

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Petition of Qwest Corporation for Forbearance) WC Doc. No. 04-223
Pursuant to 47 U.S.C. § 160(c) in the)
Omaha Metropolitan Statistical Area)

DECLARATION OF DON EBEN

1. My name is Don Eben. I am Director of Network Planning of McLeodUSA Telecommunications Services, Inc. (“McLeodUSA”). My business address is 15 E. 5th Street, Suite 1600, Tulsa, OK 74103. I joined McLeodUSA in April 2001 and am responsible for Access Planning, Least Cost Routing, Network and Wholesale Provisioning. I have more than 11 years experience in Network Planning and Engineering with responsibilities including contract negotiations, cost management, and network architecture. I have factual knowledge relating to the information discussed in this Declaration.

2. I have been personally involved in negotiations with Qwest following the FCC’s *Omaha Forbearance Order*, which resulted in our loss of access to unbundled network elements (“UNEs”) at cost-based rates in nine¹ wire centers in the Omaha Metropolitan Statistical Area

¹ Qwest classifies one of these wire centers,., Omaha Douglas, as a Tier 1 office that satisfies the Triennial Review Remand Order’s (“TRRO”) non-impairment thresholds for DS1, DS3, and dark fiber transport. See <http://www.qwest.com/wholesale/clecs/sgatswireline.html#nonimp>. Qwest classifies two of the wire centers, Omaha 84th St. and Omaha 90th St., as Tier 2 offices that satisfy the non-impairment thresholds for DS3 and dark fiber transport. *Id.* None of the nine wire centers are classified by Qwest as satisfying the FCC’s non-impairment test for high-capacity loops. Therefore, absent the *Omaha Order*, high-capacity UNE loops and transport would be available in all nine of these wire centers, with the exception of high-capacity transport facilities from the Omaha Douglas wire center and DS3 and dark fiber facilities from the Omaha 84th St. and Omaha 90th St. wire centers.

(“MSA”) where the company has collocated equipment and customers.

3. The purpose of this declaration is to provide the factual support for McLeodUSA’s request that the Commission revoke the § 251(c)(3) forbearance granted to Qwest due to its failure to negotiate reasonable commercial alternatives to the DS0, DS1, and DS3 loops and transport UNEs affected by the *Omaha Forbearance Order*.

4. A detailed comparison of DS0, DS1, and DS3 UNE rates with special access rates (all using publicly available rates taken from Qwest’s tariffs, Statement of Generally Available Terms and Conditions, or “SGAT,” for the State of Nebraska, and proposed service offerings) is provided in the attached Exhibit 1. Highlights of the analysis are discussed below.²

I. Qwest’s Proposed Commercial Alternative for DS1 and DS3 UNEs

5. With regard to Qwest’s proposed commercial terms associated with alternatives to § 251(c)(3) DS1 and DS3 loop and transport UNEs, Qwest has only offered to replace UNEs with special access services from its FCC Tariff No. 1, at vastly higher rates for both recurring and non-recurring charges. This includes both the month-to-month special access rates and Regional Commitment Plan (“RCP”) rates.

6. For instance, the monthly recurring charge (“MRC”) for a Zone 1 DS1 UNE loop is \$74.88, plus a \$1.54 cross-connect charge, for a total MRC of \$76.42.³ In contrast, the Zone 1 MRC for a DS1 special access channel termination⁴ is \$165.00, plus a \$17.22 cross-connect

² Because Qwest has been granted Phase II special access pricing flexibility for all affected wire centers in the Omaha MSA, the relevant special access prices are Qwest’s Phase II pricing flexibility rates. *See* Qwest - FCC No. 1, Section 17.

³ *See* Exhibit 1 at 1 (sources provided in Exhibit 1 at 2).

⁴ Special access “channel terminations” are synonymous with UNE “loops.”

charge, for a total MRC of \$182.22.⁵ Stated differently, a DS1 special access circuit in Zone 1 is priced at \$105.80, or 138% more than the UNE rate.

7. Significantly, while the nine Omaha wire centers for which Qwest obtained forbearance are designated as Zone 1 for UNE loops, the same wire centers are predominantly designated as Zone 2 for special access circuits.⁶ As Table 1 below shows, five of the wire centers are designated as Zone 2 for special access, three are designated as Zone 3, and one of is designated as Zone 1:

CLLI	ZONE	
	UNE	Special Access
OMAHNE78	1	2
OMAHNECE	1	2
OMAHNEFO	1	2
OMAHNEFW	1	3
OMAHNEHA	1	3
OMAHNEIZ	1	2
OMAHNENW	1	1
OMAHNEOS	1	3
OMAHNE90	1	2

8. Because the zone designations for UNEs and special access services differ for eight of the nine wire centers affected by the *Omaha Forbearance Order*, a comparison of UNE rates and special rates must be based on the specific rates that apply in each wire center. For example, in wire center CLLI OMAHANE78, a DS1 UNE loop is \$76.42, while a special access circuit is \$192.22 (this amount includes a \$175.00 Zone 2 channel termination charge and a

⁵ See Exhibit 1 at 1.

⁶ See also Exhibit 1 at 3.

⁷ *Id.*

\$17.22 cross-connect charge).⁸ Therefore, a DS1 special access circuit is \$115.90, or 151.53% more than the UNE rate in this wire center.

9. Moreover, as shown in Table 2 below, Qwest's special access DS1 rates have increased dramatically since it obtained Phase II special access pricing flexibility in the Omaha MSA. The rates are significantly higher than the price cap DS1 rates that would otherwise apply had it not received Phase II special access pricing relief:

Table 2								
Comparison of Qwest's DS1 Channel Termination Price Cap Rates With Phase II Pricing Flexibility Rates								
Month to Month Rates (No Term)			1 Year Term Monthly Rates			2 Year Term Monthly Rates		
Price Cap ⁹	Price Flexibility ¹⁰	% Increase	Price Cap	Price Flexibility	% Increase	Price Cap	Price Flexibility	% Increase
\$120.00	\$175.00	45.83%	\$116.40	\$166.00	42.61%	\$114.00	\$150.00	31.58%

10. With regard to Qwest's RCP, Qwest offers an optional pricing plan that allows special access DS1 and/or DS3 customers to receive 22% price reductions for committing to a minimum quantity of DS1 and/or DS3 circuits for a 48-month term.¹¹ The price reductions are taken from the month-to-month tariffed special access rates.¹² In order to receive the reductions for DS1 and DS3 service, a customer must commit to the RCP for a minimum of 90% of its total

⁸ See Exhibit 1 at 1.

⁹ See Qwest - FCC No. 1 Section 7.11.4, at 7-347 (same cite applies to the 1 and 2 year term price cap rates shown in Table 1).

¹⁰ See Qwest - FCC No. 1 Section 17.2. 11, at 17-91 (same cite applies to the 1 and 2 year term Phase II pricing flexibility rates shown in Table 1).

¹¹ See Qwest - FCC No. 1 Section 7.1.3, at 7-100.

¹² *Id.*

Qwest-provided in-service DS1 and DS3 service circuits, respectively, within Qwest's 14-state region.¹³

11. The RCP's 14-state footprint requirement extends outside of the nine wire centers affected by the *Omaha Forbearance Order* to areas where McLeodUSA is generally legally entitled to obtain facilities as UNEs. Because the RCP terms and conditions would lock McLeodUSA into a region-wide commitment level for special access circuits, McLeodUSA would face significant monetary penalties if those commitments were not satisfied.¹⁴

12. Qwest has offered RCP agreements for a number of years. In fact, McLeodUSA previously had an RCP agreement with Qwest. However, McLeodUSA does not currently have an RCP arrangement because Qwest's offering includes significant non-negotiable conditions and limitations. These provisions make it cost-prohibitive for McLeodUSA to use UNEs in markets where 251(c) high-capacity UNEs remain available after the *TRRO*.

13. However, even if McLeodUSA agreed to the RCP terms and conditions, the resulting discounted price for a DS1 loop would still be significantly higher than the UNE rate. For example, the "discounted" MRC for a Zone 1 DS1 loop would be \$145.92, which represents

¹³ *Id.*

¹⁴ For example, Section 7.1.3, at 7-106 of Qwest's tariff states that;

A discontinuance of all DS1 and DS3 Services under the RCP before the expiration date will result in the application of the Termination Liability as set forth in 7.1.8, following. The Termination Liability percentage is 50% for DS1 and DS3 Service under RCP. A decrease in the commitment level before the expiration date will also result in the application of the Termination Liability..... For example, to determine the Termination Liability in 7.1.8 for a decrease in the commitment level, multiply the number of decreased circuits by the average price, then multiply the number of months remaining in the RCP and then multiply the amount by 50%. For example, a decrease of 100 DS1 Service circuits multiplied by the average price of \$380 times 10 remaining months times 50% (Termination Liability) equals \$190,000.

a 91% increase in the MRC for DS1 circuits.¹⁵ For the five wire centers in special access Zone 2, the discounted RCP price is \$153.72, a 101% increase. The RCP price for the two Zone 3 wire center circuits would be \$161.52, a 111% increase.

14. McLeodUSA cannot accept the RCP and its volume commitment for the additional reason that in areas where Qwest is obligated to offer § 251(c)(3) UNEs, McLeodUSA has a number of existing special access circuits that it plans to convert to UNE circuits.

15. Following release of the *Omaha Forbearance Order* and as discussed below, McLeodUSA made a number of good faith attempts to negotiate more reasonable wholesale rates and terms for DS1 and DS3 loop and transport facilities than Qwest's special access and RCP offerings discussed herein. Qwest steadfastly refuses, however, to negotiate wholesale pricing for the affected wire centers that deviates from these offerings.

16. In January, 2006, after the *Omaha Forbearance Order* was issued, McLeodUSA requested negotiations for a commercial agreement with Qwest. The parties held a preliminary conference call on January 24, 2006. However, Qwest then repeatedly delayed further meetings, did not participate in scheduled conference calls, and failed to respond to email communications from McLeodUSA about the parties' negotiations. On April 7, 2006, McLeodUSA again sought Qwest's attention and noted its uncooperative attitude.¹⁶ Qwest responded on the same day, advising McLeodUSA that it expected to be in a position to resume negotiations the following week.

¹⁵ See Exhibit 1 at 4.

¹⁶ See Exhibit 2 at 2.

17. McLeodUSA received no further communications from Qwest until October 26, 2006, when I sent an email message seeking information about the status of the parties' negotiations.¹⁷ Qwest again replied on the same day, stating that it would make the appropriate inquiries to continue negotiations. Although meetings and e-mail exchanges continued through December 6, 2006, no subsequent meetings between the companies' respective negotiators have taken place.

18. In a January 22, 2007 *ex parte* filed with the Commission, Qwest alleged that McLeodUSA had refused to meet with Qwest to negotiate. For the reasons discussed herein, Qwest's claim is incorrect. In addition, Qwest failed to disclose that it previously made clear that it was not willing to negotiate various terms related to its RCP term and volume commitments.

19. Qwest's assertion that it is willing to meet with McLeodUSA, when viewed in the context of its actual conduct, demonstrates to McLeodUSA that market incentives are not prompting Qwest to make its DS1 and DS3 facilities available at competitive rates and terms. If the marketplace for network elements were competitive, Qwest would not be treating negotiations so dismissively and would be offering reasonable wholesale pricing to McLeodUSA.

¹⁷ *Id.* at 1.

II. Qwest's Proposed Commercial Alternative For DS0 UNEs and Associated Demands

20. Qwest's proposed commercial wholesale terms for alternatives to § 251(c)(3) DS0 UNEs are likewise unacceptable. Qwest sent McLeodUSA a package on May 17, 2007 that included a "Commercial DS0 Loop Agreement" and the following additional three documents, all of which purport to apply to the State of Nebraska: (1) "Omaha Forbearance Order Amendment" to the parties' interconnection agreement; (2) *TRO/TRRO* amendment to the parties' interconnection agreement; and (3) amendment to the parties' existing Qwest Platform Plus ("QPP") agreement.¹⁸

21. On June 13, 2007, McLeodUSA responded to Qwest's May 17, 2007 correspondence. With regard to the proposed "Omaha Forbearance Order Amendment" provision stating that "CLEC will pay all applicable non-recurring charges associated with each conversion" from UNEs to alternate arrangements for affected DS0, DS1, and DS3 loops,¹⁹ McLeodUSA suggested that since the parties recently agreed to settle their differences about the appropriate non-recurring charge for purposes of their *TRO/TRRO* amendment, the same non-recurring charge apply in the context of the "Omaha Forbearance Order Amendment."²⁰

22. In this letter, McLeodUSA also renewed its request for Qwest to provide a price list for the affected elements based on Qwest's Section 271 obligations to offer them at just and

¹⁸ See Letter from Larry Christensen, Qwest, to Sherry Krewett, McLeodUSA, at 1 (dated May 17, 2007), attached hereto as Exhibit 3.

¹⁹ Proposed Omaha Forbearance Order Amendment, Attachment 1, Section 1.3, attached hereto as Exhibit 3 (Appendix 1) page 2 of 70.

²⁰ See Letter from William Haas, McLeodUSA, to Larry Christensen, Qwest, at 1 (dated June 13, 2007) (addressing Qwest's proposed "Omaha Forbearance Order Amendment", and stating that since the conversion work for loops affected by both the *TRO/TRRO* and the *Omaha Order* was identical, it made sense for the same non-recurring charge to apply to both situations), attached hereto as Exhibit 4.

reasonable prices. McLeodUSA stated it was willing to consider any reasonable starting point for the negotiation of Section 271 pricing.”²¹

23. On June 20, 2007, Qwest responded to McLeodUSA’s letter regarding the proposed “Omaha Forbearance Order Amendment” and stated that it would agree to apply a reduced non-recurring per-circuit rate if McLeodUSA executed all of the proposed amendments. Notably, Qwest stated that it wished for all amendments to be completed as a package. To date, Qwest has not responded to McLeodUSA’s June 13, 2007 letter regarding the request for 271 pricing.

24. McLeodUSA has reviewed Qwest’s Commercial DS0 Loop Agreement and has uncovered numerous unjust and unreasonable terms. For instance, the agreement specifically exempts Qwest from wholesale performance standards that would otherwise apply, including Section 271 performance metrics.²²

25. Furthermore, Qwest’s proposed two-wire and four-wire DS0 loop rates are approximately 30% more than DS0 UNE rates, and the agreement requires that McLeodUSA stipulate that these rates are “just and reasonable.”²³ However, this is not the case. For example,

²¹ *Id.*

²² See Qwest Proposed Master Services Agreement, Section 4.6 (“the parties agree that services provided under this Agreement are not subject to the Qwest Wholesale Change Management Process (“CMP”), Qwest’s Performance Indications (“PID”), Performance Assurance Plan (“PAP”) or any other wholesale quality standards, liquidated damages, and remedies with respect to services provided pursuant to this Agreement”), attached hereto as Exhibit 3 (Appendix 4) at page 44 of 70 (Section 4.6).

²³ See Exhibit 3 (Appendix 4) at page 44 of 70 (Section 6.1). Qwest’s DS0 Loop Facility offering is attached to Qwest’s Master Service Agreement as “Service Exhibit 1.” According to Qwest’s website, only one CLEC (TCG Omaha) has executed what appears to be Qwest’s template agreement. See <http://www.qwest.com/wholesale/clecs/commercialagreements.html>.

Qwest assesses a DS0 rate that is approximately 30% lower if the CLEC combines Qwest's DS0 loop with Qwest's local switching.²⁴

26. McLeodUSA believes that Qwest is able to extract a 30% premium for stand alone DS0 loops because CLECs have no viable wholesale alternatives for last mile loops. Therefore, Qwest has no market incentive to make competitive DS0 wholesale rates available.

III. Qwest's Proposed Non-Recurring Charges

27. Both the rates and terms associated with Qwest's wholesale non-recurring charges for high capacity facilities are unreasonable. For example, Qwest assesses a non-recurring charge of \$626.50 (including cross connect) to install each high-capacity DS1 circuit, as compared with a non-recurring charge of \$136.15 (including cross connect) for a comparable DS1 UNE loop.²⁵ This is a increase of \$490.35, which is approximately 360%.

28. While Qwest recently showed an apparent willingness to reduce its non-recurring charges for conversions from UNEs to special access for existing circuits, its offer was contingent on McLeodUSA agreeing to unrelated and unacceptable conditions.

²⁴ Compare monthly two and four-wire loop rates in Exhibit 3 (Appendix 4 - Qwest Commercial DS0 Agreement) at page 69 of 70 (monthly two and four-wire loop rates are \$15.71 and \$30.84, respectively), with Exhibit 3 (Appendix 3 - Amendment to QPP Agreement) at page 42 of 70 (monthly two and four-wire loop rates are \$12.14 and \$23.83, respectively).

²⁵ See Exhibit 1 at 1 (sources provided in Exhibit 1 at 2).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed July 20, 2007


Don Eben

Declaration of Don Eben

Exhibit 1

OMAHA FORBEARANCE RATE COMPARISON
 DETAILED COST ELEMENTS WITH SOURCE REFERENCES

SERVICE TYPE	UNE RATES		SOURCE	SPECIAL ACCESS RATES PHASE II PRICING FLEXIBILITY		SOURCE	DS0 LOOP COMMERCIAL PRICING		SOURCE	QPP OMAHA FORBEARANCE		SOURCE
	MRC	NRC		MRC	NRC		MRC	NRC		MRC	NRC	
DS0 LOOP - ZONE 1	\$12.14	\$55.27	SGAT - 9.2.1.1.1. NRC 9.2.4.	\$38.00	\$155.00	QWEST FCC NO 1 - 17.2.4.A. PAGE 17-10 NRC - SAME	\$15.71	\$55.27	COMMERCIAL DS0 LOOP NE PRICE SHEET 109.2.	\$12.14	QPP EXHIBIT A RATE PAGE 3/15/2006 - 109.2.1.	
DS0 LOOP - ZONE 2	\$28.11	\$55.27		\$38.00	\$155.00		\$15.71	\$55.27		\$12.14		
DS0 LOOP - ZONE 3	\$62.50	\$55.27		\$38.00	\$155.00		\$15.71	\$55.27		\$12.14		
CROSS CONNECT	\$0.44	\$0.00	SGAT - 9.1.1.	\$4.02	\$467.44	QWEST FCC NO 1 - 21.5.2 A. PAGE 21-40 NRC - SAME						
DS1 LOOP - ZONE 1	\$74.88	\$136.15	SGAT - 9.2.3.3.1-3 NRC 9.2.5.	\$165.00	\$313.25	QWEST FCC NO 1 - 17.2.11 A. 1. PAGE 17-91 NRC - 17.2.11 PAGE 17.90						
DS1 LOOP - ZONE 2	\$78.63	\$136.15		\$175.00	\$313.25							
DS1 LOOP - ZONE 3	\$83.57	\$136.15		\$185.00	\$313.25							
CROSS CONNECT	\$1.54	\$0.00	SGAT - 9.1.2.	\$17.22	\$313.25	QWEST FCC NO 1 - 21.5.2 A. PAGE 21-40 NRC - SAME						
TRANSPORT PER TERM												
0-8 MILES	\$34.12	\$274.40	SGAT - 9.6.2.1-4 NRC 9.6.2.	\$92.00		QWEST FCC NO 1 - 17.2.11. C.1.A. PAGE 17-98-98.1						
8-25 MILES	\$34.95	\$274.40		\$92.00								
25-50 MILES	\$36.80	\$274.40		\$92.00								
OVER 50 MILES	\$35.44	\$274.40		\$92.00								
TRANSPORT PER MILE												
0-8 MILES	\$3.25		SGAT - 9.6.2.1-4	\$16.00		QWEST FCC NO 1 - 17.2.11. C.1.A. PAGE 17-98-98.1						
8-25 MILES	\$3.28			\$16.00								
25-50 MILES	\$1.86			\$16.00								
OVER 50 MILES	\$0.79			\$16.00								
DS3 LOOP - ZONE 1	\$791.17	\$136.15	SGAT - 9.2.3.4.1-3 NRC 9.2.6.	\$2,200.00	\$313.25	QWEST FCC NO 1 - 17.2.12.A. PAGE 17-122 - NRC 17.2.12 PAGE 17-121						
DS3 LOOP - ZONE 2	\$912.30	\$136.15		\$2,200.00	\$313.25							
DS3 LOOP - ZONE 3	\$1,017.23	\$136.15		\$2,200.00	\$313.25							
DS3 CROSS CONNECT	\$15.72		SGAT - 9.1.3.	\$52.50	\$329.00	QWEST FCC NO 1 - 21.5.2 A. PAGE 21-40 NRC - SAME						
TRANSPORT												
0-8 MILES	\$219.44	\$274.40	SGAT - 9.6.3.1-4 NRC 9.6.3.	\$650.00	\$305.00	QWEST FCC NO 1 - 17.2.12.A. PAGE 17-129-130						
8-25 MILES	\$222.65	\$274.40		\$650.00	\$305.00							
25-50 MILES	\$204.76	\$274.40		\$650.00	\$305.00							
OVER 50 MILES	\$216.42	\$274.40		\$650.00	\$305.00							
TRANSPORT PER MILE												
0-8 MILES	\$54.79		SGAT - 9.6.3.1-4	\$85.00		QWEST FCC NO 1 - 17.2.12.A. PAGE 17-129-130						
8-25 MILES	\$17.32			\$85.00								
25-50 MILES	\$21.47			\$85.00								
OVER 50 MILES	\$14.86			\$85.00								
NOTE: SGAT - QWEST NEBRASKA 5TH AMENDED 2/16/2005												
TRANSPORT NRC ONLY APPLIES WHEN CHANNEL TERMINATION IS NOT INSTALLED												
MRC MEANS MONTHLY RECURRING CHARGE												
NRC MEANS NON-RECURRING CHARGE												

OMAHA FORBEARANCE RATE COMPARISON
 ZONE ANALYSIS

CLLI	ZONE		DS1 PRICE		DS1 DIFF	
	UNE	SPECIAL ACCESS	UNE (1)	SPECIAL ACCESS	\$ DIFF.	% DIFF.
OMAHNE78	1	2	\$76.42	\$192.22	\$115.80	152%
OMAHNECE	1	2	\$76.42	\$192.22	\$115.80	152%
OMAHNEFO	1	2	\$76.42	\$192.22	\$115.80	152%
OMAHNEFW	1	3	\$76.42	\$202.22	\$125.80	165%
OMAHNEHA	1	3	\$76.42	\$202.22	\$125.80	165%
OMAHNEIZ	1	2	\$76.42	\$192.22	\$115.80	152%
OMAHNENW	1	1	\$76.42	\$182.22	\$105.80	138%
OMAHNEOS	1	3	\$76.42	\$202.22	\$125.80	165%
OMAHNE90	1	2	\$76.42	\$192.22	\$115.80	152%
NOTE: - ZONE INFORMATION FOUND IN INDUSTRY DATABASE PROVIDED BY NECA						
- UNE PRICE INCLUDES ZONE 1 DS1 UNE LOOP AND CROSS CONNECT CHARGES						
- SPECIAL ACCESS PRICE INCLUDES DS1 CHANNEL TERMINATION AND CROSS						
CONNECT CHARGES FOR THE ZONE REFERENCED						

Declaration of Don Eben

Exhibit 2

-----Original Message-----

From: Eben, Don M. [mailto:Don.Eben@mcleodusa.com]
Sent: Thursday, October 26, 2006 2:26 PM
To: Logan, Mike; Dinwiddie, Clifford .; Koecher, Derek A
Cc: Flippo, Sean A.
Subject: RE: McLeod Commercial agreement discussions

Mike,
McLeod has seen absolutely not response from Qwest since the e-mail below regarding negotiating a Commercial Agreement. Please let me know what the status and the next steps are on this negotiation.
Don

-----Original Message-----

From: Eben, Don M. [mailto:Don.Eben@mcleodusa.com]

Sent: Friday, April 07, 2006 4:47 PM

To: Dinwiddie, Clifford .; Koecher, Derek A; Griffin, Chris

Cc: Flippo, Sean A.; Lechtenberg, Todd M.; Logan, Mike

Subject: RE: McLeod Commercial agreement discussions

Cliff,

It has been over 1 month since your last response. This is completely unacceptable, Mcleod is trying to negotiate a commercial agreement in good faith and Qwest is being completely unresponsive.

Derek/Chris,

What needs to happen to get these negotiations started again.

Don

Declaration of Don Eben

Exhibit 3



Larry Christensen
Director – Interconnection Agreements
1801 California Street, Room 2430
Denver, CO 80202
303-896-4686
larry.christensen@qwest.com

May 17, 2007

Sherry Krewett, Vendor/Contract Manager
McLeodUSA Telecom
First Place Tower
15 E. 5th St., Ste. 1500
Tulsa, Oklahoma 74103
918.419.3496 (office)
email: sherry.krewett@mcleodusa.com

Dear Ms. Krewett,

Attached for your company's review and execution, pursuant to the terms and conditions of your current Interconnection Agreement ("ICA") addressing changes in law, are amendments that incorporate the FCC's *Omaha Forbearance Order* ("OFO"), the TRO/TRRO Amendment into the ICA and an amendment to the QPP Agreement. In addition, Qwest has included a Qwest Commercial DS0 Loop agreement to execute since these UNE DS0 services are no longer offered in nine Omaha Wire Centers as part of the ICA. As you are undoubtedly aware, this is not the first transmittal of these documents to your company. However, Qwest did not push execution of these documents due to the appeal of the OFO by certain CLECs. Now, given the U.S. Court of Appeals for the D.C. Circuit's rejection of CLEC challenges to the OFO in *Qwest Corp. v. FCC* in late March of this year, and given the FCC's mandate that CLECs must not only modify their ICAs (including completing any change of law process) but also transition facilities covered by its forbearance ruling within six months of the effective date of its Order to alternative service arrangements (a deadline which your company has missed by over a year), there is no basis for any further delay in the execution of these documents [See, *Omaha Forbearance Order*, ¶ 74]. Therefore, if Qwest does not receive executed originals of the attached documents within thirty (30) days, Qwest will be left with no option but to initiate applicable dispute resolution procedures.

