

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04T-314

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INTERCONNECTION
AGREEMENT BETWEEN QWEST CORPORATION AND FUNDAMENTAL HOLDINGS
CORPORATION AKA PEAK INTERNET SOLUTIONS.

**DECISION APPROVING REPORT OF ADOPTION
OF PREVIOUSLY APPROVED
INTERCONNECTION AGREEMENT**

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

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Colorado Public Utilities Commission (Commission) on the submittal of a Report of Adoption of Previously Approved Interconnection Agreement (Report of Adoption) filed by Qwest Corporation (Qwest) and Fundamental Holdings Corporation (Fundamental), pursuant to 4 *Code of Colorado Regulations* (CCR) 723-44-6.¹

2. The Parties filed this Report of Adoption on June 10, 2004. Fundamental has voluntarily adopted Qwest's Ninth Revised Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunication Services (SGAT). The Ninth Revised SGAT originally became effective on May 3, 2003, pursuant to Commission Decision No. C03-0464, and has been subsequently

¹ Colorado Public Utilities Commission Rules Establishing Procedures Relating to Interconnection Agreements, and any Amendment to Interconnection Agreements Within Colorado by Telecommunications Carriers.

amended. This would be Fundamental's first interconnection agreement with Qwest. Rates are taken from SGAT Exhibit A.

3. The Parties have complied with the requirements of 4 CCR 723-44 *et seq.* for the submission for approval of interconnection agreements except that the Report of Adoption does not contain a copy of Fundamental's authority to do business in Colorado as required in 4 CCR 723-44-6. Fundamental, a Delaware corporation, does have authority to do business in the state as evidenced by a document to that effect posted on the Colorado Secretary of State's website.

4. Pursuant to § 252(i) of the Telecommunications Act of 1996 (Act), 47 U.S.C. § 252(i), "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 is generally guided by 47 U.S.C. § 252(e)(2), which requires that interconnection agreements not discriminate against non-parties and that they be consistent with the public interest, convenience, and necessity.

6. The Commission has previously approved the amended rates, terms, and conditions in the Amendments adopted by the parties. We find it consistent with the terms of the

agreement, the directives of the Act, and the spirit of our own interconnection agreement rules to approve the Report of Adoption subject to our own rules and general rate-making proceedings.

II. ORDER

A. The Commission Orders That:

1. The joint filing of a Report of Adoption by Qwest Corporation and Fundamental Holdings Corporation to adopt Qwest Corporation's Ninth Revised Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunication Services 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