

Decision No. C04-1189

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 99T-438

RE: THE APPLICATION FOR APPROVAL OF INTERCONNECTION AGREEMENT
BETWEEN U S WEST COMMUNICATIONS, INC. AND ALLEGIANCE TELECOM OF
COLORADO.

**DECISION GRANTING APPLICATION FOR
REHEARING, REARGUMENT, OR RECONSIDERATION**

Mailed Date: October 14, 2004
Adopted Date: September 29, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application for rehearing, reargument, or reconsideration (RRR) of Decision No. C04-1019 which denied a joint motion of Qwest Corporation, formerly known as U S WEST Communications, Inc. (Qwest), and Allegiance Telecom of Colorado, Inc. (Allegiance), for approval of an Amendment to their Interconnection Agreement (Agreement). This decision denied the parties' motion because the motion was drafted as if a new agreement was being filed with the Commission for approval, and it was filed under an old docket number, when Commission rules require that new agreements be filed under a new docket number. In reality, the language of the document makes clear that it is an amendment of the Agreement at issue in this docket rather than a new agreement. We thus should have granted the motion for approval of the amendment, and we do so now.

2. The parties' initial Agreement was approved in Decision No. C99-1195, issued November 3, 1999 and then subsequently amended. The parties filed this voluntarily negotiated

Amendment on July 8, 2004, pursuant to 4 *Code of Colorado Regulations* 723-44-4. The filing amends the interconnection agreement by adding rates, terms, and conditions for Operator Services. We note that the Operator Services Amendment was formally agreed to in July 2002. While the parties did not believe it had to be filed with the Commission, they should have sought our advice if they were uncertain. We encourage them to do so in the future.

3. Under the terms of 47 U.S.C. § 252(i) of the Telecommunications Act of 1996 (the Act), Allegiance 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 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. We thus grant Qwest's motion for RRR.

II. ORDER**A. The Commission Orders That:**

1. Qwest Corporation, formerly known as U S WEST Communications, Inc.'s motion for rehearing, reargument, or reconsideration is granted.

2. The joint motion of Qwest Corporation, formerly known as U S WEST Communications, Inc. and Allegiance Telecom of Colorado, Inc. to amend their Interconnection Agreement is granted.

3. 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.

4. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 29, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

CHAIRMAN GREGORY E. SOPKIN
ABSENT.