Attached for your signature are amendments that incorporate the FCC's *Omaha Forbearance Order* ("OFO"), the TRO/TRRO Amendment, an amendment to the QPP Agreement and the Qwest Commercial DS0 Loop as referenced above. Please print out one copy of each document for your files and three (3) copies of the signature pages only from each document. Sign and return all three signature pages of each document to Steve Dea at the address shown below:

Mr. Steve Dea, Manager
Qwest Corporation
1801 California Street, Suite 2410
Denver, CO 80202
303-965-3029

Upon execution by Qwest, one executed signature page of each document will be returned to you, Qwest will retain one of each fully executed document and one of each fully executed document will be filed with the Nebraska Public Service Commission, as required

Sincerely,
Larry Christensen

DECLARATION OF DON EBEN

EXHIBIT 3

APPENDIX 1

OMAHA FORBEARANCE ORDER AMENDMENT

**Omaha Forbearance Order Amendment
to the Interconnection Agreement between
Qwest Corporation
and
McLeodUSA Telecommunications Services, Inc.
for the State of Nebraska**

This is an Amendment ("Amendment") to incorporate the determinations of the FCC Omaha Forbearance Order into the Interconnection Agreement between Qwest Corporation ("Qwest"), formerly known as U S WEST Communications, Inc., a Colorado corporation, and McLeodUSA Telecommunications Services, Inc. ("CLEC"). CLEC and Qwest shall be known jointly as the "Parties".

RECITALS

WHEREAS, CLEC and Qwest entered into an Interconnection Agreement (such Interconnection Agreement, as amended to date, being referred to herein as the "Agreement") for services in the state of Nebraska which was approved by the Nebraska Public Service Commission ("Commission") on April 14, 1999; and

WHEREAS, the Federal Communications Commission ("FCC") promulgated new rules and regulations pertaining to, among other things, the availability of unbundled network elements ("UNEs") pursuant to Section 251(c)(3) of the Telecommunications Act of 1996 (the "Act") in its *Memorandum Opinion and Order on the Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, FCC 05-170, WC Docket No. 04-223, (effective September 16, 2005) ("OFO"); and

WHEREAS, the OFO, materially modifies Qwest's obligations under the Act with respect to, among other things, Qwest's requirement to offer certain UNEs in certain wire centers in Omaha, Nebraska; and

WHEREAS, the Parties wish to amend the Agreement to comply with this Decision hereby agree to do so under the terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Amendment Terms.

To the extent applicable, the Agreement is hereby amended by changing or adding terms and conditions for certain UNEs as set forth in Attachment 1 to this Amendment, attached hereto and incorporated herein by this reference.

II. Limitations.

Nothing in this Amendment shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the OFO, nor rules, regulations, interpretations, and appeals thereof, including but not limited to state rules, regulations, and laws as they may be issued or promulgated regarding the same. Nothing in this Amendment shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of OFO or concerning whether the OFO should be changed, vacated, dismissed, stayed or modified.

III. Conflicts.

In the event of a conflict between this Amendment and the terms and conditions of the Agreement, this Amendment shall control, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement shall not be interpreted as, or deemed a grounds for finding, a conflict for purposes of this Section III.

IV. Scope.

This Amendment shall amend, modify and revise the Agreement only to the extent the UNEs listed in Attachment 1 are included in the Agreement and, except to the extent set forth in Section I and Section II of this Amendment, the terms and provisions of the Agreement shall remain in full force and effect after the execution date.

V. Effective Date.

This Amendment shall be deemed effective upon approval by the Commission, except where the change of law provision in CLEC's Interconnection Agreement specifies a different effective date. The Parties agree to implement the provisions of this Amendment upon execution ("execution date").

VI. Further Amendments.

The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

VII. Entire Agreement.

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

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.

**McLeodUSA Telecommunications
Services, Inc.**

Qwest Corporation

Signature

Signature

Name Printed/Typed

L.T. Christensen
Name Printed/Typed

Title

Director- Interconnection Agreements
Title

Date

Date

ATTACHMENT 1

1.0 Unbundled Network Element (UNE) Forbearance

1.1 Pursuant to the Omaha Forbearance Order (OFO), Qwest is no longer required to, and will not provide UNE access according to section 251(c)(3) of the Telecommunications Act of 1996 in the nine Wire Centers located in Omaha, Nebraska as set forth in Section 1.2 below. The following UNEs are impacted: DS0 loops including FTTH-FTTC, DS1 and DS3 loops, including Sub-loops and Network Interface Devices, and dedicated transport network elements, including dark fiber.

1.2 As of the Execution Date of this Amendment CLEC shall not order, and Qwest will not provide, access to UNEs identified in Section 1.1 pursuant to Section 251 of the Act in the following Wire Centers: Omaha Douglas, Omaha Iazard Street, Omaha 90th Street, Omaha Fort Street, Omaha Fowler Street, Omaha O Street, Omaha 78th Street, Omaha 135th Street, and Omaha 156th Street ("Forbearance Wire Centers"). Qwest shall provide unbundled DS1 transport if a Wire Center at either end of a requested Route is not a Tier 1 or Forbearance Wire Center, or if neither Wire Center is a Tier 1 or Forbearance Wire Center. Qwest shall provide unbundled DS3 or dark fiber transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center that is not a Forbearance Wire Center.

1.3 Conversion

1.3.1 Conversion period for embedded base of DS0, DS1 and DS3 Unbundled Loops. CLEC will convert its DS0, DS1, and DS3 Unbundled Loops (embedded customer base) where the loop is provided in the Forbearance Wire Centers, to an alternative arrangement within ninety (90) calendar days after the execution date of this Amendment. CLEC will pay all applicable nonrecurring charges associated with each conversion.

1.3.2 Conversion period for DS0, DS1 and DS3 UDITs. CLEC will convert any UDIT facilities, where those facilities are not in compliance with Section 1.2, within ninety (90) calendar days after the execution date of this Amendment. CLEC will pay all applicable nonrecurring charges associated with each conversion.

1.3.3 Enhanced Extended Loop (EEL) -- The terms and conditions of Section 1.3.1 and 1.3.2 shall apply.

1.3.4 Conversion period for dark fiber (UDF). CLEC will convert its UDF, where the UDF is not in compliance with Section 1.2, to an alternate arrangement within one hundred eighty (180) calendar days after the execution date of this Amendment. CLEC will pay all applicable nonrecurring charges associated with any alternative arrangement. Qwest account representatives will work with CLEC on a plan to identify impacted UDF and to convert any existing UDF facilities to other alternative Qwest products or services, if CLEC so desires.

1.4 Failure to Convert

1.4.1 DS0 Unbundled Loop If CLEC does not convert any or all of its impacted DS0 Unbundled Loops within the prescribed conversion period, all remaining DS0 Unbundled Loops will be billed at a premium

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rate equal to the rate of the Commercial DS0 Loop Facility. The billing will be based on the number of working circuits on the last working day of each month and the rate difference will appear as a separate element on the CLEC bill at the summary level.

1.4.2 DS1 and DS3 Unbundled Loop and UDIT If CLEC does not convert any or all of its impacted DS1 and DS3 loop and/or transport circuits within the prescribed conversion period, Qwest will convert the facilities to month to month service arrangements in Qwest's Special Access Tariff.

1.4.3 Dark fiber If CLEC does not convert any or all non-compliant dark fiber to alternative service arrangements, Qwest will, or maintains the right to, begin the disconnection process of CLEC dark fiber.

1.5 Effective Bill Date - Regardless of the effective date of this amendment, the effective billing date for rate changes associated with the embedded base of forborne UNEs is March 17, 2006, the effective date as ordered by the FCC in the Omaha Forbearance Order.

DECLARATION OF DON EBEN

EXHIBIT 3

APPENDIX 2

TRO/TRRO AMENDMENT

**Triennial Review Order and Triennial Review Remand Order
("TRO/TRRO") Amendment
to the Interconnection Agreement between
Qwest Corporation
and
McLeodUSA Telecommunications Services, Inc.
for the State of Nebraska**

This is an Amendment ("Amendment") to incorporate the Triennial Review Order ("TRO") and the Triennial Review Remand Order ("TRRO") into the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and McLeodUSA Telecommunications Services, Inc. ("CLEC"). Qwest and CLEC shall be known jointly as the "Parties".

RECITALS

WHEREAS, the Parties entered into an Interconnection Agreement (such Interconnection Agreement, as amended to date, being referred to herein as the "Agreement") for services in the State of Nebraska which was approved by the Nebraska Public Service Commission on April 14, 1999 as referenced in Docket / Order No. C-2023; and

WHEREAS, the Federal Communications Commission ("FCC") promulgated new rules and regulations pertaining to, among other things, the availability of unbundled network elements ("UNEs") pursuant to Section 251(c)(3) of the Telecommunications Act of 1996 (the "Act") in its Report and Order *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, (effective October 2, 2003) ("TRO"); and

WHEREAS, on February 4, 2005, the FCC released the *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand* (Triennial Review Remand Order)(FCC 04-290) ("TRRO"), effective March 11, 2005, which further modified the rules governing Qwest's obligation to make certain UNEs available under Section 251(c)(3) of the Act; and

WHEREAS, the TRO and TRRO Decision, individually and together ("Decisions") materially modify Qwest's obligations under the Act with respect to, among other things, Qwest's requirement to offer certain UNEs; and

WHEREAS, the Parties wish to amend the Agreement to comply with the Decisions hereby agree to do so under the terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Amendment Terms.

To the extent applicable, the Agreement is hereby amended by deleting certain UNEs or by changing or adding terms and conditions for certain UNEs as set forth in Attachment 1 and Exhibit A to this Amendment, attached hereto and incorporated herein by this reference.

II. Limitations.

Nothing in this Amendment shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the Decisions, nor rules, regulations, interpretations, and appeals thereof, including but not limited to state rules, regulations, and laws as they may be issued or promulgated regarding the same. Nothing in this Amendment shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of Decisions or concerning whether the Decisions should be changed, vacated, dismissed, stayed or modified.

III. Conflicts.

In the event of a conflict between this Amendment and the terms and conditions of the Agreement, this Amendment shall control, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement shall not be interpreted as, or deemed a grounds for finding, a conflict for purposes of this Section III.

IV. Scope.

This Amendment shall amend, modify and revise the Agreement only to the extent the UNEs listed in Attachment 1 are included in the Agreement and, except to the extent set forth in Section I and Section II of this Amendment, the terms and provisions of the Agreement shall remain in full force and effect after the execution date.

V. Effective Date.

This Amendment shall be deemed effective upon approval by the Commission, except where the change of law provision in CLEC's Interconnection Agreement specifies a different effective date. The Parties agree to implement the provisions of this Amendment upon execution ("execution date").

VI. Further Amendments.

The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

VII. Entire Agreement.

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

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.

**McLeodUSA Telecommunications
Services, Inc**

Qwest Corporation

Signature

Signature

Name Printed/Typed

L.T. Christensen

Name Printed/Typed

Title

Director- Interconnection Agreements

Title

Date

Date

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1.0 Definitions

"Business Line" means a Qwest-owned switched access line used to serve a business customer, whether by Qwest itself or by CLEC that leases the line from Qwest. The number of Business Lines in a Wire Center shall equal the sum of all Qwest business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, Business Line tallies (1) shall include only those access lines connecting End User Customers with Qwest end-offices for switched services; (2) shall not include non-switched special access lines; and (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to twenty-four (24) 64 kbps-equivalents, and therefore to twenty-four (24) Business Lines.

"Commingling" means the connecting, attaching, or otherwise linking of an Unbundled Network Element, or a Combination of Unbundled Network Elements, to one or more facilities or services that a requesting Telecommunications Carrier has obtained at wholesale from Qwest, or the combination of an Unbundled Network Element, or a Combination of Unbundled Network Elements, with one or more such facilities or services.

"Commingle" means the act of Commingling.

"Dark Fiber" is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services.

"Dedicated Transport" is Qwest transmission facilities between wire centers or switches owned by Qwest, or between wire centers or switches owned by Qwest and switches owned by requesting telecommunications carriers, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.

"Fiber-based Collocator" means any carrier, unaffiliated with Qwest, that maintains a Collocation arrangement in a Qwest Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a Collocation arrangement within the Wire Center; (2) leaves the Qwest Wire Center premises; and (3) is owned by a party other than Qwest or any affiliate of Qwest, except as set forth in this paragraph. Dark fiber obtained from Qwest on an indefeasible right of use basis shall be treated as non-Qwest fiber-optic cable. Two (2) or more affiliated Fiber-based Collocators in a single Wire Center shall collectively be counted as a single Fiber-based Collocator. For purposes of this paragraph, the term "affiliate" is defined by 47 U.S.C. § 153(1) and any relevant interpretation in this Title.

"Interexchange Service" means telecommunications service between stations in different exchange areas. *Cf.* Modification of Final Judgment, § IV(K), *reprinted in United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 229 (D.D.C. 1982) (defining "interexchange telecommunications" as "telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area").

"Long Distance Service" (see "Interexchange Service").

"Mobile Wireless Service" means all mobile wireless telecommunications services, including commercial mobile radio service (CMRS). CMRS includes paging, air-ground radio, telephone service and offshore radiotelephone services, as well as mobile telephony services, such as the service offerings of carriers using cellular radiotelephone, broadband PCS and SMR licenses.

"Non-impaired Wire Center" – A Non-impaired Wire Center is a Wire Center that meets the loop thresholds identified in CFR 47 §51.319(a)(4)(i) for DS1 Loops and §51.319(a)(5)(i) for DS3 Loops. Non-impaired Wire Centers also include Tier 1 and Tier 2 Wire Centers as defined in §51.319(e)(3) and subject to the limitations of §51.319(e)(2)(ii)(A) for DS1 Dedicated Transport, §51.319(e)(2)(iii)(A) for DS3 Dedicated Transport and §51.319(e)(2)(iv)(A) for Dark Fiber Transport.

"Route" is a transmission path between one of Qwest's Wire Centers or switches and another of Qwest's Wire Centers or Switches. A Route between two (2) points (e.g., Wire Center or Switch "A" and Wire Center or Switch "Z") may pass through one (1) or more intermediate Wire Centers or Switches (e.g., Wire Center or Switch "X"). Transmission paths between identical end points (e.g., Wire Center or Switch "A" and Wire Center or Switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or Switches, if any.

"Triennial Review Remand Order" The Triennial Review Remand Order is the Commission's Order on Remand in CC Docket Nos. 01-338 and 04-313 (released February 4, 2005).

"Unbundled Network Element" (UNE) is a Network Element that has been defined by the FCC as a Network Element to which Qwest is obligated under Section 251(c)(3) of the Act to provide unbundled access or for which unbundled access is provided under CLEC's Agreement and under this Amendment. Unbundled Network Elements do not include those Network Elements Qwest is obligated to provide only pursuant to Section 271 of the Act.

"Wire center" A wire center is the location of a Qwest local Switching facility containing one or more central offices, as defined in the Appendix to part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located.

"Tier 1 Wire Centers" means those Qwest Wire Centers that contain at least four Fiber-based Collocators, at least 38,000 Business Lines, or both. Tier 1 Wire Centers also are those Qwest tandem Switching locations that have no line-side Switching facilities, but nevertheless serve as a point of traffic aggregation accessible by CLEC. Once a Wire Center is determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.

"Tier 2 Wire Centers" means those Qwest Wire Centers that are not Tier 1 Wire Centers, but contain at least 3 Fiber-based Collocators, at least 24,000 Business Lines, or both. Once a Wire Center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.

"Tier 3 Wire Centers" means those Qwest Wire Centers that do not meet the criteria for Tier 1 or Tier 2 Wire Centers.

2.0 Unbundled Network Elements (UNE) General

2.1 CLEC's Interconnection Agreement may include terms and conditions for certain Network Elements that Qwest is no longer required to offer on an unbundled basis pursuant to Section 251 of the Act. The FCC determined in its Decisions, that certain Unbundled Network Elements no longer satisfy the FCC's impairment test, and as a result, Qwest is no longer obligated to offer to CLEC those Network Elements on an unbundled basis pursuant to Section 251 of the Act. The FCC also modified certain Terms and Conditions for other Unbundled Network Elements.

2.2 As of the execution date of this Amendment, CLEC shall not order, and Qwest will not provide, the following Network Elements on an unbundled basis pursuant to Section 251 of the Act:

2.2.1 Unbundled Loops

- a) Certain DS1 Loops subject to the requirements of Section 3.0 following
- b) Certain DS3 Loops subject to the requirements of Section 3.0 following
- c) OCn Loops
- d) FTTH & FTTC Loops subject to the requirements of Section 3.1.6 following
- e) Dark Fiber Loops subject to the requirements of Section 3.1.5 following
- f) Hybrid Loops (non-copper distribution Loops) except as identified in Section 3.1.7 following
- g) Line Sharing
- h) Feeder-Sub-Loop
- i) Shared Distribution Loops

2.2.2 Transport

- a) E-UDIT (Extended Unbundled Dedicated Interoffice Transport); Transport from a CLEC's Premises to a Qwest Wire Center;
- b) E-UDF (Extended Unbundled Dark Fiber); Transport from a CLEC's Premises to a Qwest Wire Center;
- c) OCn UDIT; including Remote Node/Remote Port and SONET add/drop multiplexing
- d) UDIT and UDF as a part of a Meet-Point arrangement;
- e) Certain DS1 Transport (UDIT) subject to the requirements of Section 4.0

following

- f) Certain DS3 Transport (UDIT) subject to the requirements of Section 4.0 following
- g) Certain Dark Fiber Transport (UDF-IOF) subject to the requirements of Section 4.1.7 following
- h) Multiplexing associated with UDIT and Loop/Mux Combo

2.2.3 Unbundled Switching

- a) Packet Switching
- b) Tandem Switching
- c) Mass Market Switching, including UNE-P and related services as identified in Section 2.2.3.1
- d) Enterprise Local Switching, including UNE-P and related services as identified in Section 2.2.3.1
- e) Signaling Networks (stand alone)

2.2.3.1 Related services

- a) Customized Routing
- b) Signaling
- c) AIN Database Services
- d) Line Information Database (LIDB)
- e) 8XX Database Services
- f) InterNetwork Calling Name (ICNAM)
- g) Local Number Portability (LNP) Database
- h) Shared Transport

2.2.4 Transition

2.2.4.1 Transition plans for embedded Network Elements identified in the above lists are identified in the following sections.

2.3 After execution of this Amendment, Qwest shall back bill the FCC ordered rate increases to March 11, 2005, for existing Non-Impaired DS1 Loop and Transport, DS3 Loop and Transport, Dark Fiber Loop and Transport and Mass Market Switching Services pursuant to Transition rate increases identified in Sections 3.1.1.2, 3.1.2.2, 3.1.5.1, 4.1.1.2, 4.1.2.2, 4.1.7.1.2 and 5.1.1.3. Such back billing shall not be subject to billing measurements and penalties.

2.4 UNEs shall be obtained solely for the provision of Telecommunications Services and only to the extent allowed by law.

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2.5 UNEs shall only be obtained for the provision of Telecommunications Services, which do not include telecommunications utilized by CLEC for its own administrative use.

2.6 CLEC may not access UNEs for the exclusive provision of Mobile Wireless Services or Interexchange Services.

2.7 If CLEC accesses and uses a UNE consistently with Sections 2.4, 2.5 and 2.6, CLEC may provide any Telecommunications Services over the same UNE.

2.8 To submit an order to obtain a high-capacity loop or transport UNE, CLEC must undertake a reasonably diligent inquiry and, based on that inquiry, self-certify that, to the best of its knowledge, its request is consistent with the requirements discussed in parts IV, V, and VI of the Triennial Review Remand Order and that it is therefore entitled to unbundled access to the particular network elements sought pursuant to section 251(c)(3). As part of such reasonably diligent inquiry, CLEC shall ensure that a requested unbundled DS1 or DS3 loop is not in a Wire Center identified on the list provided by Qwest of Wire Centers that meet the applicable non-impairment thresholds specified in Sections 3.1.1 and 3.1.2, and that a requested unbundled DS1, DS3 or dark fiber transport circuit is not between Wire Centers identified on the list of Wire Centers that meet the applicable non-impairment threshold specified in Sections 4.1.1, 4.1.2 and 4.1.7.1.1. CLEC shall provide a letter or other mutually agreed upon form to document its compliance. CLEC will maintain appropriate records that document what CLEC relied upon to support its certification.

2.8.1 Upon receiving a request for access to a dedicated transport or high-capacity loop UNE that indicates that the UNE meets the relevant factual criteria discussed in sections V and VI of the Triennial Review Remand Order, Qwest must immediately process the request, if the UNE is in a location that does not meet the applicable non-impairment thresholds referred to in Section 2.8. To the extent that Qwest seeks to challenge any other such UNEs, it subsequently can raise that issue through the dispute resolution procedures provided for in CLEC's Interconnection Agreement.

2.8.2 If it is determined by CLEC and Qwest that CLEC's access to or use of UNEs is inconsistent with Existing Rules, except due to change in law, CLEC has thirty (30) calendar Days to convert such UNEs to alternate service arrangements and CLEC is subject to back billing for the difference between rates for the UNEs and rates for the Qwest alternate service arrangements. CLEC is also responsible for all non-recurring charges associated with such conversions.

2.8.3 When CLEC submits an order to convert a special access circuit to a UNE and that circuit has previously been exempt from the special access surcharge pursuant to 47 CFR 69.115, CLEC shall document in its certification when and how the circuit was modified to permit interconnection of the circuit with a local exchange subscriber line.

2.8.4 Additional Non-Impaired Wire Centers. If additional Qwest Wire Centers are found to meet the relevant factual criteria discussed in Sections V and VI of the FCC's Triennial Review Remand Order under which Qwest is no longer required to offer Unbundled DS1 or DS3 Loops, and/or if additional Qwest Wire Centers are reclassified as Tiers 1 or 2, thus impacting the availability of Unbundled DS1, DS3, or Dark Fiber transport, Qwest shall provide notice to CLEC. Thirty (30) Days after notification from

Qwest, CLEC will no longer order impacted high capacity or Dark Fiber UNEs in or between those additional Wire Centers. CLEC will have ninety (90) Days to transition existing DS1 and DS3 UNEs to an alternative service. CLEC will have one hundred eighty (180) Days to transition Dark Fiber transport to an alternative service. Qwest and CLEC will work together to identify those circuits impacted by such change. Absent CLEC transition of impacted UNEs within the transition period above, Qwest will convert facilities to month-to-month service arrangements in Qwest's Special Access Tariff or begin the disconnect process of Dark Fiber facilities. CLEC is subject to back billing for the difference between the UNE and Tariff rates beginning on the ninety-first (91st) Day as well as for all applicable nonrecurring charges associated with such conversions.

2.9 Service Eligibility Criteria

2.9.1 The following Service Eligibility Criteria apply to combinations and/or Commingling of high capacity (DS1 and DS3) Loops and interoffice transport (high capacity EELs). This includes new UNE EELs, EEL conversions (including commingled EEL conversions), or new commingled EELs (e.g., high capacity loops attached to special access transport).

2.9.1.1 Except as otherwise provided in this Section 2.9.1.1, Qwest shall provide access to Unbundled Network Elements and Combinations of Unbundled Network Elements without regard to whether CLEC seeks access to the Unbundled Network Elements to establish a new circuit or to convert an existing circuit from a service to Unbundled Network Elements.

2.9.1.2 CLEC must certify that the following Service Eligibility Criteria are satisfied to: (1) convert a Special Access Circuit to a high capacity EEL, (2) to obtain a new high capacity EEL; or (3) to obtain at UNE pricing any portion of a Commingled circuit that includes a high capacity Loop and transport facility or service. Such certification shall be in accordance with all of the following Sections.

2.9.1.2.1 State Certification. CLEC has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.

2.9.1.2.2 Per Circuit Criteria. The following criteria are satisfied for each combined circuit, including each DS1 circuit, each DS1 EEL, and each DS1-equivalent circuit on a DS3 EEL:

2.9.1.2.3 Telephone Number Assignment. Each circuit to be provided to each End User Customer will be assigned a local telephone number prior to the provision of service over that circuit. This requires that each DS1 circuit must have at least one (1) local telephone number and each DS3 circuit has at least twenty-eight (28) local telephone numbers. The origination and termination of local voice traffic on each local telephone number assigned to a circuit shall not include a toll charge

and shall not require dialing special digits beyond those normally required for a local voice call.

2.9.1.2.4 911 or E911. Each circuit to be provided to each End User Customer will have 911 or E911 capability prior to the provision of service over that circuit.

2.9.1.2.5 Collocation.

2.9.1.2.5.1 Each circuit to be provided to each End User Customer will terminate in a Collocation arrangement that is established pursuant to Section 251(c)(6) of the Act and located at Qwest's Premises within the same LATA as the End User Customer's premises, when Qwest is not the collocator, and cannot be at an Interexchange Carrier POP or ISP POP location;

2.9.1.2.5.2 Each circuit to be provided to each End User Customer will terminate in a Collocation arrangement that is located at the third party's premises within the same LATA as the End User Customer's premises, when Qwest is the collocator; and

2.9.1.2.5.3 When a DS1 or DS3 EEL Loop is connected to a multiplexed facility, the multiplexed facility must be terminated in a Collocation arrangement that is established pursuant to Section 251(c)(6) of the Act and located at Qwest's Premises within the same LATA as the End User Customer's premises, when Qwest is not the collocator, and cannot be at an Interexchange Carrier POP or ISP POP location.

