rates for Available Inventory of Collocation Sites. The Parties filed this voluntarily negotiated Amendment on June 14, 2004, pursuant to 4 *Code of Colorado Regulations* 723-44-4. Rates are as found in Exhibit A of Qwest's Ninth Revised Statement of Generally Available Terms and Conditions, and are as per terms of the promotion for available inventory of collocation sites.

3. Under the terms of 47 U.S.C. § 252(i) of the Telecommunications Act of 1996 (the Act), Cbeyond 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.

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 previously approved all of the amended rates and conditions proposed here. 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 Cbeyond Communications, LLC to amend their Interconnection Agreement is granted.

2. 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