

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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SUBMITTAL OF U S WEST COMMUNICA-)) DOCKET NO. 96T-266
TIONS, INC. IN COMPLIANCE WITH)
4 CCR 723-43-3.)

DECISION APPROVING INTERCONNECTION AGREEMENT

- - - - -
Mailed Date: August 6, 1996
Adopted Date: July 31, 1996
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I. BY THE COMMISSION:

A. Statement

This matter comes before the Commission for consideration of the Type 2 Interconnection and Traffic Interchange Agreement ("Agreement") between U S WEST Communications, Inc. ("USWC" or "Company"), and McCaw Cellular Communications, Inc. ("McCaw"). The Agreement was submitted to the Commission for approval by USWC on June 3, 1996. Now being duly advised in the premises, we approve the Agreement.

B. Introduction

1. The Agreement was submitted to the Commission for our consideration and approval in accordance with the Emergency Rules Establishing Procedures Relating to the

Submission for Approval of
Interconnection Agreements within Colorado Negotiated by
Telecommunications Providers before February 8, 1996, 4 *Code
of Colorado Regulations* 723-43 ("Emergency Rules"). The
Emergency Rules were adopted by the Commission on April 12,
1996 in Decision No. C96-358. As explained in that decision,
the Emergency Rules were promulgated in order to implement
certain directives set forth in the Telecommunications Act of
1996 ("Act"), Public Law No. 104-104, 110 Stat. 56 (1996).

2. Specifically, 251(c) of the Act requires
telecommunications carriers to negotiate in good faith the
particular terms and conditions of interconnection agreements
for the transmission and routing of telephone exchange service
and exchange access. Section 252 of the Act sets forth the
procedures for negotiation, arbitration, and approval of
interconnection agreements between telecommunications
providers. Significantly, 252(a) and (e) mandate that all
interconnection agreements between providers, **including** any
agreement negotiated before the date of enactment of the Act,
shall be submitted to the State commission (*e.g.*, the Colorado
Public Utilities Commission) for review and approval. The
State commission may approve or reject any submitted agreement
in accordance with the standards listed in 252(e)(2)

(commission may reject a negotiated agreement if it discriminates against a carrier not a party to the agreement, or implementation of such agreement is not consistent with the public interest, convenience, and necessity; commission may reject an agreement adopted by arbitration if it does not comply with the requirements of 251).

3. Since the Act compels us to review and approve inter-connection agreements between telecommunications carriers, including any agreement negotiated before February 8, 1996, we adopted the Emergency Rules to establish the procedures for Commission review and approval of interconnection agreements entered into between telecommunications carriers prior to February 8, 1996. Decision No. C96-358 explained our conclusion that, in light of the mandates in the Act for Commission review of previously-negotiated interconnection agreements, emergency adoption of rules (*i.e.*, without compliance with the notice and comment provisions of 24-4-103, C.R.S.) was necessary.¹

¹ We further note here that House Bill ("HB") 95-1335 (codified at 40-15-501 *et seq.*, C.R.) directed that the Commission adopt rules implementing competition in the local exchange market effective July 1, 1996. See 40-15-503(2)(a), C.R.S. The Commission was in the process of completing a number of pending rulemaking proceedings to effectuate that legislative directive at the time the Act was passed. The Act's new mandate that local exchange competition be achieved, in part

USWC, in accordance with the provisions of the Emergency Rules, has submitted the Agreement for our consideration and approval.

4. Pursuant to Rule 7 of the Emergency Rules, notice of the submitted Agreement was given to the public. Interested persons were given an opportunity to file comments within 20 days of the notice. No comments were filed with the Commission.

C. Findings

1. The Emergency Rules, Rule 8.2, provide that the Commission may reject a submitted interconnection agreement

entered into by negotiation only upon specified findings:

(1) The Agreement, or portion thereof, discriminates against a telecommunications carrier not a Party to the Agreement; or

(2) The implementation of such Agreement, or portion thereof, is not consistent with the public interest, convenience, and necessity; or

(3) The Agreement is not in compliance with intra-state telecommunications service quality standards or requirements.

Accord 252(e)(2) of the Act. In light of the requirements

ough interconnection agreements, and that the provisions of such agreements be available to competing carriers, required us to adopt the rules on an emergency basis to reconcile procedurally with the pending HB 1335 rulemaking proceedings (which were to become effective on July 1, 199 particular, we note that, in order for competing carriers to become timely informed of interconnection terms, conditions, and prices previously offered by USWC (*i.e.*, prior to February 6), it was necessary for such agreements to be filed with and considered by the Commission on edited basis.

of Rule 8.2, we find that the Agreement should be approved.

2. The submittal by USWC points out that the terms, conditions, and pricing for the Type 2 interconnection services established in the Agreement with McCaw are the same as those contained in the U S WEST Exchange and Network Services Tariff, COLO. P.U.C. No. 15, Section 20, Facilities for Radio Carriers. The provisions of USWC's Exchange and Network Services Tariff for Type 2 Interconnection were approved by the Commission effective March 1, 1994. Type 2 interconnection services have historically been developed and designed for wireless service providers, and in many instances at their request or pursuant to negotiations. Type 2 service, as defined in the Agreement and in USWC's Exchange and Network Services Tariff, is the result of over a decade of negotiations with Commercial Mobile Radio Service providers in the wireless market.

3. The Agreement does not discriminate against other telecommunications carriers. As noted above, the terms, conditions, and prices within the Agreement are the same as those contained in the Company's Exchange and Network Tariffs previously reviewed and approved by the Commission.

4. We also find that the Agreement does not inhibit competition. As noted in the USWC submittal in this docket, the terms, conditions, and prices contained in the Agreement are the result of extensive negotiations between the Company

and wireless providers. As such, the services were developed at the suggestion of and with input from USWC's wireless customers. Moreover, the means by which services are provided under the Agreement as well as the prices charged are identical to or consistent with those contained in the Company's Exchange and Network Service Tariff as previously approved by the Commission.

D. Conclusion

Based upon the record in the present proceeding and the standards for review of interconnection agreements as set forth in the Emergency Rules, we conclude that the Agreement between USWC and McCaw should be approved.

II. ORDER

A. The Commission Orders That:

1. The Interconnection and Traffic Interchange Agreement between U S WEST Communications, Inc., and McCaw Cellular Communications, Inc., submitted in the instant docket on June 3, 1996 is hereby approved.

2. This Order is effective on its Mailed Date.

B. ADOPTED IN OPEN MEETING July 31, 1996.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER R. BRENT ALDERFER
ABSENT BUT CONCURRING.

TM:srs