2.9.1.2.6 Interconnection Trunking. CLEC must arrange for the meaningful exchange of traffic which must include hand-offs of local voice calls that flow in both directions. Where CLEC does not arrange for a meaningful exchange of traffic, those arrangements cannot be attributed towards satisfaction of this criterion. At a minimum, each DS1 circuit must be served by a DS0 equivalent LIS trunk in the same LATA as the End User Customer served by the circuit. For each twenty-four (24) DS1 circuits, CLEC must maintain at least one (1) active DS1 LIS trunk in the same LATA as the End User Customer served by the circuit.

2.9.1.2.6.1 Calling Party Number. Each circuit to be provided to each End User Customer will be served by an Interconnection trunk over which CLEC will transmit the Calling Party Number in connection with calls exchanged over the trunk. For each twenty-four (24) DS1 EELs or other facilities having equivalent capacity, CLEC will have at least one (1) active DS1 LIS trunk over which CLEC will transmit the Calling Party Number in connection with

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calls exchanged over the trunk. If the Calling Party Number is not exchanged over an Interconnection trunk, that trunk shall not be counted towards meeting this criteria.

2.9.1.2.7 End Office Switch. Each circuit to be provided to each End User Customer will be served by an End Office Switch capable of Switching local voice traffic. CLEC must certify that the Switching equipment is either registered in the LERG as a Class 5 Switch or that it can switch local voice traffic.

2.9.1.3 CLEC must provide certification to Qwest through a certification letter, or other mutually agreed upon communication, that each individual high capacity loop in combination, or Commingled, with a Qwest-provided high capacity transport facility or service, meets the Service Eligibility Criteria set forth above before Qwest will provision or convert the high capacity facility in combination or Commingled.

2.9.1.4 CLEC's high capacity combination or Commingled facility Service Eligibility shall remain valid only so long as CLEC continues to meet the Service Eligibility Criteria set forth above. If CLEC's Service Eligibility on a given high capacity combination or Commingled facility is no longer valid, CLEC must submit a service order converting the facility to the appropriate Private Line/Special Access service within thirty (30) Days.

2.9.1.5 Service Eligibility Audits. In order to confirm reasonable compliance with these requirements, Qwest may perform Service Eligibility Audits of CLEC's records. Service Eligibility Audits shall be performed in accordance with the following guidelines:

2.9.1.5.1 Qwest may, upon thirty (30) Days written notice to CLEC that has purchased high capacity combination and Commingled facilities, conduct a Service Eligibility Audit to ascertain whether those high capacity facilities were eligible for UNE treatment at the time of Provisioning or conversion and on an ongoing basis thereafter.

2.9.1.5.2 CLEC shall make reasonable efforts to cooperate with any Service Eligibility Audit by Qwest and shall maintain and provide Qwest with relevant records (e.g., network and circuit configuration data, local telephone numbers) which demonstrate that CLEC's high capacity combination and Commingled facilities meet the Service Eligibility Criteria.

2.9.1.5.3 An independent auditor hired and paid for by Qwest shall perform any Service Eligibility Audits, provided, however, that if a Service Eligibility Audit reveals that CLEC's high capacity combination and Commingled facility circuit(s) do not meet or have not met the Service Eligibility Criteria, then CLEC shall reimburse Qwest for the cost of the audit. To the extent the independent auditor's report concludes that CLEC complied in all material respects with the Service Eligibility Criteria,

Qwest shall reimburse CLEC for its costs associated with the Service Eligibility Audit.

2.9.1.5.4 An independent auditor must perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA) and during normal business hours, unless there is a mutual agreement otherwise.

2.9.1.5.5 Qwest shall not exercise its Service Eligibility Audit rights with respect to CLEC (excluding Affiliates), more than once in any calendar year, unless an audit finds non-compliance. If a Service Eligibility Audit does find non-compliance, Qwest shall not exercise its Service Eligibility Audit rights for sixty (60) Days following that audit, and if any subsequent Service Eligibility Audit does not find non-compliance, then Qwest shall not exercise its Service Eligibility Audit rights for the remainder of the calendar year.

2.9.1.5.6 At the same time that Qwest provides notice of a Service Eligibility Audit to CLEC under this paragraph, Qwest shall send a copy of the notice to the Federal Communications Commission.

2.9.1.5.7 Service Eligibility Audits conducted by Qwest for the purpose of determining compliance with Service Eligibility Criteria shall not effect or in any way limit any audit or Dispute Resolution rights that Qwest may have pursuant to other provisions of this Agreement.

2.9.1.5.8 Qwest shall not use any other audit rights it may have under this Agreement to audit for compliance with the Service Eligibility Criteria of this Section. Qwest shall not require a Service Eligibility Audit as a prior prerequisite to Provisioning combination and Commingled facilities.

2.9.1.5.9 CLEC shall maintain appropriate records to support its Service Eligibility Criteria. However, CLEC has no obligation to keep any records that it does not keep in the ordinary course of its business.

2.9.1.5.10 If a Service Eligibility Audit demonstrates that a high capacity combination and Commingled facilities do not meet the Service Eligibility Criteria above, the CLEC must convert all non-compliant circuits to Private Line/Special Access circuits and CLEC must true-up any difference in payments within thirty (30) days.

3.0 Unbundled Loop

3.1 Unbundled Loops are available pursuant to CLEC's Agreement and the following terms and conditions.

3.1.1 DS1 Unbundled Loops. Subject to the cap described in Section 3.1.1.1, Qwest shall provide CLEC with non-discriminatory access to a DS1 loop on an unbundled basis to any building not served by a Wire Center with at least 60,000

Business Lines and at least four (4) Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that Wire Center.

3.1.1.1 Cap on Unbundled DS1 Loop Circuits. CLEC may obtain a maximum of ten (10) unbundled DS1 Loops to any single building in which DS1 Loops are available as Unbundled Loops.

3.1.1.2 Transition period for DS1 loop circuits. For a twelve (12) month period beginning on the effective date of the Triennial Review Remand Order, any DS1 loop UNEs that a CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle pursuant to Sections 3.1.1 or 3.1.1.1, shall be available for lease from Qwest at a rate equal to the higher of (1) 115% of the rate the requesting carrier paid for the loop element on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that Loop element. Where Qwest is not required to provide unbundled DS1 loops pursuant to Sections 3.1.1 or 3.1.1.1, CLEC may not obtain new DS1 loops as unbundled network elements. Qwest and CLEC will work together to identify those circuits impacted in Non-Impaired Wire Centers.

3.1.1.3 Billing. The 15% transitional rate increment will be applied to CLECs bill as a manual adjustment on the following bill cycle. The first bill adjustment will be applied to each account based on the Billing Telephone Number (BTN) and/or Circuit (CKT) per Billing Account Number (BAN) with an effective bill date of March 11, 2005 on the first or second bill cycle following the contract execution date.

3.1.2 DS3 Unbundled Loops. Subject to the cap described in Section 3.1.2.1, Qwest shall provide CLEC with non-discriminatory access to a DS3 loop on an unbundled basis to any building not served by a Wire Center with at least 38,000 Business Lines and at least four (4) Fiber-based Collocators. If a Wire Center exceeds both of these thresholds, no future DS3 Loop unbundling is required in that Wire Center.

3.1.2.1 Cap on Unbundled DS3 Loop Circuits. CLEC may obtain a maximum of a single unbundled DS3 Loop to any single building in which DS3 Loops are available as unbundled loops.

3.1.2.2 Transition period for DS3 loop circuits. For a twelve (12) month period beginning on the effective date of the Triennial Review Remand Order, any DS3 loop UNEs that a CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle pursuant to Sections 3.1.2 or 3.1.2.1, shall be available for lease from Qwest at a rate equal to the higher of (1) 115% of the rate the requesting carrier paid for the loop element on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that loop element. Where Qwest is not required to provide unbundled DS3 loops pursuant to Sections 3.1.2 or 3.1.2.1, CLEC may not obtain new DS3

loops as unbundled network elements. Qwest and CLEC will work together to identify those circuits impacted in Non-Impaired Wire Centers.

3.1.2.3 Billing. The 15% transitional rate increment will be applied to CLECs bill as a manual adjustment on the following bill cycle. The first bill adjustment will be applied to each account based on the BTN and/or CKT per BAN with an effective bill date of March 11, 2005 on the first or second bill cycle following the contract execution date.

3.1.3 Non-Impaired Services – DS1 and DS3 Loops

3.1.3.1 Use after March 10, 2006. For any non-impaired DS1 or DS3 loop leased by CLEC from Qwest after March 10, 2006, CLEC is subject to back billing to the later of March 11, 2006 or the installation date of the loop for the difference between the rate for the UNE and the rate of Qwest's month-to-month alternative service arrangement in Qwest's Special Access Tariff until CLEC transitions the UNE to an alternative service arrangement or disconnects the UNE.

3.1.3.2 Failure To Convert Non-Impaired Services – DS1 and DS3 Loops. Absent CLEC Transition of DS1 and DS3 Loops within ninety (90) Days after the execution of this Amendment, Qwest will convert facilities to month to month service arrangements in Qwest's Special Access Tariff. CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to March 11, 2006. CLEC is also responsible for all non-recurring charges associated with such conversions.

3.1.4 Qwest shall make available to CLEC a list of those Non-Impaired Wire Centers that satisfy the above criteria and update that list as additional Wire Centers meet these criteria.

3.1.5 Dark Fiber Loops Including Fiber Sub-loop. Qwest is not required to provide CLEC with access to a Dark Fiber Loop on an unbundled basis except for UDF-MTE Subloop below. Dark fiber is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services.

3.1.5.1 Transition period for Dark Fiber Loop circuits. For an 18-month period beginning on the effective date of the Triennial Review Remand Order, any Dark Fiber Loop UNEs that a CLEC leases from Qwest as of that date shall be available for lease from Qwest at a rate equal to the higher of (1) 115% of the rate the requesting carrier paid for the loop element on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that Loop element. CLEC may not obtain new Dark Fiber Loops as Unbundled Network Elements. Qwest and CLEC will work together to identify those circuits impacted.

3.1.5.2 Failure To Convert Non-Impaired Network Elements - Dark Fiber Loops including Fiber Sub-loop. Absent CLEC transition of Dark Fiber Loops as of September 10, 2006, Qwest will, or maintains the right to, begin the disconnection process of CLEC Dark Fiber Loops.

3.1.5.3 UDF MTE Subloop begins at or near an MTE to provide access to MTE premises wiring.

3.1.5.3.1 Access to Dark Fiber MTE Subloops at or near an MTE Terminal within a non-Qwest owned MTE is done through an MTE-POI. Collocation is not required to access Subloops used to access the network infrastructure within an MTE, unless CLEC requires the placement of equipment in a Qwest Premises. The termination and placement of CLEC fiber facilities at an MTE is solely the responsibility of CLEC. CLEC is responsible for all negotiations with the End User Customer and or premises owner for such placement of CLEC facilities.

3.1.5.3.2 Termination at an MTE. CLEC shall access the UDF MTE Subloop on the MTE premises at a technically feasible point if possible. If access is not technically feasible on the MTE premises, then CLEC may request access to UDF MTE Subloop at a technically feasible point near the MTE premises. Qwest will prepare and submit to CLEC a quote along with the original Field Verification Quote Preparation form (FVQP) within the interval set forth in Exhibit C. Quotes are on an Individual Case Basis (ICB) and will include costs and an interval in accordance within the interval set forth in the Agreement.

3.1.5.3.3 A complex IRI is used to determine if a UDF MTE Subloop is available to gain access to network infrastructure within an MTE. Quotes are on an Individual Case Basis (ICB) and may include costs in addition to any installation charges specified in Exhibit A. of your Agreement.

3.1.6 FTTH and FTTC Loops. For purposes of this Section, a Fiber-to-the-Home (FTTH) loop is a local Loop consisting entirely of fiber optic cable, whether dark or lit, and serving an End User Customer's Premises, or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the MDU's minimum point of entry (MPOE). For purposes of this Section, a Fiber-to-the-Curb (FTTC) loop is a local loop consisting of fiber optic cable connecting to a copper distribution plant loop that is not more than 500 feet from the End User Customer's Premises or, in the case of predominantly residential MDU, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a FTTC must connect to a copper distribution plant loop at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective End User Customer's Premises.

3.1.6.1 FTTH/FTTC New Builds. Qwest shall have no obligation to provide access to an FTTH/FTTC loop as an Unbundled Network Element in any situation where Qwest deploys such a loop to an End User Customer's Premises

that had not previously been served by any loop facility prior to October 2, 2003.

3.1.6.2 FTTH/FTTC Overbuilds. Qwest shall have no obligation to provide access to an FTTH/FTTC loop as an Unbundled Network Element in any situation where Qwest deploys such a loop parallel to, or in replacement of, an existing copper loop facility. Notwithstanding the foregoing, where Qwest deploys a FTTH/FTTC loop parallel to, or in replacement of, an existing copper loop facility:

3.1.6.2.1 Qwest shall: (i) leave the existing copper loop connected to the End User Customer's Premises after deploying the FTTH/FTTC loop to such Premises, and (ii) upon request provide access to such copper loop as an Unbundled Network Element. Notwithstanding the foregoing, Qwest shall not be required to incur any expense to ensure that any such existing copper loop remains capable of transmitting signals prior to receiving a request from CLEC for access, as set forth above, in which case Qwest shall restore such copper loop to serviceable condition on an Individual Case Basis. Any such restoration shall not be subject to Performance Indicator Definition or other performance service measurement or intervals. Qwest's obligations under this subsection 3.1.6.2.1 shall terminate when Qwest retires such copper Loop in accordance with the provisions of Section 3.1.6.3 below.

3.1.6.2.2 In the event Qwest, in accordance with the provisions of Section 3.1.6.3 below, retires the existing copper loop connected to the End User Customer's Premises, Qwest shall provide access, as an Unbundled Network Element, over the FTTH/FTTC loop to a 64 kbps transmission path capable of voice grade service.

3.1.6.3 Retirement of Copper Loops or Copper Subloops and Replacement with FTTH/FTTC Loops. In the event Qwest decides to replace any copper loop or copper Subloop with a FTTH/FTTC Loop, Qwest will: (i) provide notice of such planned replacement on its web site (www.qwest.com/disclosures); (ii) provide e-mail notice of such planned retirement to CLECs; and (iii) provide public notice of such planned replacement to the FCC. Such notices shall be in addition to any applicable state Commission notification that may be required. Any such notice provided to the FCC shall be deemed approved on the ninetieth (90th) Day after the FCC's release of its public notice of the filing, unless an objection is filed pursuant to the FCC's rules. In accordance with the FCC's rules: (i) a CLEC objection to a Qwest notice that it plans to replace any copper Loop or copper subloop with a FTTH/FTTC Loop shall be filed with the FCC and served upon Qwest no later than the ninth (9th) business day following the release of the FCC's public notice of the filing and (ii) any such objection shall be deemed denied ninety (90) Days after the date on which the FCC releases public notice of the filing, unless the FCC rules otherwise within that period.

3.1.6.4 Handling of embedded FTTH/FTTC Loops. All embedded CLEC services over FTTH/FTTC Loops in place prior to the signature on this

Amendment will be 'grandfathered' subject to re-classification upon change of service.

3.1.7 Hybrid Loops. A "Hybrid Loop" is an Unbundled Loop composed of both fiber optic cable, usually in the feeder plant, and copper wire or cable, usually in the distribution plant.

3.1.7.1 Broadband Services. When CLEC seeks access to a Hybrid Loop for the provision of broadband services, including DS1 or DS3 capacity, but not DSL, Qwest shall provide CLEC with non-discriminatory access on an unbundled basis to time division multiplexing features, functions, and capabilities of that Hybrid Loop, only where impairment has been found to exist to establish a complete transmission path between Qwest's Central Office and an End User Customer's premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop that are not used to transmit packetized information.

3.1.7.2 Narrowband Services. When CLEC seeks access to a Hybrid Loop for the provision of narrowband services, Qwest may either:

3.1.7.2.1 Provide non-discriminatory access, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology; or

3.1.7.2.2 Provide nondiscriminatory access to a spare home-run copper loop serving that End User Customer on an unbundled basis.

3.1.8 Subloop Unbundling. An Unbundled Subloop is defined as the distribution portion of a copper Loop or hybrid Loop comprised entirely of copper wire or copper cable that acts as a transmission facility between any point that it is Technically Feasible to access at terminals in Qwest's outside plant (originating outside of the Central Office), including inside wire owned or controlled by Qwest, and terminates at the End User Customer's premises. An accessible terminal is any point on the Loop where technicians can access the wire within the cable without removing a splice case to reach the wire within. Such points may include, but are not limited to, the pole, pedestal, Network Interface Device, minimum point of entry, single point of Interconnection, Remote Terminal, Feeder Distribution Interface (FDI), or Serving Area Interface (SAI). CLEC shall not have access on an unbundled basis to a feeder subloop defined as facilities extending from the Central Office to a terminal that is not at the End User Customer's premises or multiple tenant environment (MTE). CLEC shall have access to the feeder facilities only to the extent it is part of a complete transmission path, not a subloop, between the Central Office and the End User Customer's premises or MTE. This section does not address Unbundled Dark Fiber MTE Subloop which is addressed in Section 3.1.5.3.

3.1.8.1 Qwest's obligation to construct a Single Point of Interface (SPOI) is limited to those MTEs where Qwest has distribution facilities to that MTE and owns, controls, or leases the inside wire at the MTE. In addition, Qwest shall have an obligation to construct a SPOI only when CLEC indicates that it intends

to place an order for access to an unbundled Subloop Network Element via a SPOI.

3.1.8.2 Access to Distribution Loops or Intrabuilding Cable Loops at an MTE Terminal within a non-Qwest owned MTE is done through an MTE-POI. Collocation is not required to access Subloops used to access the network infrastructure within an MTE, unless CLEC requires the placement of equipment in a Qwest Premises. Cross-Connect Collocation, refers to creation of a cross connect field and does not constitute Collocation. The terms and conditions of Collocation do not apply to Cross-Connect Collocation if required at or near an MTE.

3.1.8.3 Retention of Embedded Services – Feeder Subloops. All embedded CLEC services over Feeder Subloops in place prior to the signature on this Amendment will be “grandfathered” subject to re-classification upon any modification to or disconnection of the service. Recurring charge rates effective prior to the signature on this amendment will remain in place. No new requests will be accepted for Feeder Subloop subsequent to signature on this Amendment.

3.1.9 Line Sharing. Qwest shall not be required to provide Line Sharing unless the Agreement has been amended with a Qwest Commercial Line Sharing Amendment.

3.1.10 Shared Distribution Loop. Qwest shall not be required to provide Shared Distribution Loop unless the Agreement has been amended with a Qwest Commercial Shared Distribution Loop Amendment.

4.0 Unbundled Dedicated Interoffice Transport (UDIT)

4.0.1 Qwest is not obligated to provide CLEC with unbundled access to dedicated transport that does not connect a pair of Qwest Wire Centers.

4.0.2 All transport services, when combined with high capacity Loops, are subject to the Service Eligibility Criteria as outlined in Section 2.9 of this Amendment.

4.1 UDIT is available pursuant to CLEC’s Agreement and the following terms and conditions.

4.1.1 DS1 UDIT. Qwest shall unbundle DS1 transport between any pair of Qwest Wire Centers except where, through application of “Tier” classifications, as defined in Section 1.0 of this Amendment, both Wire Centers defining the Route are Tier 1 Wire Centers. As such, Qwest must unbundle DS1 transport if a Wire Center at either end of a requested Route is not a Tier 1 Wire Center, or if neither is a Tier 1 Wire Center.

4.1.1.1 On Routes for which no unbundling obligation for DS3 Dedicated Transport circuits exists but for which DS1 Dedicated Transport is available on an unbundled basis, CLEC may obtain a maximum of ten (10) unbundled DS1 Dedicated Transport circuits."

4.1.1.2 Transition period for DS1 transport circuits. For a twelve (12) month period beginning on the effective date of the Triennial Review Remand Order, any DS1 dedicated transport UNE that a CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle pursuant to Sections 4.1.1 or 4.1.1.1, shall be available for lease from Qwest at a rate equal to the higher of (1) 115 percent of the rate the requesting carrier paid for the dedicated transport element on June 15, 2004, or (2) 115 percent of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that dedicated transport element. Where Qwest is not required to provide unbundled DS1 transport pursuant to Sections 4.1.1 or 4.1.1.1, CLEC may not obtain new DS1 transport as unbundled network elements. Qwest and CLEC will work together to identify those circuits impacted between Non-Impaired Wire Centers.

4.1.1.3 Billing. The 15% transitional rate increment will be applied to CLECs bill as a manual adjustment on the following bill cycle. The first bill adjustment will be applied to each account based on the BTN and/or CKT per BAN with an effective bill date of March 11, 2005 on the first or second bill cycle following the contract execution date.

4.1.2 DS3 UDIT - Qwest shall unbundle DS3 transport between any pair of Qwest Wire Centers except where, through application of "Tier" classifications, as defined in Section 1.0 of this Amendment, both Wire Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Qwest must unbundle DS3 transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.

4.1.2.1 CLEC may obtain a maximum of twelve (12) unbundled DS3 dedicated transport circuits on each Route where DS3 dedicated transport is available on an unbundled basis.

4.1.2.2 Transition period for DS3 transport circuits. For a twelve (12) month period beginning on the effective date of the Triennial Review Remand Order, any DS3 dedicated transport UNE that a CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle pursuant to Sections 4.1.2 or 4.1.2.1, shall be available for lease from Qwest at a rate equal to the higher of (1) 115 percent of the rate the requesting carrier paid for the dedicated transport element on June 15, 2004, or (2) 115 percent of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that dedicated transport element. Where Qwest is not required to provide unbundled DS3 transport pursuant to Sections 4.1.2 or 4.1.2.1, CLEC may not obtain new DS3 transport as unbundled network elements. Qwest and CLEC will work together to identify those circuits impacted between Non-Impaired Wire Centers.

4.1.2.3 Billing. The 15% transitional rate increment will be applied to CLECs bill as a manual adjustment on the following bill cycle. The first bill adjustment will be applied to each account based on the BTN and/or CKT per BAN with an effective bill date of March 11, 2005 on the first or second bill cycle following the contract execution date.

4.1.3 Qwest shall make available to CLEC a list of those Non-Impaired Wire Centers that satisfy the above criteria and update that list as additional Wire Centers meet these criteria.

4.1.4 Non-Impaired Services – DS1 and DS3 UDIT

4.1.4.1 Use after March 10, 2006. For any non-impaired DS1 or DS3 UDIT leased by CLEC from Qwest after March 10, 2006, CLEC is subject to back billing to the later of March 11, 2006 or the installation date of the transport for the difference between the rate for the UNE and the rate of Qwest's month-to-month alternative service arrangement in Qwest's Special Access Tariff until CLEC transitions the UNE to an alternative service arrangement or disconnects the UNE.

4.1.4.2 Failure To Convert Non-Impaired Services – DS1 and DS3 UDIT. Absent CLEC transition of DS1 and DS3 Transport within ninety (90) Days after the execution of this Amendment, Qwest will convert facilities to month to month service arrangements in Qwest's Special Access Tariff and CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to March 11, 2006. CLEC is also responsible for all non-recurring charges associated with such conversions.

4.1.5 Failure To Convert Non-Impaired Services – OCn UDIT. Absent CLEC transition of OCn Transport within ninety (90) days of Execution of this Amendment, Qwest will convert facilities to month to month service arrangements in Qwest's Special Access Tariff and CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to the 91st day. CLEC is also responsible for all non-recurring charges associated with such conversions.

4.1.6 Failure To Convert Non-Impaired Services – DS1 and DS3 E-UDIT and M-UDIT. Absent CLEC transition of DS1 and DS3 E-UDIT and M-UDIT within ninety (90) days of Execution of this Amendment, Qwest will convert facilities to month to month service arrangements in Qwest's Special Access Tariff and CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to the 91st day. CLEC is also responsible for all non-recurring charges associated with such conversions.

4.1.7 Unbundled Dark Fiber (UDF) IOF

4.1.7.1 Dedicated dark fiber transport shall be made available to CLEC on an unbundled basis as set forth in the Interconnection Agreement and as set forth below. Dark fiber transport consists of unactivated optical interoffice transmission facilities.

4.1.7.1.1 Qwest shall unbundle dark fiber transport between any pair of Qwest Wire Centers except where, through application of "Tier" classifications defined in Section 1.0 of this Amendment, both Wire

Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Qwest must unbundle dark fiber transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.

4.1.7.1.2 Transition period for dark fiber transport circuits. For an 18-month period beginning on the effective date of the Triennial Review Remand Order, any dark fiber dedicated transport UNE that a CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle pursuant to Section 4.1.7.1.1, shall be available for lease from Qwest at a rate equal to the higher of (1) 115 percent of the rate the requesting carrier paid for the dedicated transport element on June 15, 2004, or (2) 115 percent of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that dedicated transport element. Where Qwest is not required to provide unbundled dark fiber transport pursuant to Section 4.1.7.1.1, CLEC may not obtain new dark fiber transport as unbundled network elements. Qwest and CLEC will work together to identify those circuits impacted in Non-Impaired Wire Centers.

4.1.7.1.3 Billing. The 15% transitional rate increment will be applied to CLECs bill as a manual adjustment on the following bill cycle. The first bill adjustment will be applied to each account based on the BTN and/or CKT per BAN with an effective bill date of March 11, 2005 on the first or second bill cycle following the contract execution date.

4.1.7.1.4 Qwest shall make available to CLEC a list of those Non-Impaired Wire Centers that satisfy the above criteria and update that list as additional Wire Centers meet these criteria.

4.1.7.1.5 Failure To Convert Non-Impaired Services – UDF-IOF. Absent CLEC Transition of UDF, as of September 10, 2006, Qwest will, or maintains the right to, begin the disconnection process of CLEC Dark Fiber Facilities.

4.1.8 E-UDF and M-UDF (Meet Point Billed-UDF) Transition Language. Upon the Execution Date of this Amendment, CLEC will not place, and Qwest will not accept, any ASRs for Extended Unbundled Dark Fiber (E-UDF) or M-UDF (Meet Point UDF). Qwest account representatives will work with CLECs on a plan to convert any existing E-UDF or M-UDF to other alternative Qwest products or services, if CLEC so desires.

4.1.8.1 Transition period for dark fiber transport circuits. For an eighteen (18) month period beginning on the effective date of the Triennial Review Remand Order, any E-UDF and M-UDF that a CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle pursuant to Section 4.1.8, shall be available for lease from Qwest at a rate equal to the higher of (1) 115 percent of the rate the requesting carrier paid for the E-UDF and M-UDF element on June 15, 2004, or (2) 115 percent of the rate the state commission has established or establishes, if any, between June 16, 2004, and the effective

date of the Triennial Review Remand Order, for that element. Where Qwest is not required to provide unbundled dark fiber E-UDF and M-UDF pursuant to Section 4.1.8, CLEC may not obtain E-UDF and M-UDF as unbundled network elements. Qwest and CLEC will work together to identify those circuits impacted.

4.1.8.2 Billing. The 15% transitional rate increment will be applied to CLECs bill as a manual adjustment on the following bill cycle. The first bill adjustment will be applied to each account based on the BTN and/or CKT per BAN with an effective bill date of March 11, 2005 on the first or second bill cycle following the contract execution date.

4.1.8.3 Failure To Convert Non-Impaired Networks Elements – E-UDF and M-UDF. Absent CLEC Transition E-UDF and M-UDF as of September 10, 2006, Qwest will begin or maintain the right to begin, disconnect process of Dark Fiber Facilities.

5.0 Unbundled Local Switching

5.1 Transition of Unbundled Local circuit Switching, including UNE-P Services

5.1.1 DS0 Capacity (Mass Market)

5.1.1.1 Qwest is not required to provide access to local circuit Switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS0 capacity loops.

5.1.1.2 Each requesting telecommunications carrier shall migrate its embedded base of end-user customers off of the unbundled local circuit Switching element to an alternative arrangement within twelve (12) months of the effective date of the Triennial Review Remand Order.

5.1.1.3 Notwithstanding Section 5.1.1.2, for a twelve (12) month period from the effective date of the Triennial Review Remand Order, Qwest shall provide access to local circuit Switching on an unbundled basis for a requesting carrier to serve its embedded base of end-user customers. The price for unbundled local circuit Switching in combination with unbundled DS0 capacity loops and shared transport obtained pursuant to this paragraph shall be the higher of: (A) the rate at which the requesting carrier obtained that combination of network elements on June 15, 2004 plus one dollar, or (B) the rate the state public utility commission establishes, if any, between June 16, 2004, and the effective date of the Triennial Review Remand Order, for that combination of network elements, plus one dollar. CLEC may not obtain new local Switching as an unbundled network element. Qwest and CLEC will work together to identify those impacted accounts.

5.1.1.4 Qwest shall provide a requesting telecommunications carrier with nondiscriminatory access to signaling, call-related databases, and shared transport facilities on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part, to the extent that local circuit Switching is required to be

made available pursuant to Section 5.1.1.3. These elements are defined as follows:

5.1.1.4.1 Signaling networks. Signaling networks include, but are not limited to, signaling links and signaling transfer points.

5.1.1.4.2 Call-related databases.

(1) Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number portability databases by means of physical access at the signaling transfer point linked to the unbundled databases.

(2) Service management systems

5.1.1.4.3 Shared transport.

5.1.1.5 Use after March 10, 2006 - For any UNE-P POTS or UNE-P Centrex 21 leased by CLEC from Qwest after March 10, 2006, CLEC is subject to back billing to March 11, 2006 for the difference between the rate for the UNE and a rate equal to the Qwest month-to-month resale service alternatives identified in this Section 5.1.1.6.2. All other Mass Market UNE-P services, including UNE-P Centrex Plus/Centron, UNE-P ISDN BRI, UNE-P PAL, UNE-P PBX leased by CLEC from Qwest after March 10, 2006 are subject to back billing to March 11, 2006 for the difference between the rate for the UNE and a rate equal to the Qwest month-to-month Local Exchange Resale service.

5.1.1.6 Failure to Convert Non-Impaired Networks Elements – Mass Market Switching

5.1.1.6.1 Mass Market Unbundled Switching – Stand Alone: Absent CLEC Transition within ninety (90) Days after the execution of this Amendment, Qwest will disconnect any remaining services on or after this date.

5.1.1.6.2 UNE-P POTS & UNE-P Centrex 21: Absent CLEC Transition within ninety (90) Days after the execution of this Amendment, Qwest will convert services to the equivalent Qwest Local Exchange Business Measured Resale services, e.g. Class of Service (COS) LMB. In the event Measured Services are unavailable, services will be converted to the equivalent Qwest Local Exchange Business Resale services, e.g. COS 1FB. CLEC is subject to back billing for the difference between the rates for the UNE-P and rates for the Qwest Resale Service to March 11, 2006. CLEC is also responsible for all non-recurring charges associated with such conversions.

5.1.1.6.3 All other Mass Market UNE-P services, including UNE-P Centrex Plus/Centron, UNE-P ISDN BRI, UNE-P PAL, UNE-P PBX: Absent CLEC Transition within ninety (90) Days after the execution of this Amendment, Qwest will convert services to the equivalent Qwest Local Exchange Resale services. CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to March 11, 2006. CLEC is also responsible for all non-recurring charges associated with such conversions.

5.1.1.6.4 Any UNE-P services with Line Splitting: Absent CLEC Transition within ninety (90) Days after the execution of this Amendment, Qwest will convert services as described above. Line Splitting will be removed from any UNE-P services with Line Splitting.

5.1.2 Enterprise Switching. DS1 Capacity and above (i.e., enterprise market)
Qwest is not required to provide access to local circuit Switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS1 capacity and above loops.

5.1.2.1 Transition for DS1 Capacity Unbundled Switching; including UNE-P - Upon the Execution Date of this Amendment, CLEC will not place, and Qwest will not accept, LSRs for Unbundled Local Switching at the DS1 or above capacity. Qwest account representatives will work with CLEC on a plan to convert any existing Unbundled Local Switching at the DS1 or above capacity to other available Qwest products or services, if CLEC so desires. CLEC will submit complete, error-free LSRs to convert or disconnect any existing Unbundled Local Switching at the DS1 or above capacity with Due Dates within ninety (90) Days of the Execution Date of this Amendment.

5.1.2.2 Failure to Convert DS1 Capacity Unbundled Switching: including UNE-P.

5.1.2.2.1 Enterprise Unbundled Switching – Stand Alone: Absent CLEC Transition within ninety (90) Days after the execution of this Amendment, Qwest will disconnect any remaining services on or after this date.

5.1.2.2.2 Enterprise Unbundled Switching purchased as a part of UNE-P: Absent CLEC Transition pursuant to the timeline above in 5.1.2.1, Qwest will convert services to the equivalent month to month Resale arrangements. CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Resale arrangement to the ninety-first (91st) day. CLEC is also responsible for all non-recurring charges associated with such conversions.

5.1.3 Signaling Networks

5.1.3.1 Transition for Signaling Networks - Upon the Execution Date of this Amendment, CLEC will not place, and Qwest will not accept, ASRs for Unbundled Signaling Network Elements. Qwest account representatives will work with CLEC on a plan to convert any existing Unbundled Signaling Network Elements to other available Qwest products or services. CLEC will submit complete, error-free ASRs to convert or disconnect any existing Unbundled Signaling Network Elements with Due Dates that are within ninety (90) Days of the Execution Date of this Amendment. Qwest and CLEC will work together to identify those network elements.

5.1.3.2 Failure to Convert Non-Impaired Network Elements – Signaling Networks. Absent CLEC Transition of Signaling Networks within ninety (90) days of the Execution Date of this Amendment, Qwest will convert services to alternate arrangements. CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to the 91st day. CLEC is also responsible for all non-recurring charges associated with such conversions.

6.0 Unbundled Network Element Combinations

6.1 Enhanced Extended Loop (EEL)

6.1.1 EEL is available pursuant to CLEC's Agreement, the relevant loop and transport terms and conditions of this amendment and the following terms and conditions.

6.1.1.1 The "Significant Amount of Local Exchange Traffic" eligibility criteria for EEL is replaced by the Service Eligibility Criteria described in Section 2.9, including the collocation requirement of Section 2.9.1.2.5.

6.1.1.2 CLEC EEL certification process is replaced by the Certification process described in Sections 2.9.1.3.

6.1.1.3 EEL Audit provisions are replaced by the Service Eligibility Audit process described in Sections 2.9.1.5.

6.1.1.4 Service Eligibility Criteria in Section 2.9 apply to combinations of high capacity (DS1 and DS3) loops and interoffice transport (high capacity EELs). This includes new UNE EELs, EEL conversions (including commingled EEL conversions) or new commingled EELs (e.g., high capacity loops attached to special access transport). CLEC cannot utilize combinations of Unbundled Network Elements that include DS1 or DS3 Unbundled Loops and DS1 or DS3 unbundled dedicated interoffice transport (UDIT) to create high capacity EELs unless CLEC certifies to Qwest that the EELs meet the Service Eligibility Criteria in Section 2.9.

ATTACHMENT 1

6.1.1.5 Transition for EEL – CLEC must verify that all embedded EEL meet the new Service Eligibility Criteria. Qwest account representatives will work with CLEC on a plan to convert any non-compliant EEL to other service arrangements.

6.1.1.6 Use after March 10, 2006. For any non-compliant EELs leased by CLEC from Qwest after March 10, 2006, CLEC is subject to back billing in accordance with the back billing terms for non-impaired DS1 and DS3 loops and UDIT, as applicable, set forth in Sections 3.1.3.1 and 4.1.4.1.

6.1.1.7 Failure to Convert Non-Compliant EEL. Absent CLEC Transition of non-compliant EEL within ninety (90) days of the Execution Date of this Amendment, Qwest will convert services to alternate arrangements. CLEC is subject to back billing for the difference between the rates for the UNEs and rates for the Qwest alternative service arrangements to March 11, 2006. CLEC is also responsible for all non-recurring charges associated with such conversions.

6.2 Loop-Mux Combination (LMC)

6.2.1 Description

6.2.1.1 Loop-mux combination (LMC) is an unbundled Loop, as defined by CLEC's Agreement as amended, (referred to in this Section as an LMC Loop) Commingled with a private line (PLT), or with a special access (SA), Tariffed DS1 or DS3 multiplexed facility with no interoffice transport. The PLT/SA multiplexed facility is provided as either an Interconnection Tie Pair (ITP) or Expanded Interconnection Termination (EICT) from the high side of the multiplexer to CLEC's Collocation. The multiplexer and the Collocation must be located in the same Qwest Wire Center.

6.2.1.2 LMC provides CLEC with the ability to access End User Customers and aggregate DS1 or DS0 unbundled Loops to a higher bandwidth via a PLT/SA DS1 or DS3 multiplexer. There is no interoffice transport between the multiplexer and CLEC's Collocation.

6.2.1.3 Qwest offers the LMC Loop as a billing conversion or as new provisioning.

6.2.2 Terms and conditions

6.2.2.1 An Extended Enhanced Loop (EEL) may be commingled with the PLT/SA multiplexed facility.

6.2.2.2 LMC Loops will be provisioned where existing facilities are available.

6.2.2.3 The PLT/SA DS1 or DS3 multiplexed facility must terminate in a Collocation.

ATTACHMENT 1

6.2.2.4 The multiplexed facility is subject to all terms and conditions (ordering, provisioning, and billing) of the appropriate Tariff.

6.2.2.5 The multiplexer and the Collocation must be located in the same Qwest Wire Center.

6.2.2.6 A rearrangement nonrecurring charge may be assessed on some requests for work to be performed by Qwest on an existing LMC Loop; or on some Private Line/Special Access circuits when coupled with a Conversion as Specified Request to convert to LMC Loop.

6.2.3 Rate Elements

6.2.3.1 The LMC Loop is the Loop connection between the End User Customer Premises and the multiplexer in the serving Wire Center where CLEC is Collocated. LMC Loop is available in DS0 and DS1. Recurring and non-recurring charges apply

6.2.3.2 DS0 Mux Low Side Channelization. LMC DS0 channel cards are required for each DS0 LMC Loop connected to a 1/0 LMC multiplexer. Channel cards are available for analog loop start, ground start, reverse battery, and no signaling. See channel performance for recurring charges as set forth in Exhibit A.

6.2.3.3 Nonrecurring charges for billing conversions to LMC Loops and Rearrangement of existing LMC Loops are set forth in Exhibit A.

6.2.4 Ordering Process

6.2.4.1 Ordering processes for LMC Loop(s) are contained in this Agreement and in Qwest's Product Catalog (PCAT). The following is a high-level description of the ordering process:

6.2.4.1.1 Step 1: Complete product questionnaire for LMC Loop(s) with account team representative.

6.2.4.1.2 Step 2: Obtain billing account number (BAN) through account team representative.

6.2.4.1.3 Step 3: Allow two (2) to three (3) weeks from Qwest's receipt of a completed questionnaire for accurate loading of LMC rates to the Qwest billing system.

6.2.4.1.4 Step 4: After account team notification, place LMC Loop orders via an LSR.

6.2.4.2 Prior to placing an order on behalf of each End User Customer, CLEC shall be responsible for obtaining and have in its possession a Proof of Authorization (POA) as set forth in this Agreement.

6.2.4.3 Standard service intervals for LMC Loops are in the Service Interval Guide (SIG) available at www.qwest.com/wholesale.

6.2.4.4 Due date intervals are established when Qwest receives a complete and accurate LSR made through the IMA or EDI interfaces or through facsimile. For LMC Loops, the date the LSR is received is considered the start of the service interval if the order is received on a business Day prior to 3:00 p.m. For LMC Loops, the service interval will begin on the next business Day for service requests received on a non-business day or after 3:00 p.m. on a business day. Business Days exclude Saturdays, Sundays, New Year's Day, Memorial Day, Independence Day (4th of July), Labor Day, Thanksgiving Day and Christmas Day.

6.2.5 Billing

6.2.5.1 Qwest shall provide CLEC, on a monthly basis, within seven to ten (7 to 10) calendar Days of the last day of the most recent billing period, in an agreed upon standard electronic billing format, billing information including (1) a summary bill, and (2) individual End User Customer sub-account information.

6.2.6 Maintenance and Repair

6.2.6.1 Qwest will maintain facilities and equipment for LMC Loops provided under this Agreement. Qwest will maintain the multiplexed facility pursuant to the Tariff. CLEC or its End User Customers may not rearrange, move, disconnect or attempt to repair Qwest facilities or equipment, other than by connection or disconnection to any interface between Qwest and the End User Customer, without the prior written consent of Qwest.

6.3 Commingling

6.3.1 To the extent it is Technically Feasible, CLEC may Commingle Telecommunications Services purchased on a resale basis with an Unbundled Network Element or combination of Unbundled Network Elements. Notwithstanding the foregoing, the following are not available for resale Commingling:

- a) Non-telecommunications services;
- b) Enhanced or Information services;
- c) Network Elements offered pursuant to Section 271.

6.3.2 CLEC may Commingle UNEs and combinations of UNEs with wholesale services and facilities (e.g., Switched and Special Access Services offered pursuant to Tariff) and request Qwest to perform the necessary functions to provision such Commingling. CLEC will be required to provide the CFA (Connecting Facility Assignment) of CLEC's network demarcation (e.g., Collocation or multiplexing facilities) for each UNE, UNE Combination, or wholesale service when requesting Qwest to perform the Commingling of such services. Qwest shall not deny access to a UNE on the grounds that the UNE or

ATTACHMENT 1

UNE Combination shares part of Qwest's network with Access Services.

6.3.3 When a UNE and service are commingled, the service interval for each facility being commingled will apply only as long as a unique provisioning process is not required for the UNE or service due to the commingling. Performance measurements and/or remedies are not applicable to the total commingled arrangement but do apply to each facility or service ordered within the commingled arrangement. Work performed by Qwest to provide Commingled services that are not subject to standard provisioning intervals will not be subject to performance measures and remedies, if any, contained in this Agreement or elsewhere, by virtue of that service's inclusion in a requested Commingled service arrangement. Provisioning intervals applicable to services included within a requested Commingled service arrangement will not begin to run until CLEC provides a complete and accurate service request, necessary CFAs to Qwest, and Qwest completes work required to perform the Commingling that is in addition to work required to provision the service as a stand-alone facility or service.

6.3.4 Qwest will not combine or Commingle services or Network Elements that are offered by Qwest pursuant to Section 271 of the Communications Act of 1934, as amended, with Unbundled Network Elements or combinations of Unbundled Network Elements.

6.3.5 Services are available for Commingling only in the manner in which they are provided in Qwest's applicable product Tariffs, catalogs, price lists, or other Telecommunications Services offerings.

6.3.6 Entrance Facilities and mid-span meet SPOI obtained pursuant to the Local Interconnection section of the Agreement are not available for Commingling.

6.3.7 CLEC may request Qwest to commingle DS1 or DS0 analog voice grade unbundled Loops with DS3 or DS1 multiplexed facilities ordered by CLEC from Qwest's special access or private line Tariffs. Terms and conditions for this Commingled arrangement are provided in Section 6.2 of this Amendment.

7.0 Ratcheting

7.1 To the extent that CLEC requests Qwest to commingle a UNE or a UNE Combination with one or more facilities or services that CLEC has obtained at wholesale from Qwest pursuant to a method other than unbundling under Section 251(c)(3) of the Act, Qwest will not be required to bill that wholesale circuit at multiple rates, otherwise known as ratcheting. Such commingling will not affect the prices of UNEs or UNE Combinations involved.

7.2 To the extent a multiplexed facility is included in a Commingled circuit then: (1) the multiplexed facility will be ordered and billed at the UNE rate if and only if all circuits entering the multiplexer are UNEs and (2) in all other situations the multiplexed facility will be ordered and billed pursuant to the appropriate Tariff.

8.0 Routine Network Modifications

8.1 Qwest shall make all routine network modifications to unbundled loop and transport facilities used by CLEC where the requested loop or transport facility has already been constructed. Qwest shall perform these routine network modifications to unbundled loop or transport facilities in a nondiscriminatory fashion, without regard to whether the loop or transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

8.2 A routine network modification is an activity that Qwest regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that Qwest ordinarily attaches to a DS1 loop to activate such loop for its own customer. They also include activities needed to enable CLEC to light a dark fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for CLEC.

McLeodUSA Telecommunications Services, Inc.

**TRO and TRRO Exhibit A
 Transition Rates
 Nebraska***

Amendment	Select Traffic Type	Options			Notes		
		ICB	Per Mile	Non-Recalling	ICB	Per Mile	Non-Recalling
9.0 Unbundled Network Elements (UNEs)							
9.2 Unbundled Loops							
9.2.3 Digital Capable Loops							
9.2.3.3.4	DS1 Transitional Rate 15% Incremental adjustment applies in addition to Monthly Rate for non-impaired wire centers, (effective 3/11/05 thru 3/10/06)						
9.2.3.3.4.1	Zone 1				*		
9.2.3.3.4.2	Zone 2				*		
9.2.3.3.4.3	Zone 3				*		
9.2.3.4.4	DS3 Transitional Rate 15% Incremental adjustment applies in addition to Monthly Rate for non-impaired wire centers, (effective 3/11/05 thru 3/10/06)						
9.2.3.4.4.1	Zone 1				*		
9.2.3.4.4.2	Zone 2				*		
9.2.3.4.4.3	Zone 3				*		
9.2.8	Private Line / Special Access to Unbundled Loop Conversion (as is)					\$30.87	1
9.6 Unbundled Dedicated Interoffice Transport (UDIT)							
9.6.2.5	DS1 UDIT Transitional Rate 15% Incremental adjustment between non-impaired wire centers, in addition to Monthly Rates. (Effective 3/11/05 thru 3/10/06)						
9.6.2.5.1	Over 0 to 8 Miles	\$5.12	\$0.49		*	*	
9.6.2.5.2	Over 8 to 25 Miles	\$5.24	\$0.49		*	*	
9.6.2.5.3	Over 25 to 50 Miles	\$5.52	\$0.28		*	*	
9.6.2.5.4	Over 50 Miles	\$5.32	\$0.12		*	*	
9.6.3.5	DS3 UDIT Transitional Rate 15% Incremental adjustment between non-impaired wire centers, in addition to Monthly Rates (Effective 3/11/05 thru 3/10/06)						
9.6.3.5.1	Over 0 to 8 Miles	\$32.89	\$8.22		*	*	
9.6.3.5.2	Over 8 to 25 Miles	\$33.40	\$2.60		*	*	
9.6.3.5.3	Over 25 to 50 Miles	\$30.71	\$3.22		*	*	
9.6.3.5.4	Over 50 Miles	\$32.46	\$2.23		*	*	
9.6.12	Private Line / Special Access to UDIT Conversion (as is)					\$118.99	1
9.7 Unbundled Dark Fiber (UDF)							
9.7.4 UDF Single Strand							
9.7.4.1.6	UDF-IOF - Single Strand Transitional Rate 15% Incremental adjustment between non-impaired wire centers, in addition to Monthly Rates (Effective 3/11/05 thru 9/10/06)						
9.7.4.1.6.1	Fiber Transport, per Strand / Mile	\$7.94			*		
9.7.4.1.6.2	Termination, Fixed, per Strand / Office	\$0.59			*		
9.7.4.1.6.3	Fiber Cross-Connect, per Strand	\$0.33			*		
9.7.4.2	UDF - Loop - Single Strand Transitional Rate for all wire centers (Effective 3/11/05 thru 9/10/06)						
9.7.4.2.3	Fiber Loop, per Strand / Route	\$62.31			**		
9.7.4.2.4	Termination, Fixed, per Strand / Office	\$4.73			**		
9.7.4.2.5	Termination, Fixed, per Strand / Premise	\$3.83			**		
9.7.4.2.6	Fiber Cross-Connect, per Strand	\$2.50			**		
9.7.5 UDF - per Pair							
9.7.5.1.6	UDF-IOF - Per Pair Transitional Rate 15% Incremental adjustment between non-impaired wire centers, in addition to Monthly Rates (Effective 3/11/05 thru 9/10/06)						
9.7.5.1.6.1	Fiber Transport, per Pair / Mile	\$10.32			*		
9.7.5.1.6.2	Termination, Fixed per Pair / Office / Termination	\$1.17			*		
9.7.5.1.6.3	Fiber Cross-Connect, per Pair / Office	\$0.65			*		
9.7.5.2	UDF - Loop - Per Pair Transitional Rate for all wire centers (Effective 3/11/05 thru 9/10/06)						
9.7.5.2.3	Fiber Loop, per Pair / Route	\$80.99			**		
9.7.5.2.4	Termination, Fixed, per Pair / Office	\$9.45			**		
9.7.5.2.5	Termination, Fixed, per Pair / Premise	\$7.65			**		
9.7.5.2.6	Fiber Cross-Connect, per Pair / Office	\$4.98			**		
9.7.7	UDF MTE Subloop	ICB		ICB	3		3

McLeodUSA Telecommunications Services, Inc.

**TRO and TRRO Exhibit A
 Transition Rates
 Nebraska***

		REC Rates	Non-Recording		
9.11 Local Switching					
9.11.1 Ports					
9.11.1.1	Analog Line Side Port Transitional Rate (REC rates effective 3/11/05 thru 3/10/06)				
9.11.1.1.1	First Port	\$3.47		***	
9.11.1.1.2	Each Additional Port	\$3.47		***	
9.11.1.2 Digital Line Side Port Transitional Rate (Supporting BRI ISDN) (REC rates effective 3/11/05 thru 3/10/06)					
9.11.1.2.1	First Port	\$9.58		***	
9.11.1.2.2	Each Additional Port	\$9.58		***	
9.11.1.3 Digital Trunk Ports					
9.11.1.3.5	PBX / DID Trunk Port, per DS1 Transitional Rate (REC rate effective 3/11/05 thru 3/10/06)	\$4.00		***	
9.11.1.4 DS0 Analog Trunk Port Transitional Rate (REC rates effective 3/11/05 thru 3/10/06)					
9.11.1.4.1	First Port	\$17.06		***	
9.11.1.4.2	Each Additional Port	\$17.06		***	
9.23 UNE Combinations					
9.23.6 UNE Combinations -Loop Mux Combo (LMC)					
9.23.6.4.6	DS1 Transitional Rate 15% Incremental adjustment applies in addition to Monthly Rate for non-impaired wire centers, (effective 3/11/05 thru 3/10/06)				
9.23.6.4.6.1	Zone 1	\$11.23		*	
9.23.6.4.6.2	Zone 2	\$11.79		*	
9.23.6.4.6.3	Zone 3	\$12.54		*	
9.23.6.5	Private Line / Special Access to LMC Conversion (as is)			\$30.87	A
9.23.7 Enhanced Extended Loop (EEL)					
9.23.7.3.6	DS1 Transitional Rate 15% Incremental adjustment applies in addition to Monthly Rate for non-impaired wire centers, (effective 3/11/05 thru 3/10/06)				
9.23.7.3.6.1	Zone 1	\$11.23		*	
9.23.7.3.6.2	Zone 2	\$11.79		*	
9.23.7.3.6.3	Zone 3	\$12.54		*	
9.23.7.4.6	DS3 Transitional Rate 15% Incremental adjustment applies in addition to Monthly Rate for non-impaired wire centers, (effective 3/11/05 thru 3/10/06)				
9.23.7.4.6.1	Zone 1	\$118.68		*	
9.23.7.4.6.2	Zone 2	\$136.85		*	
9.23.7.4.6.3	Zone 3	\$152.58		*	
9.23.7.6	Private Line / Special Access to EEL Conversion (as is)			\$30.87	A
9.23.7.8 EEL Transport					
9.23.7.8.2.5	DS1 Transitional Rate 15% Incremental adjustment between non-impaired wire centers, in addition to Monthly Rates. (Effective 3/11/05 thru 3/10/06)				
9.23.7.8.2.5.1	Over 0 to 8 Miles	\$5.12	\$0.49	*	*
9.23.7.8.2.5.2	Over 8 to 25 Miles	\$5.24	\$0.49	*	*
9.23.7.8.2.5.3	Over 25 to 50 Miles	\$5.52	\$0.28	*	*
9.23.7.8.2.5.4	Over 50 Miles	\$5.32	\$0.12	*	*
9.23.7.8.3.5	DS3 Transitional Rate 15% Incremental adjustment between non-impaired wire centers, in addition to Monthly Rates. (Effective 3/11/05 thru 3/10/06)				
9.23.7.8.3.5.1	Over 0 to 8 Miles	\$32.89	\$8.22	*	*
9.23.7.8.3.5.2	Over 8 to 25 Miles	\$33.40	\$2.60	*	*
9.23.7.8.3.5.3	Over 25 to 50 Miles	\$30.71	\$3.22	*	*
9.23.7.8.3.5.4	Over 50 Miles	\$32.46	\$2.23	*	*

NOTES:

A: Cost Docket C-2516 / PI-49 Effective 6/7/02

* Transitional Rate Increment developed using 15% of the existing rate, per CC Docket Nos. 01-338 & 04-313 Order on Remand (released 2/4/05), effective 3/11/05

McLeodUSA Telecommunications Services, Inc.

**TRO and TRRO Exhibit A
Transition Rates
Nebraska***



** Rate includes 15% increase authorized in CC Docket Nos. 01-338 & 04-313 Order on Remand (released 2/4/05), effective 3/11/05

*** Rate includes \$1.00 per Port increase authorized in CC Docket Nos. 01-338 & 04-313 Order on Remand (released 2/4/05), effective 3/11/05

[1] Rates not addressed in Cost Docket (estimated TELRIC)

[3] ICB, Individually Case Basis pricing

DECLARATION OF DON EBEN

EXHIBIT 3

APPENDIX 3

AMENDMENT TO QPP AGREEMENT

**Omaha Forbearance Order Amendment
to the Qwest Master Services Agreement (MSA) for Qwest Platform Plus™ Service
between
Qwest Corporation
and
McLeodUSA Telecommunications Services, Inc.
for the State of Nebraska**

This is an Amendment ("Amendment") to incorporate the Omaha Forbearance Order ("OFO") into the Qwest Master Services Agreement ("MSA") for Qwest Platform Plus™ ("QPP™") between Qwest Corporation ("Qwest"), a Colorado corporation, and McLeodUSA Telecommunications Services, Inc. ("CLEC"). CLEC and Qwest shall be known jointly as the "Parties".

AGREEMENT

In consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Amendment Terms.

To the extent applicable, the MSA is hereby amended by Service Exhibits 2 and A, attached hereto and incorporated herein by this reference.

II. Limitations.

Nothing in this Amendment shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the OFO, nor rules, regulations, interpretations, and appeals thereof, including but not limited to state rules, regulations, and laws as they may be issued or promulgated regarding the same. Nothing in this Amendment shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of the OFO or concerning whether the OFO should be changed, vacated, dismissed, stayed or modified.

III. Conflicts.

In the event of a conflict between this

Amendment and the terms and conditions of the MSA, this Amendment shall control, provided, however, that the fact that a term or provision appears in this Amendment but not in the MSA shall not be interpreted as, or deemed a grounds for finding, a conflict for purposes of this Section III.

IV. Scope.

This Amendment shall amend, modify and revise the MSA only to the extent that the terms and conditions provided in Attachment 1 are included in the MSA and, except to the extent set forth in Section I and Section II of this Amendment, the terms and provisions of the MSA shall remain in full force and effect after the execution date.

V. Effective Date.

This Amendment shall be deemed effective upon the latest execution date ("execution date") by the parties, however, the Parties agree that the DSO Loops were provisioned from this Amendment effective March 16, 2006.

VI. Further Amendments.

The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

VII. Entire Agreement.

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

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.

**McLeodUSA Telecommunications
Services, Inc.**

Qwest Corporation

Signature

Signature

Name Printed/Typed

L.T. Christensen

Name Printed/Typed

Title

Director- Wholesale Markets

Title

Date

Date

Qwest Platform Plus™ (QPP™) Exhibit A Rate Page - Omaha Forbearance Order

	ISOC	Rate	ISOC	Rate
109.2 Loops Purchased As Part of QPP™ in the following nine Omaha Nebraska Wire Centers: Omaha Douglas, Omaha Izard Street, Omaha 90th Street, Omaha Fort Street, Omaha Fowler Street, Omaha O Street, Omaha 78th Street, Omaha 136th Street, and Omaha 166th Street.				
109.2.1 2-Wire Voice Grade Loops Purchased As Part of QPP™		\$12.14		
109.2.2 Basic Rate ISDN Loop		\$12.14		
109.2.3 4-Wire Voice Grade Loops Purchased As Part of QPP™		\$23.83		

DECLARATION OF DON EBEN

EXHIBIT 3

APPENDIX 4

QWEST COMMERCIAL DS0 AGREEMENT

QWEST MASTER SERVICES AGREEMENT

This Master Services Agreement, together with this signature page, the general terms and conditions, and Service Exhibits attached hereto (collectively the "Agreement") is between **Qwest Corporation ("Qwest")** and **McLeodUSA Telecommunications Services, Inc. ("CLEC")**, (each identified for purposes of this Agreement in the signature blocks below, and referred to separately as a "Party" or collectively as the "Parties"). This Agreement may be executed in counterparts. The undersigned Parties have read and agree to the terms and conditions set forth in the Agreement.

Qwest Corporation:

McLeodUSA Telecommunications Services, Inc.:

By: _____
Name: L. T. Christensen
Title: Director - Wholesale Markets
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

NOTICE INFORMATION: All written notices required under the Agreement shall be sent to the following:

Qwest Corporation
Director - Interconnection Agreements
1801 California Street, 24th Floor
Denver, CO 80202
Phone: 303-965-3029
Fax: 303-896-7077
E-mail: intagree@qwest.com

With copy to:
Qwest Law Department
Attn: Corporate Counsel, Interconnection
1801 California Street, 10th Floor
Denver, CO 80202

CLEC
McLeodUSA Telecommunications Services, Inc
Attention Julia Redman-Carter, Manager Interconnection
6400 C Street SW, Box3177
Cedar Rapids, Iowa 52406
Phone: 319-790-2250
Fax:
E-mail : jredman-carter@mcleodusa.com

APPLICABLE SERVICES:

Qwest agrees to provide and CLEC intends to purchase the Services indicated below pursuant to the terms and conditions of this Agreement, including the following attached Service Exhibits:

 x Exhibit 1 - Qwest Commercial DS0 Loop Facility

APPLICABLE STATES:

Qwest agrees to provide and CLEC intends to purchase Qwest Commercial DS0 Loop Facility in the states indicated below by CLEC's signatory initialing (or an "X") on the applicable blanks:

 X Nebraska

QWEST MASTER SERVICES AGREEMENT

GENERAL TERMS AND CONDITIONS

1. **Definitions.** Capitalized terms used herein are defined in Addendum 1.

2. **Effective Date.** This Agreement shall become effective upon the latest execution date by the Parties. ("Effective Date")

3. **Term.** This Agreement will continue on a month to month basis unless terminated by either Party on ninety (90) calendar days prior written notice.

4. **Scope of Agreement; Service Provisioning; Controlling Documents; Change of Law; Eligibility for Services under this Agreement; Non-Applicability of Change Management Process.**

4.1 The services described in this Agreement will only be provided in Qwest's incumbent LEC service territory in Nebraska.

4.2 Each of the Services shall be provided pursuant to the terms and conditions of this Agreement. In the event of a conflict between the terms of any Service Exhibit attached hereto and these General Terms and Conditions, the Service Exhibit shall control. The terms of this Agreement, including any Annex or Service Exhibit, shall supersede any inconsistent terms and conditions contained in an Order Form. CLEC acknowledges and agrees that the Services shall be offered by Qwest pursuant to this Agreement and are subject to (i) compliance with all applicable laws and regulations; and (ii) obtaining any domestic or foreign approvals and authorizations required or advisable.

4.3 The provisions in this Agreement are intended to be in compliance with and based on the existing state of the law, rules, regulations and interpretations thereof, including but not limited to Federal rules, regulations, and laws, as of the Effective Date ("Existing Rules"). Nothing in this Agreement shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the Existing Rules or an admission by Qwest or CLEC that the Existing Rules should not be changed, vacated, dismissed, stayed or modified. Nothing in this Agreement shall preclude or stop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of the Existing Rules or concerning whether the Existing Rules should be changed, vacated, dismissed, stayed or modified.

4.4 If a change in law, rule, or regulation materially impairs a Party's ability to perform or obtain a benefit under this Agreement, both Parties agree to negotiate in good faith such changes as may be necessary to address such material impairment.

4.5 To receive services under this Agreement, CLEC must be a certified CLEC under applicable state rules. CLEC may not purchase or utilize services covered under this Agreement for its own administrative use or for the use by an Affiliate.

4.6 Except as otherwise provided in this Agreement, the parties agree that services provided under this Agreement are not subject to the Qwest Wholesale Change Management Process ("CMP"), Qwest's Performance Indicators (PID), Performance Assurance Plan (PAP), or any other wholesale service quality standards, liquidated damages, and remedies. Except as otherwise provided, CLEC hereby waives any rights it may have under the PID, PAP and all other wholesale service quality standards, liquidated damages, and remedies with respect to services provided pursuant to this Agreement. CLEC proposed changes to Commercial offerings attributes and process enhancements will be communicated through the standard account interfaces. Change requests common to shared systems and processes subject to CMP will continue to be addressed via the CMP procedures.

5. **CLEC Information.** CLEC agrees to work with Qwest in good faith to promptly complete or update, as applicable, Qwest's "New Customer Questionnaire" to the extent that CLEC has not already done so, and CLEC shall hold Qwest harmless for any damages to or claims from CLEC caused by CLEC's failure to complete or update the questionnaire.

6. **Financial Terms.**

6.1 **Rates and Terms.** Each attached Service Exhibit specifies the description, terms, and conditions specific to the Service. Applicable rates are incorporated into this Agreement by reference. The Parties agree that the referenced rates are just and reasonable.

6.2 **Taxes, Fees, and other Governmental Impositions.** All charges for Services provided herein are exclusive of any federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges ("Tax" or "Taxes"). Taxes resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under Applicable Law, even if the obligation to collect and remit such Taxes is placed upon the other Party. However, where the selling Party is specifically permitted by an Applicable Law to collect such Taxes from the purchasing Party, such Taxes shall be borne by the Party purchasing the services. Each Party is responsible for any tax on its corporate existence, status or income. Taxes shall be billed as a separate item on the invoice in accordance with Applicable Law. The Party billing such Taxes shall, at the written request of the Party billed, provide the billed Party with detailed information regarding billed Taxes, including the applicable Tax jurisdiction, rate, and base upon which the Tax is applied. If either Party ("Contesting Party") contests the application of any Tax collected by the other Party ("Collecting Party"), the Collecting Party shall reasonably cooperate in good faith with the Contesting Party's challenge, provided that the Contesting Party pays any reasonable costs incurred by the Collecting Party. The Contesting Party is entitled to the benefit of any refund or recovery resulting from the contest, provided that the Contesting Party has paid the Tax contested. If the purchasing Party provides the selling Party with a resale or other exemption certificate, the selling Party shall exempt the purchasing Party if the purchasing Party accepts the certificate in good faith. If a Party becomes aware that any Tax is incorrectly or erroneously collected by that Party from the other Party or paid by the other Party to that Party, that Party shall refund the incorrectly or erroneously collected Tax or paid Tax to the other Party.

6.3 Each Party shall be solely responsible for all taxes on its own business, the measure of which is its own net income or net worth, and shall be responsible for any related tax filings, payment, protest, audit and litigation. Each Party shall be solely responsible for the billing, collection and proper remittance of all applicable Taxes relating to its own services provided to its own customers.

7. **Intellectual Property.**

7.1 Except for a license to use any facilities or equipment (including software) solely for the purposes of this Agreement or to receive any service solely (a) as provided in this Agreement or (b) as specifically required by the then-applicable federal rules and regulations relating to service provided under this Agreement, nothing contained within this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, trade name, trademark, service mark, trade secret, or other proprietary interest or intellectual property, now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyright, trade name, trademark, service mark, trade secret, nor other

QWEST MASTER SERVICES AGREEMENT

proprietary interest or intellectual property, now or hereafter owned, controlled or licensable by either Party without execution of a separate written agreement between the Parties. . Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trade or service marks.

7.2 Subject to the general Indemnity provisions of this Agreement, each Party (an Indemnifying Party) shall indemnify and hold the other Party (an Indemnified Party) harmless from and against any loss, cost, expense or liability arising out of a claim that the services provided by the Indemnifying Party provided or used pursuant to the terms of this Agreement misappropriate or otherwise violate the intellectual property rights of any third party. The obligation for indemnification recited in this paragraph shall not extend to infringement which results from (a) any combination of the facilities or services of the Indemnifying Party with facilities or services of any other Person (including the Indemnified Party but excluding the Indemnifying Party and any of its Affiliates), which combination is not made by or at the direction of the Indemnifying Party or is not reasonably necessary to CLEC's use of the services offered by Qwest under this Agreement or (b) any modification made to the facilities or services of the Indemnifying Party by, on behalf of, or at the request of the Indemnified Party and not required by the Indemnifying Party. In the event of any claim, the Indemnifying Party may, at its sole option (a) obtain the right for the Indemnified Party to continue to use the facility or service; or (b) replace or modify the facility or service to make such facility or service non-infringing. If the Indemnifying Party is not reasonably able to obtain the right for continued use or to replace or modify the facility or service as provided in the preceding sentence and either (a) the facility or service is held to be infringing by a court of competent jurisdiction or (b) the Indemnifying Party reasonably believes that the facility or service will be held to infringe, the Indemnifying Party shall notify the Indemnified Party and the Parties shall negotiate in good faith regarding reasonable modifications to this Agreement necessary to (1) mitigate damage or comply with an injunction which may result from such infringement or (2) allow cessation of further infringement. The Indemnifying Party may request that the Indemnified Party take steps to mitigate damages resulting from the infringement or alleged infringement including, but not limited to, accepting modifications to the facilities or services, and such request shall not be unreasonably denied.

7.3 To the extent required under applicable federal and state law, Qwest shall use commercially reasonable efforts to obtain, from its vendors who have licensed intellectual property rights to Qwest in connection with facilities and services provided hereunder, licenses under such intellectual property rights as necessary for CLEC to use such facilities and services as contemplated hereunder and at least in the same manner used by Qwest for the facilities and services provided hereunder. Qwest shall notify CLEC immediately in the event that Qwest believes it has used its commercially reasonable efforts to obtain such rights, but has been unsuccessful in obtaining such rights. Nothing in this subsection shall be construed in any way to condition, limit, or alter a Party's indemnification obligations under Section 7.2, preceding.

7.4 Neither Party shall without the express written permission of the other Party, state or imply that: 1) it is connected, or in any way affiliated with the other or its Affiliates; 2) it is part of a joint business association or any similar arrangement with the other or its Affiliates; 3) the other Party and its Affiliates are in any way sponsoring, endorsing or certifying it and its goods and services; or 4) with respect to its marketing, advertising or promotional activities or materials, the services are in any way associated with or originated from the other Party or any of its Affiliates. Nothing in this paragraph shall prevent either Party from truthfully describing the services it uses to provide service to its End User Customers, provided it does not represent the services as originating from the other Party or its Affiliates or otherwise

attempt to sell its End User Customers using the name of the other Party or its Affiliates.

7.5 Since a breach of the material provisions of this Section 7 may cause irreparable harm for which monetary damages may be inadequate, in addition to other available remedies, the non-breaching Party may seek injunctive relief.

8. Financial Responsibility, Payment and Security.

8.1 Payment Obligation. Amounts payable under this Agreement are due and payable within thirty (30) calendar Days after the date of invoice. If payment due date falls on a weekend day or on a holiday, the payment date shall be the first business day following such Sunday or holiday.

CLEC may request invoices be sent electronically, but invoice date is the same as if the bill were generated on paper, not the date the electronic delivery occurs.

8.2 Cessation of Order Processing. Qwest may discontinue processing orders for services provided pursuant to this Agreement for the failure of CLEC to make full payment for the services, less any good faith disputed amount as provided for in this Agreement, for the services provided under this Agreement within thirty (30) calendar Days following the payment due date provided that Qwest has first notified CLEC in writing at least ten (10) business days prior to discontinuing the processing of orders for all services. If Qwest does not refuse to accept additional orders for the relevant services on the date specified in the ten (10) business days notice, and CLEC's non-compliance continues, nothing contained herein shall preclude Qwest's right to refuse to accept additional orders for the relevant services from CLEC without further notice. For order processing to resume, CLEC will be required to make full payment of all past-due charges for the relevant services not disputed in good faith under this Agreement, and Qwest may require a deposit (or recalculate the deposit) pursuant to Section 8.5. In addition to other remedies that may be available at law or equity, CLEC reserves the right to seek equitable relief including injunctive relief and specific performance.

8.3 Disconnection. Qwest may disconnect any Services provided under this Agreement for failure by CLEC to make full payment for such Services, less any disputed amount as provided for in this Agreement, within sixty (60) calendar Days following the payment due date provided that Qwest has first notified CLEC in writing at least thirty (30) days prior to disconnecting the relevant Services. CLEC will pay the applicable reconnect charge(s) for each End User Customer disconnected pursuant to this paragraph. In case of such disconnection, all applicable undisputed charges, including termination charges, shall become due. If Qwest does not disconnect CLEC's Service(s) on the date specified in the thirty (30) day notice, and CLEC's noncompliance continues, nothing contained herein shall preclude Qwest's right to disconnect any or all relevant Services. Qwest shall provide a subsequent written notice at least two (2) business days prior to disconnecting Service. The disconnection of Services due to CLEC's failure to pay undisputed charges shall not trigger the disconnection of Services for which CLEC has paid all undisputed charges. For reconnection of the non-paid Service to occur, CLEC will be required to make full payment of all past and current undisputed charges under this Agreement for the relevant Services and Qwest may require a deposit (or recalculate the deposit) pursuant to Section 8.5. In addition to other remedies that may be available at law or equity, each Party reserves the right to seek equitable relief, including injunctive relief and specific performance. Notwithstanding the foregoing, Qwest shall not effect a disconnection pursuant to this section in such manner that CLEC may not reasonably comply with Applicable Law concerning End User Customer disconnection and notification, provided that, the foregoing is subject to CLEC's reasonable diligence in effecting such compliance.

QWEST MASTER SERVICES AGREEMENT

8.4 **Billing Disputes.** Should CLEC dispute, in good faith, and withhold payment on any portion of the nonrecurring charges or monthly Billing under this Agreement, CLEC will notify Qwest in writing within fifteen (15) calendar days following the payment due date identifying the amount, reason and rationale of such dispute. At a minimum, CLEC shall pay all undisputed amounts due to Qwest. Both CLEC and Qwest agree to expedite the investigation of any disputed amounts, promptly provide all reasonably requested documentation regarding the amount disputed, and work in good faith in an effort to resolve and settle the dispute through informal means prior to invoking any other rights or remedies.

8.4.1 If CLEC disputes charges and does not pay such charges by the payment due date, such charges may be subject to late payment charges. If the disputed charges have been withheld and the dispute is resolved in favor of Qwest, CLEC shall pay the disputed amount and applicable late payment charges no later than the next Bill Date following the resolution. CLEC may not continue to withhold the disputed amount following the initial resolution while pursuing further dispute resolution. If the disputed charges have been withheld and the dispute is resolved in favor of CLEC, Qwest shall credit CLEC's bill for the amount of the disputed charges and any late payment charges that have been assessed no later than the second Bill Date after the resolution of the dispute.

8.4.2 If CLEC pays the disputed charges and the dispute is resolved in favor of Qwest, no further action is required. If CLEC pays the charges disputed at the time of payment or at any time thereafter pursuant to Section 8.4.3, and the dispute is resolved in favor of CLEC, Qwest shall, no later than the next Bill Date after the resolution of the dispute: (1) credit CLEC's bill for the disputed amount and any associated interest or (2) pay the remaining amount to CLEC, if the disputed amount is greater than the bill to be credited. The interest calculated on the disputed amounts will be the same rate as late payment charges. In no event, however, shall any late payment charges be assessed on any previously assessed late payment charges.

8.4.3 If a CLEC fails to dispute a rate or charge within the time period specified in Section 8.4.1, adjustment will be made on a going-forward basis only, beginning with the date of the dispute.

8.4.4 If a Party fails to bill a charge or discovers an error on a bill it has already provided to the other Party, or if a Party fails to dispute a charge and discovers an error on a bill it has paid after the period set forth in Section 8.4, the Party may dispute the bill at a later time through an informal process notwithstanding the requirements of Section 8.4, but subject to the Dispute Resolution provision of this Agreement, and Applicable Law.

8.5 **Security Deposits.** In the event of a material adverse change in CLEC's financial condition subsequent to the Effective Date of the Agreement, Qwest may request a security deposit. A "material adverse change in financial condition" shall mean CLEC is a new CLEC with no established credit history, or has not established satisfactory credit with Qwest, or is repeatedly delinquent in making its payments, or is being reconnected after a disconnection of service or discontinuance of the processing of orders by Qwest due to a previous failure to pay undisputed charges in a timely manner. Qwest may require a deposit to be held as security for the payment of charges before the orders from CLEC will be provisioned and completed or before reconnection of service. "Repeatedly delinquent" means any payment of a material amount of total monthly billing under the

Agreement received after the payment due date, three (3) or more times during a twelve (12) month period. The INITIAL deposit may not exceed the estimated total monthly charges for an average two (2) month period. The deposit may be a surety bond if allowed by the applicable Commission regulations, a letter of credit with terms and conditions acceptable to Qwest, or some other form of mutually acceptable security such as a cash deposit. The deposit may be adjusted by CLEC's actual monthly average charges, payment history under this agreement, or other relevant factors, but in no event shall the security deposit exceed five million dollars (\$5,000,000.00). Required deposits are due and payable within thirty (30) calendar Days after demand and non-payment shall be subject to 8.2 and 8.3 of this Section.

8.6 **Interest on Deposits.** Any interest earned on cash deposits shall be credited to CLEC in the amount actually earned or at the rate set forth in Section 8.7 below, whichever is lower, except as otherwise required by law, provided that, for elimination of doubt, the Parties agree that such deposits shall not be deemed subject to state laws or regulations relating to consumer or End User Customer cash deposits. Cash deposits and accrued interest, if applicable, will be credited to CLEC's account or refunded, as appropriate, upon the earlier of the expiration of the term of the Agreement or the establishment of satisfactory credit with Qwest, which will generally be one full year of timely payments of undisputed amounts in full by CLEC. Upon a material change in financial standing, CLEC may request and Qwest will consider a recalculation of the deposit. The fact that a deposit has been made does not relieve CLEC from any required **Late Payment Charge**. If any portion of the payment is received by Qwest after the payment due date as set forth above, or if any portion of the payment is received by Qwest in funds that are not immediately available, then a late payment charge shall be due to Qwest. The late payment charge shall be the portion of the payment not received by the payment due date multiplied by a late factor. The late factor shall be the lesser of: (1) The highest interest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment due date to and including the date that the CLEC actually makes the payment to the Company, or (2) 0.000407 per day, compounded daily for the number of days from the payment due date to and including the date that the CLEC actually makes the payment to Qwest.

9.0 **Conversions/Terminations.** If CLEC is obtaining services from Qwest under an arrangement or agreement that includes the application of termination liability assessment ("TLA") or minimum period charges, and if CLEC wishes to convert such services to a service under this Agreement, the conversion of such services will not be delayed due to the applicability of TLA or minimum period charges. The applicability of such charges is governed by the terms of the original agreement, Tariff or arrangement. Nothing herein shall be construed as expanding the rights otherwise granted by this Agreement or by law to elect to make such conversions.

10. **Customer Contacts.** CLEC, or CLEC's authorized agent, shall act as the single point of contact for its End User Customers' service needs, including without limitation, sales, service design, order taking, Provisioning, change orders, training, maintenance, trouble reports, repair, post-sale servicing, Billing, collection and inquiry. CLEC shall inform its End User Customers that they are End User Customers of CLEC. CLEC's End User Customers contacting Qwest will be instructed to contact CLEC, and Qwest's End User Customers contacting CLEC will be instructed to contact Qwest. In responding to calls, neither Party shall make disparaging remarks about each other. To the extent the correct provider can be determined, misdirected calls received by either Party will be referred to the proper provider of Local Exchange Service; however, nothing in this Agreement shall be deemed to prohibit Qwest or CLEC from discussing its products and services with CLEC's or Qwest's End User Customers who call the other Party seeking such information.

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10.1 In the event Qwest terminates the Provisioning of any service to CLEC for any reason, CLEC shall be responsible for providing any and all necessary notice to its End User Customers of the termination. In no case shall Qwest be responsible for providing such notice to CLEC's End User Customers.

11. **Default and Breach** If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other material provision of this Agreement and such default or violation continues for thirty (30) calendar Days after written notice thereof, the other Party may terminate this Agreement and seek relief in accordance with the Dispute Resolution provision, or any remedy under this Agreement.

12. Limitation of Liability.

12.1 To the extent the Agreement or a Service Exhibit contains an express remedy in the form of a quality of service credit or other liquidated damages in connection with services provided by Qwest under this Agreement or for a failure to provide such services, such credit shall be deemed to be CLEC's sole remedy under this Agreement for losses, damages, or other claims related to or connected with the events giving rise to the claim for quality of service credit.

12.2 Neither Party shall be liable to the other for indirect, incidental, consequential, exemplary, punitive, or special damages, including (without limitation) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.

12.3 Nothing contained in this Section shall limit either Party's indemnification and payment obligations specified in this Agreement, nor shall this Section 12 limit a Party's liability for failing to make any payment due under this Agreement.

12.4 The foregoing limitations apply to all causes of actions and claims, including without limitation, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts. In any arbitration under this Agreement, the Arbitrator shall not be able to award, nor shall any party be entitled to receive punitive, incidental, consequential, exemplary, reliance or special damages, including damages for lost profits or any other damages not recoverable under this agreement.

12.5 Nothing contained in this Section shall limit either Party's liability to the other for willful misconduct, provided that, a Party's liability to the other Party pursuant to the foregoing exclusion, other than direct damages, shall be limited to a total cap equal to one hundred per cent (100%) of the annualized run rate of total amounts charged by Qwest to CLEC under the Agreement.

13. Indemnity.

13.1 The Parties agree that unless otherwise specifically set forth in this Agreement the following constitute the sole indemnification obligations between and among the Parties:

13.1.1 Each Party (the Indemnifying Party) agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an Indemnitee) from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, reasonable costs and expenses (including

attorneys' fees), whether suffered, made, instituted, or asserted by any Person or entity, for invasion of privacy, bodily injury or death of any Person or Persons, or for loss, damage to, or destruction of tangible property, whether or not owned by others, resulting from the Indemnifying Party's breach of or failure to perform under this Agreement, regardless of the form of action, whether in contract, warranty, strict liability, or tort including (without limitation) negligence of any kind.

13.1.2 In the case of claims or loss alleged or incurred by an End User Customer of either Party arising out of or in connection with services provided to the End User Customer by the Party, the Party whose End User Customer alleged or incurred such claims or loss (the Indemnifying Party) shall defend and indemnify the other Party and each of its officers, directors, employees and agents (collectively the Indemnified Party) against any and all such claims or loss by the Indemnifying Party's End User Customers regardless of whether the underlying service was provided by the Indemnified Party, unless the loss was caused by the gross negligence or willful misconduct of the Indemnified Party. The obligation to indemnify with respect to claims of the Indemnifying Party's End User Customers shall not extend to any claims for physical bodily injury or death of any Person or persons, or for loss, damage to, or destruction of tangible property, whether or not owned by others, alleged to have resulted directly from the negligence or intentional conduct of the employees, contractors, agents, or other representatives of the Indemnified Party.

13.2 The indemnification provided herein shall be conditioned upon:

13.2.1 The Indemnified Party shall promptly notify the Indemnifying Party of any action taken against the Indemnified Party relating to the indemnification. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.

13.2.2 If the Indemnifying Party wishes to defend against such action, it shall give written notice to the Indemnified Party of acceptance of the defense of such action. In such event, the Indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the Indemnified Party may engage separate legal counsel only at its sole cost and expense. In the event that the Indemnifying Party does not accept the defense of the action, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party. Each Party agrees to cooperate with the other Party in the defense of any such action and the relevant records of each Party shall be available to the other Party with respect to any such defense.

13.2.3 In no event shall the Indemnifying Party settle or consent to any judgment for relief other than monetary damages pertaining to any such action without the prior written consent of the Indemnified Party. In the event the Indemnified Party withholds consent the Indemnified Party may, at its cost, take over such defense, provided that, in such event, the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the relevant Indemnified Party against, any cost or liability in excess of such refused compromise or settlement.

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14. Limited Warranties.

14.1 Each party shall provide suitably qualified personnel to perform this Agreement and all services hereunder in a good and workmanlike manner and in material conformance with all applicable laws and regulations.

14.2 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, QWEST SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY SERVICE PROVIDED HEREUNDER. QWEST SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

15. Relationship. Except to the limited extent expressly provided in this Agreement: (i) neither Party shall have the authority to bind the other by contract or otherwise or make any representations or guarantees on behalf of the other or otherwise act on the other's behalf; and (ii) the relationship arising from this Agreement does not constitute an agency, joint venture, partnership, employee relationship, or franchise.

16. Assignment or Sale.

16.1 CLEC may not assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of Qwest. Notwithstanding the foregoing, CLEC may assign or transfer this Agreement to a corporate Affiliate or an entity under its control or to a purchaser of substantially all or substantially all of CLEC's assets related to the provisioning of local services in the Qwest region without the consent of Qwest, provided that the performance of this Agreement by any such assignee is guaranteed by the assignor. A Party making an assignment or transfer permitted by this Section shall provide prior written notice to the other Party. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

16.2 In the event that Qwest transfers to any unaffiliated party exchanges including End User Customers that CLEC serves in whole or in part through facilities or services provided by Qwest under this Agreement, Qwest shall ensure that the transferee shall serve as a successor to and fully perform all of Qwest's responsibilities and obligations under this Agreement for a period of one-hundred-and-eighty (180) days from the effective date of such transfer or until such later time as the FCC may direct pursuant to the FCC's then applicable statutory authority to impose such responsibilities either as a condition of the transfer or under such other state statutory authority as may give it such power. In the event of such a proposed transfer, Qwest shall use best efforts to facilitate discussions between CLEC and the transferee with respect to transferee's assumption of Qwest's obligations after the above-stated transition period pursuant to the terms of this Agreement.

17. Reporting Requirements. If reporting obligations or requirements are imposed upon either Party by any third party or regulatory agency in connection with either this Agreement or the services, including use of the services by CLEC or its End Users, the other Party agrees to assist that Party in complying with such obligations and requirements, as reasonably required by that Party.

18. Reserved for future use.

19. Survival. The expiration or termination of this Agreement shall not relieve either Party of those obligations that by their nature are intended to survive.

20. Publicity. Following the execution of this Agreement, the Parties may publish or use any publicity materials with respect to the execution, delivery, existence, or substance of this Agreement without the prior written approval of the other Party. Nothing in this section shall limit a Party's ability to issue public statements with respect to regulatory or judicial proceedings.

21. Confidentiality.

21.1 All Proprietary Information shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information. Each Party shall have the right to correct an inadvertent failure to identify information as Proprietary Information by giving written notification within thirty (30) Days after the information is disclosed. The receiving Party shall from that time forward, treat such information as Proprietary Information.

21.2 Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.

21.3 Each Party shall keep all of the other Party's Proprietary Information confidential and will disclose it on a need to know basis only. Each Party shall use the other Party's Proprietary Information only in connection with this Agreement and in accordance with Applicable Law. In accordance with Section 222 of the Act, when either Party receives or obtains Proprietary Information from the other Party for purposes of providing any Telecommunications Services or information services or both, that Party shall use such information only for such purpose, and shall not use such information for its own marketing efforts. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing. Violations of these obligations shall subject a Party's employees to disciplinary action up to and including termination of employment. If either Party loses, or makes an unauthorized disclosure of, the other Party's Proprietary Information, it will notify such other Party immediately and use reasonable efforts to retrieve the information.

21.4 Nothing herein is intended to prohibit a Party from supplying factual information about its network and Telecommunications and Information Services on or connected to its network to regulatory agencies including the FCC and the appropriate state regulatory commission so long as any confidential obligation is protected. In addition either Party shall have the right to disclose Proprietary Information to any mediator, arbitrator, state or federal regulatory body, the Department of Justice or any court in the conduct of any proceeding arising under or relating in any way to this Agreement or the conduct of either Party in connection with this Agreement. The Parties agree to cooperate with each other in order to seek appropriate protection or treatment of such Proprietary Information pursuant to an appropriate protective order in any such proceeding.

21.5 Effective Date of this Section. Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the Effective Date.

21.6 Each Party agrees that the disclosing Party could be irreparably injured by a breach of the confidentiality obligations of this Agreement by the receiving Party or its representatives and that the

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disclosing Party shall be entitled to seek equitable relief, including injunctive relief and specific performance in the event of any breach of the confidentiality provisions of this Agreement. Such remedies shall not be deemed to be the exclusive remedies for a breach of the confidentiality provisions of this Agreement, but shall be in addition to all other remedies available at law or in equity.

21.7 Nothing herein should be construed as limiting either Party's rights with respect to its own Proprietary Information or its obligations with respect to the other Party's Proprietary Information under Section 222 of the Act.

21.8 Nothing in this Agreement shall prevent either Party from disclosing this Agreement or the substance thereof to any third party after its execution.

22. **Waiver.** The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

23. **Regulatory Approval.** Each party reserves its rights with respect to whether this Agreement is subject to Sections 251 and 252 of the Act. In the event the FCC, a state commission or any other governmental authority or agency rejects or modifies any material provision in this Agreement, either Party may immediately upon written notice to the other Party terminate this Agreement and any interconnection agreement amendment executed concurrently with this Agreement. If a Party is required by a lawful, binding order to file this Agreement or a provision thereof with the FCC or state regulatory authorities for approval or regulatory review, the filing party shall provide written notice to the other party of the existence of such lawful, binding order so that the other party may seek an injunction or other relief from such order. In addition, the filing party agrees to reasonably cooperate to amend and make modifications to the Agreement to allow the filing of the Agreement or the specific part of the Agreement affected by the order to the extent reasonably necessary.

24. **Notices.** Any notices required by or concerning this Agreement shall be in writing and shall be sufficiently given if delivered personally, delivered by prepaid overnight express service, sent by facsimile with electronic confirmation, or sent by certified mail, return receipt requested, or by email where specified in this Agreement to Qwest and CLEC at the addresses shown on the cover sheet of this Agreement.

25. **Force Majeure.** Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, power blackouts, volcanic action, other major environmental disturbances, or unusually severe weather conditions (collectively, a Force Majeure Event). Inability to secure products or services of other Persons or transportation facilities or acts or omissions of transportation carriers shall be considered Force Majeure Events to the extent any delay or failure in performance caused by these circumstances is beyond the Party's control and without that Party's fault or negligence. The Party affected by a Force Majeure Event shall give prompt notice to the other Party, shall be excused from performance of its obligations hereunder on a day to day basis to the extent those obligations are prevented by the Force Majeure Event, and shall use reasonable efforts to remove or mitigate the Force Majeure Event. In the event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

26. **Governing Law.** This Agreement will be governed by, enforced and construed in accordance with the laws of the State of Colorado, excluding choice of law provisions, except to the extent that the Act or the telecommunications regulatory law of another jurisdiction applies to this Agreement.

27. **Dispute Resolution.**

27.1 If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents should arise, and the Parties do not resolve it in the ordinary course of their dealings ("Dispute"), then it shall be resolved in accordance with this Section. Each notice of default, unless cured within the applicable cure period, shall be resolved in accordance herewith. Dispute resolution under the procedures provided in this Section shall be the preferred, but not the exclusive remedy for all disputes between Qwest and CLEC arising out of this Agreement or its breach. Each Party reserves its rights to resort to any forum with competent jurisdiction, provided however that each Party, to the extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a trial by jury. Nothing in this Section shall limit the right of either Qwest or CLEC, upon meeting the requisite showing, to obtain provisional remedies (including injunctive relief) from a court before, during or after the pendency of any arbitration proceeding brought pursuant to this Section. Once a decision is reached by the arbitrator, however, such decision shall supersede any provisional remedy.

27.2 At the written request of either Party (the Resolution Request), and prior to any other formal dispute resolution proceedings, each Party shall within seven (7) calendar Days after such Resolution Request designate a director level employee or a representative with authority to make commitments to review, meet, and negotiate, in good faith, to resolve the Dispute. The Parties intend that these negotiations be conducted by non-lawyer, business representatives, and the locations, format, frequency, duration, and conclusions of these discussions shall be at the discretion of the representatives. By mutual agreement, the representatives may use other procedures, such as mediation, to assist in these negotiations. The discussions and correspondence among the representatives for the purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, and shall be exempt from discovery and production, and shall not be admissible in any subsequent arbitration or other proceedings without the concurrence of both of the Parties.

27.3 If the director level representatives or the designated representative with authority to make commitments have not reached a resolution of the Dispute within fifteen (15) calendar Days after the Resolution Request (or such longer period as agreed to in writing by the Parties), then the Parties shall in good faith attempt to resolve the Dispute through vice-presidential representatives. If the vice-presidential representatives are unable to resolve the Dispute within thirty (30) Calendar Days after the Resolution Request (or such longer period as agreed to in writing by the Parties), then either Party may request that the Dispute be settled by arbitration. If either Party requests arbitration, the other Party shall be required to comply with that request and both Parties shall submit to binding arbitration of the Dispute as described in this Section. Notwithstanding the foregoing escalation timeframes, a Party may request that the Dispute of the type described in Section 27.3.1, below, be settled by arbitration two (2) calendar Days after the Resolution Request pursuant to the terms of Section 27.3.1. In any case, the arbitration proceeding shall be conducted by a single arbitrator, knowledgeable about the Telecommunications industry, unless the Dispute involves amounts exceeding five million (\$5,000,000) in which case the proceeding shall be conducted by a panel of three (3) arbitrators, knowledgeable about the Telecommunications industry. The arbitration proceedings shall be conducted under the then-current rules for commercial disputes of the American Arbitration Association (AAA) or J.A.M.S./Endispute, at the election of the Party that initiates dispute resolution. Such rules and

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procedures shall apply notwithstanding any part of such rules that may limit their availability for resolution of a Dispute. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the Dispute. The arbitrator shall not have authority to award punitive damages. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Denver, Colorado metropolitan area or in another mutually agreeable location. It is acknowledged that the Parties, by mutual, written agreement, may change any of these arbitration practices for a particular, some, or all Dispute(s).

27.3.1 All expedited procedures prescribed by the AAA or J.A.M.S./Endispute rules, as the case may be, shall apply to Disputes affecting the ability of a Party to provide uninterrupted, high quality services to its End User Customers, or as otherwise called for in this Agreement. A Party may seek expedited resolution of a Dispute if the vice-presidential level representative, or other representative with authority to make commitments, have not reached a resolution of the Dispute within two (2) calendar Days after the Resolution Request. In the event the Parties do not agree that a service-affecting Dispute exists, the Dispute resolution shall commence under the expedited process set forth in this Section 27, however, the first matter to be addressed by the arbitrator shall be the applicability of such process to such Dispute.

27.3.2 There shall be no discovery except for the exchange of documents deemed necessary by the arbitrator to an understanding and determination of the Dispute. Qwest and CLEC shall attempt, in good faith, to agree on a plan for such document discovery. Should they fail to agree, either Qwest or CLEC may request a joint meeting or conference call with the arbitrator. The arbitrator shall resolve any Disputes between Qwest and CLEC, and such resolution with respect to the need, scope, manner, and timing of discovery shall be final and binding.

27.3.3 Arbitrator's Decision

27.3.3.1 The arbitrator's decision and award shall be in writing and shall state concisely the reasons for the award, including the arbitrator's findings of fact and conclusions of law.

27.3.3.2 An interlocutory decision and award of the arbitrator granting or denying an application for preliminary injunctive relief may be challenged in a forum of competent jurisdiction immediately, but no later than ten (10) business days after the appellant's receipt of the decision challenged. During the pendency of any such challenge, any injunction ordered by the arbitrator shall remain in effect, but the enjoined Party may make an application to the arbitrator for appropriate security for the payment of such costs and damages as may be incurred or suffered by it if it is found to have been wrongfully enjoined, if such security has not previously been ordered. If the authority of competent jurisdiction determines that it will review a decision granting or denying an application for preliminary injunctive relief, such review shall be conducted on an expedited basis.

27.3.4 To the extent that any information or materials disclosed in the course of an arbitration proceeding contain

proprietary, trade secret or Confidential Information of either Party, it shall be safeguarded in accordance with Section 21 of this Agreement, or if the Parties mutually agree, such other appropriate agreement for the protection of proprietary, trade secret or Confidential Information that the Parties negotiate. However, nothing in such negotiated agreement shall be construed to prevent either Party from disclosing the other Party's information to the arbitrator in connection with or in anticipation of an arbitration proceeding, provided, however, that the Party seeking to disclose the information shall first provide fifteen (15) calendar Days notice to the disclosing Party so that that Party, with the cooperation of the other Party, may seek a protective order from the arbitrator. Except as the Parties otherwise agree, or as the arbitrator for good cause orders, the arbitration proceedings, including hearings, briefs, orders, pleadings and discovery shall not be deemed confidential and may be disclosed at the discretion of either Party, unless it is subject to being safeguarded as proprietary, trade secret or Confidential Information, in which event the procedures for disclosure of such information shall apply.

27.4 No Dispute, regardless of the form of action, arising out of this Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

27.5 In the event of a conflict between this Agreement and the rules prescribed by the AAA or J.A.M.S./Endispute, this Agreement shall be controlling.

27.6 This Section does not apply to any claim, controversy or Dispute between the Parties, their agents, employees, officers, directors or affiliated agents concerning the misappropriation or use of intellectual property rights of a Party, including, but not limited to, the use of the trademark, tradename, trade dress or service mark of a Party.

28. **Headings.** The headings used in this Agreement are for convenience only and do not in any way limit or otherwise affect the meaning of any terms of this Agreement.

29. **Authorization.** Each Party represents and warrants that: (i) the full legal name of the legal entity intended to provide and receive the benefits and services under this Agreement is accurately set forth herein; (ii) the person signing this Agreement has been duly authorized to execute this Agreement on that Party's behalf; and (iii) the execution hereof is not in conflict with law, the terms of any charter, bylaw, articles of association, or any agreement to which such Party is bound or affected. Each Party may act in reliance upon any instruction, instrument, or signature reasonably believed by it to be authorized and genuine.

30. **Third Party Beneficiaries.** This Agreement will not provide any benefit or any remedy, claim, liability, reimbursement, claim of action, or other right in excess of those existing by explicit reference in this Agreement to any third party (including, without limitation, CLEC's Affiliates and End-Users.).

31. **Insurance.** Each Party shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain the insurance coverage listed below with insurers having a "Best's" rating of B+XIII with respect to liability arising from its operations for which that Party has assumed legal responsibility in this Agreement. If a Party or its parent company has assets equal to or exceeding \$10,000,000,000, that Party may utilize an Affiliate captive insurance company in lieu of a "Best's" rated insurer. To the extent that the parent company of a Party is relied upon to meet the \$10,000,000,000 asset threshold, such parent shall be responsible for the insurance

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obligations contained in this Section 31, to the extent its affiliated Party fails to meet such obligations.

31.1.1 Workers' Compensation with statutory limits as required in the state of operation and Employers' Liability insurance with limits of not less than \$100,000 each accident.

31.1.2 Commercial General Liability insurance covering claims for bodily injury, death, personal injury or property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), products and/or completed operations and contractual liability with respect to the liability assumed by each Party hereunder. The limits of insurance shall not be less than \$1,000,000 each occurrence and \$2,000,000 general aggregate limit.

31.1.3 "All Risk" Property coverage on a full replacement cost basis insuring all of such Party's personal property situated on or within the Premises.

31.2 Each Party may be asked by the other to provide certificate(s) of insurance evidencing coverage, and thereafter shall provide such certificate(s) upon request. Such certificates shall (1) name the other Party as an additional insured under commercial general liability coverage; (2) provide thirty (30) calendar Days prior written notice of cancellation of, material change or exclusions in the policy(s) to which certificate(s) relate; (3) indicate that coverage is primary and not excess of, or contributory with, any other valid and collectible insurance purchased by such Party; and (4) acknowledge severability of interest/cross liability coverage.

32. Communications Assistance Law Enforcement Act of 1994. Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA. Each Party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

33. Entire Agreement. This Agreement (including all Service Exhibits, Attachments, and Rate Sheets, if any, and other documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of this Agreement and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, including but not limited to, any term sheet or memorandum of understanding entered into by the Parties, to the extent they relate in any way to the subjects of this Agreement. Notwithstanding the foregoing, certain services used in combination with the Service provided under this Agreement may be provided by Qwest to CLEC under the terms and conditions of ICAs and SGATs, where CLEC has opted into an SGAT as its ICA, and nothing contained herein is intended by the parties to amend, alter, or otherwise modify those terms and conditions.

34. Proof of Authorization.

34.1 Each Party shall be responsible for obtaining and maintaining Proof of Authorization (POA), as required by applicable federal and state law, as amended from time to time.

34.2 Each Party shall make POAs available to the other Party upon request. In the event of an allegation of an unauthorized change or unauthorized service in accordance with all Applicable Laws and

rules, the Party charged with the alleged infraction shall be responsible for resolving such claim, and it shall indemnify and hold harmless the other Party for any losses, damages, penalties, or other claims in connection with the alleged unauthorized change or service.

35. General Terms

35.1 Qwest shall provide general repair and maintenance services on its facilities, including those facilities supporting Services purchased by CLEC under this Agreement, at a level that is consistent with other comparable services provided by Qwest.

35.2 In order to maintain and modernize the network properly, Qwest may make necessary modifications and changes to its network on an as needed basis. Such changes may result in minor changes to transmission parameters. Network maintenance and modernization activities will result in transmission parameters that are within transmission limits of the service ordered by CLEC.

35.3 Miscellaneous Charges are defined in the Definitions Section. Miscellaneous Charges are in addition to nonrecurring and recurring charges. Miscellaneous Charges apply to activities CLEC requests Qwest perform, activities CLEC authorizes, or charges that are a result of CLEC's actions, such as cancellation charges.

35.4 Network Security.

35.4.1 Protection of Service and Property. Each Party shall exercise the same degree of care to prevent harm or damage to the other Party and any third parties, its employees, agents or End User Customers, or their property as it employs to protect its own personnel, End User Customers and property, etc., but in no case less than a commercially reasonable degree of care.

35.4.2 Each Party is responsible to provide security and privacy of communications. This entails protecting the confidential nature of Telecommunications transmissions between End User Customers during technician work operations and at all times. Specifically, no employee, agent or representative shall monitor any circuits except as required to repair or provide service of any End User Customer at any time. Nor shall an employee, agent or representative disclose the nature of overheard conversations, or who participated in such communications or even that such communication has taken place. Violation of such security may entail state and federal criminal penalties, as well as civil penalties. CLEC is responsible for covering its employees on such security requirements and penalties.

35.4.3 The Parties' networks are part of the national security network, and as such, are protected by federal law. Deliberate sabotage or disablement of any portion of the underlying equipment used to provide the network is a violation of federal statutes with severe penalties, especially in times of national emergency or state of war. The Parties are responsible for covering their employees on such security requirements and penalties.

35.4.4 Qwest shall not be liable for any losses, damages or other claims, including, but not limited to, uncollectible or unbillable revenues, resulting from accidental, erroneous, malicious, fraudulent or otherwise unauthorized use of services or facilities ("Unauthorized Use"), whether or not such Unauthorized Use could have been reasonably prevented by Qwest, except to the extent Qwest has been notified in advance by CLEC of the existence of such Unauthorized Use, and fails to take commercially reasonable steps to assist in stopping or preventing such activity.

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36. Responsibility for Environmental Contamination

36.1 Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any Environmental Hazard that either Party did not introduce to the affected work location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard that the Indemnifying Party, its contractors or agents introduce to the work locations or (ii) the presence or release of any Environmental Hazard for which the Indemnifying Party is responsible under Applicable Law..

36.2 In the event any suspect materials within Qwest-owned, operated or leased facilities are identified to CLEC by Qwest to be asbestos containing, CLEC will ensure that to the extent any activities which it undertakes in the facility disturb such suspect materials, such CLEC activities will be in accordance with applicable local, state and federal environmental and health and safety statutes and regulations. Except for abatement activities undertaken by CLEC or equipment placement activities that result in the generation of asbestos-containing material, CLEC does not have any responsibility for managing, nor is it the owner of, nor does it have any liability for, or in connection with, any asbestos-containing material. Qwest agrees to immediately notify CLEC if Qwest undertakes any asbestos control or asbestos abatement activities that potentially could affect CLEC personnel, equipment or operations, including, but not limited to, contamination of equipment.

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ADDENDUM 1 DEFINITIONS:

"Act" means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended.

"Affiliate" means a Person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"Applicable Law" means all laws, statutes, common law including, but not limited to, the Act, the regulations, rules, and final orders of the FCC, a state regulatory authority, and any final orders and decisions of a court of competent jurisdiction reviewing the regulations, rules, or orders of the FCC or a state regulatory authority.

"Bill Date" means the date on which a Billing period ends, as identified on the bill.

"Billing" involves the provision of appropriate usage data by one Carrier to another to facilitate Customer Billing with attendant acknowledgments and status reports. It also involves the exchange of information between Carriers to process claims and adjustments.

"Carrier" or "Common Carrier" See Telecommunications Carrier.

"Communications Assistance for Law Enforcement Act" or "CALEA" refers to the duties and obligations of Carriers under Section 229 of the Act.

"Confidential Information" means information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with business or marketing plans, End User Customer specific, facility specific, or usage specific information, other than End User Customer information communicated for the purpose of providing Directory Assistance or publication of directory database, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) calendar Days after delivery, to be "Confidential" or "Proprietary". Confidential information does not include information that: a) was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party; b) is or becomes publicly known through no wrongful act of the receiving Party; c) is rightfully received from a third Person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; d) is independently developed without reference to or use of Confidential Information of the other Party; e) is disclosed to a third Person by the disclosing Party without similar restrictions on such third Person's rights; f) is approved for release by written authorization of the disclosing Party; g) is required to be disclosed by the receiving Party pursuant to Applicable Law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.

"Customer" means the Person purchasing a Telecommunications Service or an Information service or both from a Carrier.

"Day" means calendar days unless otherwise specified.

"End User Customer" means a third party retail Customer that subscribes to a Telecommunications Service and/or Information Service provided by either of the Parties or by another Carrier or by two (2) or more Carriers.

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"Environmental Hazard" means any substance the presence, use, transport, abandonment or disposal of which (i) requires investigation, remediation, compensation, fine or penalty under any Applicable Law (including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act, Superfund Amendment and Reauthorization Act, Resource Conservation Recovery Act, the Occupational Safety and Health Act and provisions with similar purposes in applicable foreign, state and local jurisdictions) or (ii) poses risks to human health, safety or the environment (including, without limitation, indoor, outdoor or orbital space environments) and is regulated under any Applicable Law.

"FCC" means the Federal Communications Commission.

"Information Service" is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"Local Exchange Carrier" or "LEC" means any Carrier that is engaged in the provision of telephone Exchange Service or Exchange Access. Such term does not include a Carrier insofar as such Carrier is engaged in the provision of Commercial Mobile Radio Service under Section 332(c) of the Act, except to the extent that the FCC finds that such service should be included in the definition of such term.

"Miscellaneous Charges" mean cost-based charges that Qwest may assess in addition to recurring and nonrecurring rates set forth in the rate sheet, for activities CLEC requests Qwest to perform, activities CLEC authorizes, or charges that are a result of CLEC's actions, such as cancellation charges, additional labor and maintenance. Miscellaneous Charges are not already included in Qwest's recurring or nonrecurring rates. Miscellaneous Charges shall be contained in or referenced in the rate sheet.

"Non-common carrier" is a carrier whose practice is to make individualized decisions, in particular cases, whether and on what terms to deal, and who is under no compulsion to offer its services indifferently.

"Operational Support Systems" or "OSS" mean pre-ordering, provisioning, maintenance, repair and billing systems.

"Order Form" means service order request forms issued by Qwest, as amended from time to time.

"Party" means either Qwest or CLEC and "Parties" means Qwest and CLEC.

"Person" is a general term meaning an individual or association, corporation, firm, joint-stock company, organization, partnership, trust or any other form or kind of entity.

"Premises" refers to Qwest's Central Offices and Serving Wire Centers; all buildings or similar structures owned, leased, or otherwise controlled by Qwest that house its network facilities; all structures that house Qwest facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures; and all land owned, leased, or otherwise controlled by Qwest that is adjacent to these Central Offices, Wire Centers, buildings and structures.

"Proof of Authorization" or "POA" shall consist of verification of the End User Customer's selection and authorization adequate to document the End User Customer's selection of its local service provider and may take the form of a third party verification format.

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"Proprietary Information" shall have the same meaning as Confidential Information.

"Provisioning" involves the exchange of information between Carriers where one executes a request for a set of products and services from the other with attendant acknowledgments and status reports.

"Public Switched Network" includes all Switches and transmission facilities, whether by wire or radio, provided by any Common Carrier including LECs, IXCs and CMRS providers that use the North American Numbering Plan in connection with the provision of switched services.

"Service" means the Qwest services provided to CLEC pursuant to any Service Exhibit attached hereto.

"Service Exhibits" means the descriptions, terms, and conditions relating to specific services provided under this Agreement attached hereto as an exhibit.

"Serving Wire Center" denotes the Wire Center from which dial tone for local exchange service would normally be provided to a particular Customer premises.

"Switch" means a switching device employed by a Carrier within the Public Switched Network. Switch includes but is not limited to End Office Switches, Tandem Switches, Access Tandem Switches, Remote Switching Modules, and Packet Switches. Switches may be employed as a combination of End Office/Tandem Switches.

"Tariff" as used throughout this Agreement refers to Qwest interstate Tariffs and state Tariffs, price lists, and price schedules.

"Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a Common Carrier under the Act only to the extent that it is engaged in providing Telecommunications Services, except that the FCC shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"Telecommunications Services" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

"Telephone Exchange Service" means a service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to End User Customers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or comparable service provided through a system of Switches, transmission equipment or other facilities (or combinations thereof) by which a subscriber can originate and terminate a Telecommunications Service.

"Title I" refers to Title I of the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*

"Wire Center" denotes a building or space within a building that serves as an aggregation point on a given Carrier's network, where transmission facilities are connected or switched. Wire Center can also denote a building where one or more Central Offices, used for the provision of basic exchange telecommunications services and access services, are located.

Terms not otherwise defined here but defined in the Act and the orders and the rules implementing the Act or elsewhere in the Agreement, shall have the meaning defined there. The definition of terms that are included here and are also defined in the Act, or its implementing orders or rules, are intended to include the definition as set forth in the Act and the rules implementing the Act.

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Qwest MSA

**Qwest Commercial DS0 Loop Facility MSA
SERVICE EXHIBIT 1**

WHEREAS both CLEC and Qwest acknowledge the FCC's Memorandum Opinion and Order (FCC 05-170), effective September 16, 2005, which terminated Qwest's obligation in certain Omaha Nebraska Wire Centers to provide Loop elements under the Communications Act (the "Act"); and

WHEREAS the DS0 Capable Loop element was previously and ubiquitously provided pursuant to the rates, terms and conditions of CLEC's Interconnection Agreement (ICA), and

WHEREAS CLEC desires to install new and/or retain existing DS0 Loop Facility services purchased under the terms, conditions, and rates of this Master Services Agreement (MSA), and

WHEREAS Qwest elects to continue offering DS0 Loop Facilities, including the Loop element, technically and functionally equivalent to the DS0 Unbundled Loop services that were previously available in these certain Wire Centers, and

WHEREAS Qwest and CLEC agree that all terms, conditions, and rates of this MSA and Exhibits continue to govern purchases of DS0 Loop Facilities except as identified and/or excepted herein,

Now, therefore, in consideration of the terms and conditions contained herein, CLEC and Qwest hereby mutually agree as follows:

- 1.0 Qwest shall provide DS0 Loop Facility offerings according to the following terms and conditions. CLEC may use DS0 Loop Facilities to provide DS0 telecommunications services, information services, or both. The parties will comply with CFR 47 Section 51.319(a)(2) and 51.319(a)(3) where Qwest offers local service via Hybrid loops and Fiber-to-the-Home and Fiber-to-the-Curb loops, respectively.

1.1 General DS0 Loop Facility Description

The DS0 Loop Facility is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC Central Office and the Loop Demarcation Point at an End User premises. The DS0 Loop Facility includes all features, functions, and capabilities of such transmission facility. Those features, functions, and capabilities include, but are not limited to, attached electronics (except those electronics used for the provision of Advanced Services, such as Digital Subscriber Line Access Multiplexers), and line conditioning. Qwest will provision Commercial DS0 Loop Facilities using the specifications in the Technical Publication 77384. Refer to that document for more information.

1.1.1 "Loop Demarcation Point" – is defined for purposes of this section as the point where Qwest owned or controlled facilities cease, and CLEC, End User, owner or landlord ownership of facilities begins.

1.2 Terms and Conditions

1.2.1 Qwest shall provide CLEC, on a non-discriminatory basis, DS0 Loop Facilities, (separate from local switching and transport) of substantially the same quality as the Loop that Qwest uses to provide service to its own End Users. For DS0 Loop Facilities that have a retail analog, Qwest will provide these DS0 Loop Facilities in substantially the same time and manner as Qwest provides to its own End Users. DS0 Loop Facilities shall be provisioned in accordance with the Commercial Standard Interval Guide.

1.2.1.1 Use of the word "capable" to describe

Loop Facilities in Section 1 means that Qwest assures that the Loop meets the technical standards associated with the specified Network Channel/Network Channel Interface codes, as contained in the relevant technical publications and industry standards.

1.2.1.2 Use of the word "compatible" to describe Loop Facilities in Section 1 means the Loop Facility complies with technical parameters of the specified Network Channel/Network Channel Interface codes as specified in the relevant technical publications and industry standards. Qwest makes no assumptions as to the capabilities of CLEC's Central Office equipment or the Customer Premises Equipment.

1.2.2 Analog (Voice Grade) DS0 Loop Facilities. Analog (voice grade) DS0 Loop Facilities are available as a two-wire or four-wire voice grade, point-to-point configuration suitable for local exchange type services. For the two-wire configuration, CLEC must specify the signaling option. The actual Loop facilities may utilize various technologies or combinations of technologies.

1.2.2.1 If Qwest uses Integrated Digital Loop Carrier (IDLC) systems to provide the Loop Facility, Qwest will first attempt, to the extent possible, to make alternate arrangements such as Line and Station Transfers (LST), to permit CLEC to obtain a contiguous copper DS0 Loop Facility. If a LST is not available, Qwest may also seek alternatives such as Integrated Network Access (INA), hair pinning, or placement of a Central Office terminal, to permit CLEC to obtain a DS0 Loop Facility. If no such facilities are available, Qwest will make every feasible effort to remove the IDLC in order to provide the DS0 Loop Facility for CLEC.

1.2.2.1.1 In areas where Qwest has deployed amounts of IDLC that are sufficient to cause reasonable concern about a CLEC's ability to provide service through available copper facilities on a broad scale, CLEC shall have the ability to gain access to Qwest information sufficient to provide CLEC with a reasonably complete identification of such available copper facilities. Qwest shall be entitled to mediate access in a manner reasonably related to the need to protect confidential or Proprietary Information. CLEC shall be responsible for Qwest's incremental costs to provide such information or access mediation.

1.2.3 Digital Capable DS0 Loop Facilities – Basic Rate (BRI) ISDN Capable Loop Facilities, 2/4 Wire Non-Loaded Loop Facilities, ADSL Compatible Loop Facilities and xDSL-I Capable Loop Facilities. Digital Capable DS0 Loop Facilities are transmission paths capable of carrying specifically formatted and line coded digital signals. DS0 Digital Loop Facilities may be provided using a variety of transmission technologies including, but not limited to, metallic wire, metallic wire based digital Loop carrier, and fiber optic fed digital carrier systems. Qwest will provision Digital Capable

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DS0 Loop facilities in a non-discriminatory manner, using the same facilities assignment processes that Qwest uses for itself. Digital Capable Loop Facilities may use a single or multiple transmission technologies. DC continuity does not apply to Digital Capable Loop Facilities. If conditioning (Cable Unloading and Bridged Tap Removal) is required, then CLEC shall be charged for such conditioning as set forth in Exhibit A if it authorized Qwest to perform such conditioning.

1.2.3.1 If CLEC orders a 2/4 wire non-loaded or ADSL compatible DS0 Loop Facility for a Customer served by a digital Loop carrier system Qwest will conduct an assignment process which considers the potential for a LST or alternative copper facility. If no copper facility capable of supporting the requested service is available, then Qwest will reject the order.

1.2.4 Non-Loaded Loops. CLEC may request that Qwest provide a non-loaded DS0 Loop Facility. In the event that no such facilities are available, CLEC may request that Qwest condition existing spare facilities. CLEC may indicate on the LSR that it pre-approves conditioning if conditioning is necessary. If CLEC has not pre-approved conditioning, Qwest will obtain CLEC's consent prior to undertaking any conditioning efforts. Upon CLEC pre-approval or approval of conditioning, and only if conditioning is necessary, Qwest will dispatch a technician to condition the Loop by removing load coils and excess Bridged Taps to provide CLEC with a non-loaded Loop. CLEC will be charged the nonrecurring conditioning charge (i.e., cable unloading and Bridged Taps removal), if applicable, in addition to the DS0 Loop Facility installation nonrecurring charge.

1.2.5 When CLEC requests a Basic Rate ISDN capable or an xDSL-I capable Loop Facility, Qwest will dispatch a technician, if necessary, to provide Extension Technology that takes into account for example: the additional regenerator placement, Central Office powering, Mid-Span repeaters, if required, BRITE cards in order to provision the Basic Rate ISDN capable and xDSL-I capable Loop Facility. Extension Technology may be required in order to bring the circuit to the specifications necessary to accommodate the intended service. If the Circuit Design requires Extension Technology, to bring it up to the design standards, it will be added by Qwest, at no charge. Extension Technology can also be requested by CLEC to meet their specific needs. The ISDN Capable Loop Facility may also require conditioning (e.g., removal of load coils or Bridged Taps).

1.2.6 Qwest is not obligated to provision DS0 Digital Loop Facilities to End User Customers in areas served exclusively by Loop facilities or transmission equipment that are not compatible with the intended service.

1.2.7 Loop Qualification Tools. Qwest offers five (5) Loop qualification tools: the ADSL Loop Qualification Tool, Raw Loop Data Tool, POTS Conversion to DS0 Loop Facility Tool, MegaBit Qualification Tool, and ISDN Qualification Tool. These and any future Loop qualification tools Qwest develops will provide CLEC access to Loop qualification information in a nondiscriminatory manner and will provide CLEC the same Loop qualification information available to Qwest.

1.2.7.1 ADSL Loop Qualification Tool. CLEC may use the ADSL Loop Qualification tool to pre-

qualify the requested circuit utilizing the existing telephone number or address to determine whether it meets ADSL specifications. The qualification process screens the circuit for compliance with the design requirements specified in Technical Publication 77399.

1.2.7.2 Raw Loop Data Tools. Qwest offers two (2) types of Raw Loop Data Tool. If CLEC has a digital certificate, CLEC may access the Wire Center Raw Loop Data Tool via www.ecom.qwest.com. The Wire Center Raw Loop Data Tool provides CLEC the following information: Wire Center CLLI code, cable name, pair name, terminal address, MLT distance, segment (F1, F2), sub-segment (e.g., 1 of F1), segment length, segment gauge, Bridged Taps length by segment, Bridged Taps offset distance, load coil type, and pair gain type. CLEC may also access the IMA Raw Loop Data Tool for Loop specific information. The IMA Raw Loop Data Tool may be accessed through IMA-GUI or IMA-EDI. This tool provides CLEC the following information: Wire Center CLLI code, cable name, pair name, terminal address, MLT distance, segment (F1, F2), sub-segment (e.g., 1 of F1), segment length, segment gauge, Bridged Taps length by segment, Bridged Taps offset distance, load coil type, number of loads, and pair gain type.

1.2.7.3 POTS Conversion to DS0 Loop Facility Tool. The POTS Conversion to DS0 Loop Facility Tool is available to CLECs through IMA-GUI or IMA-EDI. This tool informs CLEC whether the facility is copper or pair gain and whether there are loads on the Loop.

1.2.7.4 MegaBit Qualification Tool. The MegaBit Qualification Tool is available to CLECs through IMA-GUI or IMA-EDI. This tool provides a "yes/no" answer regarding the Loop's ability to support Qwest DSL (formerly MegaBit) service. If the MegaBit Qualification Tool returns a "no" answer, it provides a brief explanation.

1.2.7.5 ISDN Qualification Tool. The ISDN Qualification Tool is available to CLECs through IMA-GUI or IMA-EDI. This tool permits CLEC to view information on multiple lines and will inform CLEC of the number of lines found. If an ISDN capable Loop is found, the tool identifies the facility and, if applicable, pair gain.

1.2.8 Provisioning Options. Six (6) Provisioning options are available for DS0 Loop Facility elements. Charges for these Provisioning options vary depending on the type of Loop requested. Rates are contained in Exhibit A of this Agreement. Testing parameters are described below and in the applicable Qwest Technical Publication.

1.2.8.1 Basic Installation. Basic Installation may be ordered for new or existing DS0 Loop Facilities. Upon completion, Qwest will call CLEC to notify CLEC that the Qwest work has been completed.

1.2.8.1.1 For an existing End User, the Basic Installation

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option is a "lift and lay" procedure. The Central Office Technician (COT) "lifts" the Loop from its current termination and "lays" it on a new termination connecting to CLEC. There is no associated circuit testing performed.

1.2.8.1.2 For new End User service, the Basic Installation option involves the COT and Field Technician (CST/NT) completing circuit wiring and performing the required performance tests to ensure the new circuit meets the required parameter limits. The test results are NOT provided to CLEC.

1.2.8.1.3 For basic installation of existing 2/4 wire analog Loops, Qwest provides a Quick Loop with or without Local Number Portability (LNP) option, that enables CLEC to receive the Quick Loop installation interval as set forth in the Commercial Solutions Service Interval Guide (SIG). Quick Loop installation without LNP includes only a simple lift and lay procedure. Quick Loop with LNP installation provides a lift and lay, and the LNP functions. Quick Loop is not available with cooperative testing, coordinated installation, or when separating an existing circuit from an IDLC to a copper alternative.

1.2.8.2 Basic Installation with Performance Testing. Basic Installation with Performance Testing may be ordered for new or existing DS0 Loop Facilities.

1.2.8.2.1 For an existing End User, Basic Installation with Performance Testing is a "lift and lay" procedure. The Central Office Technician (COT) "lifts" the Loop from its current termination and "lays" it on a new termination connecting CLEC. The COT and Implementor/Tester perform the required performance tests to ensure that the new circuit meets required parameter limits.

1.2.8.2.2 The Qwest Implementor/Tester will read the test results to CLEC on close-out and email the performance test results within two (2) business days to a single, designated CLEC office email address.

1.2.8.2.1 For new End User service, the Basic Installation with Performance Testing option requires a dispatch to the End User premises. The COT and Field Technician complete circuit wiring and perform the required performance tests to ensure the new circuit meets the required parameter limits. These test results are read to CLEC by the Qwest Implementor/Tester on close-out. Within two (2) business days, Qwest will

email the performance test results to a single, designated CLEC office email address.

1.2.8.3 Coordinated Installation with Cooperative Testing. Coordinated installation with cooperative testing may be ordered for new or existing service. For both new and existing service, CLEC must designate a specific "Appointment Time" when it submits the LSR. On the Due Date (DD), at the CLEC designated "Appointment Time", the Qwest Implementor/Tester contacts CLEC to ensure CLEC is ready for installation. If CLEC is not ready within thirty (30) minutes of the scheduled appointment time, then CLEC must reschedule the installation by submitting a supplemental LSR for a new Due Date and appointment time. If Qwest is not ready within thirty (30) minutes of the scheduled appointment time, Qwest will waive the nonrecurring charge for the installation option, and the Parties will attempt to set a new appointment for the same day. If Qwest fails to perform cooperative testing due to Qwest's fault, Qwest will waive the nonrecurring charge for the installation option. If CLEC still desires cooperative testing, the Parties will attempt to set a new appointment time on the same day and, if unable to do so, Qwest will issue a jeopardy notice and a FOC with a new Due Date.

1.2.8.3.1 For an existing End User, Coordinated Installation with Cooperative Testing is a "lift and lay" procedure with cooperative testing. The COT completes the installation in the Central Office and performs testing that CLEC requests. Upon completion of Qwest performance testing, the Qwest Implementor/Tester will contact CLEC, read the Qwest test results, and begin CLEC cooperative testing. Within two (2) business days, Qwest will email the Qwest test results to a single, designated CLEC office email address. CLEC will be charged for any Provisioning test CLEC requests that is not defined in the Qwest Technical Publication 77384.

1.2.8.3.2 For new End User service, Coordinated Installation with Cooperative Testing may require a dispatch of a technician to the End User premises. The COT and Field Technician complete circuit wiring and perform the required performance tests to ensure that the new circuit meets required parameter limits. Upon completion of Qwest performance testing, the Qwest Implementor/Tester will contact CLEC, read the Qwest test results, and begin CLEC cooperative testing. Within two (2) business days, Qwest will email the Qwest test results to a single, designated CLEC office email address. CLEC will be charged for any Provisioning test not defined in the applicable Qwest Technical

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Publication.

1.2.8.4 Coordinated Installation without Cooperative Testing. Coordinated Installation without Cooperative Testing may be ordered for new or existing service. For both new and existing service, CLEC must designate a specific "Appointment Time" when it submits the LSR. On the Due Date (DD), at the CLEC designated "Appointment Time", the Qwest Implementor/Tester contacts CLEC to ensure CLEC is ready for installation. If CLEC is not ready within thirty (30) minutes of the scheduled appointment time, then CLEC must reschedule the installation by submitting a supplemental LSR. If Qwest is not ready within thirty (30) minutes of the scheduled appointment time, Qwest will waive the nonrecurring charge for the installation option and the Parties will attempt to set a new appointment time on the same day and, if unable to do so, Qwest will issue a jeopardy notice and a FOC with a new Due Date.

1.2.8.4.1 For an existing DS0 Loop Facility this Coordinated Installation without Cooperative Testing is a "lift and lay" procedure without a field dispatch, that offers CLEC the ability to coordinate the conversion activity. The Qwest Implementor advises CLEC when the "lift and lay" procedure is complete.

1.2.8.4.2 For new DS0 Loop Facilities, Qwest may dispatch a technician to terminate the new circuit at the End User premises. The Field Technician will not remain on the premises to perform testing once the circuit is in place. The COT completes the installation in the Central Office, and the COT and Implementor/Tester complete the required performance tests to ensure that the new circuit meets required parameter limits. CLEC will not receive test results. When installation is complete, Qwest will notify CLEC.

1.2.8.5 Basic Installation with Cooperative Testing. Basic Installation with Cooperative Testing may be ordered for new or existing DS0 Loop Facilities.

1.2.8.5.1 For an existing End User, Basic Installation with Cooperative Testing is a "lift and lay" procedure with Cooperative Testing on the Due Date. The COT "lifts" the Loop from its current termination and "lays" it on a new termination connecting to CLEC. Upon completion of Qwest performance testing, the Qwest Implementor/Tester will contact CLEC, read the Qwest test results, and begin CLEC cooperative testing. Within two (2) business days, Qwest will email the Qwest test results to a single, designated CLEC office

email address. CLEC and Qwest will perform a Loop back acceptance test, accept the Loop and exchange demarcation information.

1.2.8.5.2 For new End User service, Basic Installation with Cooperative Testing may require a dispatch to the End User premises. The COT and Field Technician complete circuit wiring and perform the required performance tests to ensure the new circuit meets the required parameter limits.

1.2.8.5.3 If Qwest fails to perform cooperative testing due to Qwest's fault, Qwest will waive the nonrecurring charge for the installation option. If CLEC still desires cooperative testing, the Parties will attempt to set a new appointment time on the same day and, if unable to do so, Qwest will issue a jeopardy notice and a FOC with a new Due Date.

1.2.9 Performance Testing. Qwest performs the following performance tests for various Loop types:

2-Wire and 4-Wire Analog Loops

No Opens, Grounds, Shorts, or Foreign Volts

Insertion Loss = 0 to -8.5 dB at 1004 Hz

Automatic Number Identification (ANI) when dial-tone is present

2-Wire and 4-Wire Non-Loaded Loops

No Load Coils, Opens, Grounds, Shorts, or Foreign Volts

Insertion Loss = 0 to -8.5 dB at 1004 Hz

Automatic Number Identification (ANI) when dial-tone is present

Basic Rate ISDN and xDSL-I Capable Loops

No Load Coils, Opens, Grounds, Shorts, or Foreign Volts

Insertion Loss = \leq 40 dB at 40 kHz

Automatic Number Identification (ANI) when dial-tone is present

1.2.9.1 Project Coordinated Installation: A Project Coordinated Installation permits CLEC to obtain a coordinated installation for DS0 Loop Facilities with or without LNP, where CLEC orders

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twenty-five (25) or more DS0 Loop Facilities.

1.2.9.1.1 The date and time for the Project Coordinated Installation requires up-front planning and may need to be negotiated between Qwest and CLEC. All requests will be processed on a first come, first served basis and are subject to Qwest's ability to meet a reasonable demand. Considerations such as system down time and the possibility of other CLECs requesting the same FDT in the same Central Office must be reviewed. In the event that any of these situations would occur, Qwest will negotiate with CLEC for an agreed upon DD, prior to issuing the Firm Order Confirmation (FOC). In special cases where CLEC is ordering DS0 Loop Facility with LNP, the FDT must be agreed upon,

1.2.9.1.2 CLEC shall request a Project Coordinated Installation by submitting a Local Service Request (LSR) and designating this order as a Project Coordinated Installation in the remarks section of the LSR form.

1.2.9.1.3 CLEC will incur additional charges for the Project Coordinated Installation dependent upon the coordinated time. The rates are based upon whether the request is within Qwest's normal business hours or Out Of Hours. Qwest normal business hours for DS0 Loop Facilities are 8:00 a.m. to 5:00 p.m., Monday through Friday. The rates for coordinated installations are set forth in Exhibit A.

1.2.9.1.4 Qwest will schedule the appropriate number of employees prior to the cut, normally not to exceed four employees, based upon information provided by CLEC. If the Project Coordinated Installation includes LNP, CLEC will also have appropriate personnel scheduled for the negotiated FDT.

1.2.9.1.5 If CLEC orders Project Coordinated Installation with LNP and in the event the LNP conversion is not successful, CLEC and Qwest agree to isolate and fix the problem in a timeframe acceptable to CLEC. If the problem cannot be corrected within an acceptable timeframe to CLEC, CLEC may request the restoration of Qwest service for the ported Customer. Such restoration shall begin immediately upon request. If CLEC is in error then a supplemental order shall be provided to Qwest. If Qwest is in error, no supplemental order or additional order will be required of CLEC.

1.2.9.1.6 If CLEC orders Project Coordinated Installation with LNP, Qwest shall ensure that any LNP order activity requested in conjunction with a Project Coordinated Installation shall be implemented in a manner that avoids interrupting service to the End User.

1.2.10 In order to properly maintain and modernize the network, Qwest may make necessary modifications and changes to DS0 Loop Facilities and ancillary and Finished Services in its network on an as needed basis. Such changes may result in minor changes to transmission parameters.

1.2.11 If there is a conflict between an End User (or its respective agent) and CLEC regarding the disconnection or Provisioning of DS0 Loop Facilities, Qwest will advise the End User to contact CLEC, and Qwest will initiate contact with CLEC.

1.2.13 Facilities and lines Qwest furnishes on the premises of CLEC's End User up to and including the Loop Demarcation Point are the property of Qwest. Qwest shall have reasonable access to all such facilities for network management purposes. Qwest will coordinate entry dates and times with appropriate CLEC personnel to accommodate testing, inspection, repair and maintenance of such facilities and lines. CLEC will not inhibit Qwest's employees and agents from entering said premises to test, inspect, repair and maintain such facilities and lines in connection with such purposes or, upon termination or cancellation of the DS0 Loop Facility service, to remove such facilities and lines. Such entry is restricted to testing, inspection, repair and maintenance of Qwest's property in that facility. Entry for any other purpose is subject to audit provisions in the Audit section of this Agreement.

1.2.14 Reuse of Loop Facilities

1.2.14.1 When an End User contacts Qwest with a request to convert their local service from CLEC to Qwest, Qwest will notify CLEC of the loss of the End User, and will disconnect the Loop Qwest provided to CLEC. Qwest will disconnect the Loop only where Qwest has obtained proper Proof of Authorization.

1.2.14.2 When CLEC contacts Qwest with a request to convert an End User from their current CLEC (old CLEC) to them (new CLEC), new CLEC is responsible for notifying old CLEC of the conversion. Qwest will disconnect the Loop Qwest provided old CLEC and, at new CLEC request, where technically compatible, will reuse the Loop for the service requested by new CLEC (e.g., resale service).

1.2.14.3. When CLEC contacts Qwest with a request to convert an End User from Qwest to CLEC, Qwest will reuse the existing Loop facilities for the service requested by CLEC to the extent those facilities are technically compatible with the service to be provided. Upon CLEC request, Qwest will condition the existing Loop in accordance with the rates set forth in Exhibit A.

1.2.14.4 Upon completion of the disconnection

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of the Loop, Qwest will send a Loss Notification report to the original competitive Carrier signifying completion of the loss.

the specific service CLEC intends to offer.

1.3 Rate Elements

The following recurring and nonrecurring rates for DS0 Loop Facilities are set forth in Exhibit A of this Agreement. Recurring charges vary based on CLEC selected installation options, conditioning, and extension technology.

1.3.1 2/4 Wire Analog Loop Facility (Voice Grade) Recurring and Nonrecurring rates.

1.3.2 2/4 Wire Non-Loaded Loop Facility Recurring and Nonrecurring rates.

1.3.3 Conditioning Nonrecurring rates 2/4 wire non-loaded Loops, Basic Rate (BRI) ISDN, ADSL Compatible Loop and xDSL-I Capable Loop, as requested and approved by CLEC.

1.3.4 Miscellaneous Charges, as provided in Exhibit A may apply.

1.3.5 Out of Hours Coordinated Installations.

1.3.5.1 For purposes of service installation, Qwest's installation hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

1.3.5.2 For coordinated installations scheduled to commence Out of Hours, or rescheduled by CLEC to commence Out of Hours, CLEC will incur additional charges for the Out of Hours coordinated installation as set forth in Exhibit A.

1.3.6 At any time, effective upon notification via the standard commercial notification process, Qwest may: withdraw availability of new Service installation; modify the Service, and/or any of the terms and conditions contained in the Qwest Wholesale PCAT; and/or modify rates or charges.

1.3.6.1 Upon thirty (30) calendar days notice via the standard commercial notification process, Qwest may: increase monthly recurring charges (MRCs) and/or non-recurring charges (NRCs); and/or withdraw availability of existing Services. Qwest may reduce the foregoing notice period where commercially reasonable and/or if such increase is based upon Regulatory Activity.

1.4 Ordering Process

1.4.1 DS0 Loop Facilities are ordered via an LSR. Detailed ordering processes are found on the Qwest wholesale website.

1.4.2 Prior to placing orders on behalf of the End User, CLEC shall be responsible for obtaining and have in its possession a Proof of Authorization.

1.4.3 Based on the pre-order Loop make-up, CLEC can determine if the circuit can meet the technical parameters for

1.4.3.1 Before submitting an order for a 2/4 wire non-loaded Loop, ADSL compatible Loop, ISDN capable Loop or xDSL-I capable Loop, CLEC should use one of Qwest's Loop make-up tools available via IMA-EDI, IMA-GUI, or the web-based application interface to obtain specific information about the Loop Facility CLEC seeks to order.

1.4.3.1.1 Based on the Loop make up information provided through Qwest tools, CLEC must determine whether conditioning is required to provide the service it intends to offer. If Loop conditioning is required, CLEC may authorize Qwest to perform such Loop conditioning on its LSR. If CLEC does not pre-approve Loop conditioning, Qwest will assume that CLEC has determined that Loop conditioning is not necessary to provide the service CLEC seeks to offer. If CLEC or Qwest determines that conditioning is necessary, and CLEC authorizes Qwest to perform the conditioning, Qwest will perform the conditioning. CLEC will be charged for the conditioning in accordance with the rates in Exhibit A. If Qwest determines that conditioning is necessary and CLEC has not previously authorized Qwest to perform the conditioning on the LSR, Qwest will send CLEC a rejection notice indicating the need to obtain approval for conditioning. The CLEC must submit a revised LSR before the conditioning work will commence. Once Qwest receives the revised LSR, the fifteen (15) business day conditioning interval will begin.

1.4.3.1.2 For a 2/4 wire non-loaded Loop, ADSL compatible Loop, ISDN capable Loop or xDSL-I capable Loop, Qwest will return a Firm Order Confirmation (FOC) to CLEC within 72 hours from receipt of a valid and accurate LSR. Return of such FOC will indicate that Qwest has identified a Loop assignment. Such FOC will provide CLEC with a firm Due Date commitment or indication that appropriate facilities are not available to fill CLEC's order.

1.4.3.1.2.1 If CLEC has pre-approved Loop conditioning, and conditioning is not necessary, Qwest will return the FOC with the standard interval (i.e., five (5) days).

1.4.3.1.2.2 If CLEC has not pre-approved Loop conditioning and Qwest determines that the Loop

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contains load coils, Qwest will notify CLEC via a reject notification. CLEC must submit and wait for a new version of the LSR approving Loop conditioning. In this scenario, the application date will correspond to date the new version is received by Qwest.

1.4.4 Installation intervals for all DS0 Loop Facilities are defined in the Commercial Solutions SIG. The interval will start when Qwest receives a complete and accurate LSR. The LSR date is considered the start of the service interval if the order is received prior to 7:00 p.m. For service requests received after 7:00 p.m., the service interval will begin on the next business day.

1.4.4.1 When CLEC places an order for a DS0 Loop Facility with Qwest that is complete and accurate, Qwest will reply to CLEC with a Firm Order Confirmation within the time specified the Commercial Solutions SIG. The Firm Order Confirmation will contain the Due Date that specifies the date on which Qwest will provision the Loop. Qwest will implement adequate processes and procedures to assure the accuracy of the commitment date. If Qwest must make changes to the commitment date, Qwest will promptly issue a jeopardy notification to CLEC that will clearly state the reason for the change in commitment date. Qwest will also submit a new Firm Order Confirmation that will clearly identify the new Due Date.

1.4.5 Installation intervals for DS0 Loop Facilities apply when Qwest has facilities or network capacity available.

1.4.6 Upon CLEC request, Qwest will convert special access or private line circuits to DS0 Loop Facilities, provided the service originates at the CLEC Collocation in the Serving Wire Center.

1.4.8 When ordering DS0 Loop Facilities, CLEC is responsible for obtaining or providing facilities and equipment that are compatible with the service CLEC seeks to provide.

1.4.9 The installation interval for Digital Capable DS0 Loop Facilities depends on the need to condition the Loop.

1.4.9.1 When load coils and Bridged Taps do not exist, CLEC may request the standard Due Date interval, which will apply upon submission of a complete and accurate LSR.

1.4.1 When load coils and/or Bridged Taps do exist, CLEC will request the minimum fifteen (15) business days Desired Due Date. CLEC can determine the existence of load coils or Bridged Taps by using one of the Loop make-up tools. CLEC may pre-approve line conditioning on the LSR and, by doing so, CLEC agrees to pay any applicable conditioning charges. If CLEC did not request the fifteen (15) day interval and Qwest determines that conditioning is required, then the fifteen (15) business day interval starts when the

need for conditioning is identified and CLEC approves the conditioning charges.

1.4.10 Out of Hours Coordinated Installations.

1.4.10.1 For purposes of this Section, Qwest's standard installation hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. Installations requested outside of these hours are considered to be Out of Hours Installations.

1.4.10.2 CLEC may request an Out of Hours Coordinated Installation outside of Qwest's standard installation hours.

1.4.10.3 To request Out of Hours Coordinated Installations, CLEC will submit an LSR designating the desired appointment time. CLEC must specify an Out of Hours Coordinated Installation in the Remarks section of the LSR.

1.4.10.4 The date and time for Out of Hours Coordinated Installations may need to be negotiated between Qwest and CLEC because of system downtime and the possibility of other CLECs requesting the same appointment times in the same Switch (Switch contention).

1.5 Maintenance and Repair

1.5.1 CLEC is responsible for its own End User base and will have the responsibility for resolution of any service trouble report(s) from its End Users. CLEC will perform trouble isolation on the DS0 Loop Facility and any associated ancillary services prior to reporting trouble to Qwest. CLEC shall have access for testing purposes at the NID or Loop Demarcation Point. Qwest will work cooperatively with CLEC to resolve trouble reports when the trouble condition has been isolated and found to be within a portion of Qwest's network. Qwest and CLEC will report trouble isolation test results to the other. For DS0 Loop Facilities, each Party shall be responsible for the costs of performing trouble isolation on its facilities, subject to Sections 1.5.2 and 1.5.3.

1.5.2 When CLEC requests that Qwest perform trouble isolation with CLEC, a Maintenance of Service charge will apply if the trouble is found to be on the End User's side of the Loop Demarcation Point. Qwest will not work to repair trouble on the Customer side of the Loop Demarcation Point.

1.5.3 When CLEC elects not to perform trouble isolation and Qwest performs tests on the DS0 Loop Facility at CLEC's request, a Maintenance of Service charge shall apply if the trouble is not in Qwest's facilities. Maintenance of Service charges are set forth in Exhibit A.

1.5.4. Qwest will maintain detailed records of trouble reports of CLEC-ordered DS0 Loop Facilities, comparing CLEC provided data with internal data, and evaluate such reports on at a minimum of a quarterly basis to determine the cause of Loop problems. Qwest will conduct a quarterly root cause analysis of problems associated with UNE Loops provided to CLECs by Qwest. Based on this analysis, Qwest will take corrective measure to fix persistent and recurrent problems, reporting to CLECs on the analysis and the process changes that are implemented to fix the problems.

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1.5.5 Qwest shall allow access to the NID for testing purposes where access at the Demarcation Point is not adequate to allow testing sufficient to isolate troubles; in the event that Qwest chooses not to allow such access, it shall waive any trouble isolation charges that may otherwise be applicable.

1.6. Spectrum Management

1.6.1 Qwest will provide 2/4 Wire non-loaded Loop, ADSL compatible Loop, ISDN capable Loop and xDSL-I capable Loop Facilities (collectively referred to in this Section as "DS0 Digital Capable Loop Facilities") in a non-discriminatory manner to permit CLEC to provide Advanced Services to its End User Customers. Such Loops are defined herein and are in compliance with FCC requirements and guidelines recommended by the Network Reliability and Interoperability Council (NRIC) to the FCC, such as guidelines set forth in T1-417.

1.6.2 When ordering DSL Capable Loop Facilities CLEC will provide Qwest with appropriate information using NC/NCI codes to describe the Power Spectral Density Mask (PSD) for the type of technology CLEC will deploy. CLEC also agrees to notify Qwest of any change in Advanced Services technology that results in a change in spectrum management class on the DSL Capable Loop Facilities. CLEC need not provide the speed or power at which the newly deployed or changed technology will operate if the technology fits within a generic PSD mask.

1.6.2.1 CLEC information provided to Qwest pursuant to Section 1.6.2 shall be deemed Confidential Information and Qwest may not distribute, disclose or reveal, in any form, this material other than as allowed and described in subsections of 1.6.2.

1.6.2.2 The Parties may disclose, on a need to know basis only, CLEC Confidential Information provided pursuant to Section 1.6.2, to legal personnel, if a legal issue arises, as well as to network and growth planning personnel responsible for spectrum management functions. In no case shall the aforementioned personnel who have access to such Confidential Information be involved in Qwest's retail marketing, sales or strategic planning.

1.6.3 If CLEC wishes to deploy new technology not yet designated with a PSD mask, Qwest and CLEC agree to work cooperatively to determine Spectrum Compatibility. Qwest and CLEC agree, as defined by the FCC, that technology is presumed acceptable for deployment when it complies with existing industry standards, is approved by a standards body or by the FCC or Commission, or if technology has been deployed elsewhere without a "significant degradation of service".

1.6.4 If either Qwest or CLEC claims a service is significantly degrading the performance of other Advanced Services or traditional voice band services, then that Party must notify the causing Carrier and allow the causing Carrier a reasonable opportunity to correct the problem. Upon notification, the causing Carrier shall promptly take action to bring its facilities/technology into compliance with industry standards. Upon request, within forty-eight (48) hours, Qwest will provide CLEC with binder group information

including cable, pair, Carrier and PSD class to allow CLEC to notify the causing Carrier.

1.6.5 If CLEC is unable to isolate trouble to a specific pair within the binder group, Qwest, upon receipt of a trouble resolution request, will perform a main frame pair by pair analysis and provide results to CLEC within five (5) business days.

1.6.6 Qwest will not have the authority to unilaterally resolve any dispute over spectral interference among Carriers. Qwest shall not disconnect Carrier services to resolve a spectral interference dispute, except when voluntarily undertaken by the interfering Carrier or Qwest is ordered to do so by a state commission or other authorized dispute resolution body.

1.6.7 Where CLEC demonstrates to Qwest that it has deployed Central Office based DSL services serving a reasonably defined area, it shall be entitled to require Qwest to take appropriate measures to mitigate the demonstrable adverse effects on such service that arise from Qwest's use of repeaters or remotely deployed DSL service in that area.

2.0 Subloop

2.0.1 Description

2.0.1.1 A Subloop is defined as the distribution portion of a copper Loop or hybrid Loop comprised entirely of copper wire or copper cable that acts as a transmission facility between any point that it is Technically Feasible to access at terminals in Qwest's outside plant (originating outside of the Central Office), including inside wire owned or controlled by Qwest, and terminates at the End User Customer's premises. An accessible terminal is any point on the Loop where technicians can access the wire within the cable without removing a splice case to reach the wire within. Such points may include, but are not limited to, the pole, pedestal, Network Interface Device, minimum point of entry, single point of Interconnection, Remote Terminal, Feeder Distribution Interface (FDI), or Serving Area Interface (SAI). CLEC shall not have access to a feeder subloop defined as facilities extending from the Central Office to a terminal that is not at the End User Customer's premises or multiple tenant environment (MTE). CLEC shall have access to the feeder facilities only to the extent it is part of a complete transmission path, not a subloop, between the Central Office and the End User Customer's premises or MTE.

2.0.1.1.1 Building terminals within or physically attached to a privately owned building in a Multiple Tenant Environment (MTE) are one form of accessible terminal. Throughout Section 2.0 the Parties obligations around such "MTE Terminals" are segregated because Subloop terms and conditions differ between MTE environments and non-MTE environments.

2.0.1.1.2 For any configuration not specifically addressed in this Agreement, the conditions of CLEC access shall be as required by the particular circumstances. These conditions include: (1) the degree of equipment separation required, (2) the need for separate cross connect devices, (3) the interval applicable to any Collocation or other provisioning requiring Qwest performance or cooperation, (4) the security required to maintain the safety and reliability of the facilities of Qwest

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and other CLECs, (5) the engineering and operations standards and practices to be applied at Qwest facilities where they are also used by CLECs for Subloop element access, and (6) any other requirements, standards, or practices necessary to assure the safe and reliable operation of all Carriers' facilities.

2.0.1.1.2.1 MTE Terminals: Accessible terminals within a building in a MTE environment or accessible terminals physically attached to a building in a MTE environment. Qwest Premises located on real property that constitutes a campus environment, yet are not within or physically attached to a non-Qwest owned building, are not considered MTE Terminals.

2.0.1.1.2.2 Detached Terminals: All accessible terminals other than MTE Terminals.

2.0.1.2 Standard Subloops available.

- a) Two-Wire/Four Wire Distribution Loop
- b) Two-Wire/Four Wire Non-loaded Distribution Loop
- c) Intra-building Cable Loop

2.0.1.3 Standard Subloop Access

2.0.1.3.1 Accessing Subloops in Detached Terminals: Subloop is available after a CLEC-requested Field Connection Point (FCP) has been installed within or adjacent to the Qwest accessible terminal. The FCP is a Demarcation Point connected to a terminal block from which Cross Connections are run to Qwest Subloop elements.

2.0.1.3.2 Accessing Subloops in MTE Terminals: Subloop is available after CLEC has notified Qwest of its intention to access Subloop in the MTE, during or after an inventory of CLEC's terminations has been created, and CLEC has constructed a cross connect field at the building terminal.

2.0.1.4 Field Connection Point

2.0.1.4.1 Field Connection Point (FCP) is a Demarcation Point that allows CLEC to interconnect with Qwest outside of the Central Office location where it is Technically Feasible. The FCP interconnects CLEC facilities to a terminal block within the accessible terminal. The terminal block allows a technician to access and combine Subloop elements. When an FCP is required, it must be in place before Subloop orders are processed.

2.0.1.4.2 The terms, conditions, intervals and rates for Field Connect

Point are found within your ICA.

2.0.1.5 MTE Point of Interconnection (MTE-POI)

2.0.1.5.1 An MTE-POI is necessary when CLEC is obtaining access to the Distribution Loop or Intra-building Cable Loop from an MTE Terminal. CLEC must create the cross connect field at the building terminal that will allow CLEC to connect its facilities to Qwest's Subloops. The Demarcation Point between CLEC and Qwest's facilities is the MTE-POI.

2.0.2 Standard Subloops Available

2.0.2.1 Distribution Loops

2.0.2.1.1 Two-Wire/Four-Wire Distribution Loop: a Qwest-provided facility from the Qwest accessible terminal to the Demarcation Point or Network Interface Device (NID) at the End User Customer location. The Two-Wire/Four-Wire Distribution Loop is suitable for local exchange-type services. CLEC can obtain access to this Network Element at any Technically Feasible accessible terminal.

2.0.2.1.2 Two-Wire/Four-Wire Non-Loaded Distribution Loop: a Qwest-provided facility without load coils and excess Bridged Taps from the Qwest accessible terminal to the Demarcation Point or Network Interface Device (NID) at the End User Customer location. When CLEC requests a Non-Loaded Distribution Loop and there are none available, Qwest will contact CLEC to determine if CLEC wishes to have Qwest unload an existing Loop. If the response is affirmative, Qwest will dispatch a technician to "condition" the Distribution Loop by removing load coils and excess Bridged Taps (i.e., "unload" the Loop). CLEC may be charged the Cable Unloading Bridged Tap Removal nonrecurring charge in addition to the Commercial DS0Loop installation nonrecurring charge. If a Qwest technician is dispatched and no load coils or Bridged Taps are removed, the Cable Unloading Bridged Tap Removal nonrecurring charge will not apply. CLEC can obtain access to this Network Element at any Technically Feasible accessible terminal.

2.0.2.1.3 Intra-building Cable Loop: a Qwest-provided facility from the building terminal inside an MTE to the Demarcation Point at the End User Customer premises inside the same building. This Subloop element only applies when Qwest owns the intra-building cable.

2.0.2.1.4 To the extent CLEC accesses a Subloop in a campus environment from an accessible terminal that serves multiple buildings, CLEC can access the Subloop by ordering a Distribution Loop pursuant to either Section 2.0.2.1.1 or 2.0.2.1.2. A campus environment is one piece of property, owned by one (1) Person or entity, on which there are multiple buildings.

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2.0.3 MTE Terminal Subloop Access: Terms and Conditions

2.0.3.1 Access to Distribution Loops or Intra-building Cable Loops at an MTE Terminal within a non-Qwest owned MTE is done through an MTE-POI. Collocation is not required to access Subloops used to access the network infrastructure within an MTE, unless CLEC requires the placement of equipment in a Qwest Premises. Cross Connect Collocation, as defined in your ICA, refers to creation of a cross connect field and does not constitute Collocation.

2.0.3.2 To obtain such access, CLEC shall complete the "MTE-Access Ordering Process" set forth in Section 2.0.5.4.

2.0.3.3 The optimum point and method to access Subloop elements will be determined during the MTE Access Ordering Process. The Parties recognize a mutual obligation to interconnect in a manner that maintains network integrity, reliability, and security. CLEC may access the MTE Terminal as a test access point.

2.0.3.4 CLEC will work with the MTE building owner to determine where to terminate its facilities within the MTE. CLEC will be responsible for all work associated with bringing its facilities into and terminating the facilities in the MTE. CLEC shall seek to work with the building owner to create space for such terminations without requiring Qwest to rearrange its facilities.

2.0.3.5 If there is space in the building for CLEC to enter the building and terminate its facilities without Qwest having to rearrange its facilities, CLEC must seek to use such space. In such circumstances, an inventory of CLEC's terminations within the MTE shall be input into Qwest's systems to support Subloop orders before Subloop orders are provisioned or in conjunction with the first Subloop order in the MTE. If CLEC requires immediate access to the Subloop, then CLEC may access the Subloop element prior to the completion of the inventory per Section 2.0.5.4.7. Qwest shall have five (5) calendar Days from receipt of a written request from CLEC, in addition to the interval set forth in Section 2.0.5.4.1, to input the inventory of CLEC's terminations into its systems. Qwest may seek an extended interval if the work cannot reasonably be completed within the stated interval. In such cases, Qwest shall provide written notification to CLEC of the extended interval Qwest believes is necessary to complete the work. CLEC may dispute the need for, and the duration of, an extended interval, in which case Qwest must request a waiver from the Commission to obtain the extended interval. If CLEC submits a Subloop order before Qwest inputs the inventory into its systems, Qwest shall process the order in accordance with Section 2.0.5.4.1.

2.0.3.6 If CLEC connects Qwest's Subloop element to CLEC's facilities using any temporary wiring or cut-over devices, CLEC shall remove any remaining temporary wiring or cut-over devices and install permanent wiring within ninety (90) calendar Days. All wiring arrangements, temporary and permanent, must adhere to the National Electric Code.

2.0.3.7 If there is no space for CLEC to place its building terminal or no accessible terminal from which CLEC can access such Subloop elements, and Qwest and CLEC are unable to negotiate a reconfigured Single Point of Interconnection (SPOI) to serve the MTE, Qwest will either rearrange facilities to make room for CLEC or construct a

single point of access that is fully accessible to and suitable for CLEC. Qwest's obligation to construct a SPOI is limited to those MTEs where Qwest has distribution facilities to that MTE and owns, controls, or leases the inside wire at the MTE. In addition, Qwest shall have an obligation only when CLEC indicates that it intends to place an order for access to a Subloop Network Element via a SPOI. In such instances, CLEC shall pay Qwest a one-time charge in the recurring charge category, which shall be ICB, based on the scope of the work required. If CLEC requests that a new SPOI be established, then CLEC shall pay Qwest a one-time charge in the recurring charge category, which shall be ICB, based on the scope of the work required. If the MTE Terminal is hard wired in such a manner that a network Demarcation Point cannot be created, Qwest will rearrange the terminal to create a cross connect field and Demarcation Point. CLEC shall pay Qwest a non-recurring charge that shall be ICB, based on the scope of the work required.

2.0.3.7.1 If Qwest must rearrange its MTE Terminal to make space for CLEC, Qwest shall have forty-five (45) calendar Days from receipt of a written request from CLEC to complete the rearrangement. Qwest may seek an extended interval if the work cannot reasonably be completed within forty-five (45) calendar Days. In such cases, Qwest shall provide written notification to CLEC of the extended interval Qwest believes is necessary to complete the work. CLEC may dispute the need for, and the duration of, an extended interval, in which case Qwest must request a waiver from the Commission to obtain an extended interval.

2.0.3.7.2 If Qwest must construct a new detached terminal that is fully accessible to and suitable for CLEC, the interval for completion shall be negotiated between the Parties on an Individual Case Basis.

2.0.3.7.3 CLEC may cancel a request to construct an FCP or SPOI prior to Qwest completing the work by submitting a written notification via certified mail to its Qwest account manager. CLEC shall be responsible for payment of all costs previously incurred by Qwest as well as any costs necessary to restore the property to its original condition.

2.0.3.8 At no time shall either Party rearrange the other Party's facilities within the MTE or otherwise tamper with or damage the other Party's facilities within the MTE. This does not preclude normal rearrangement of wiring or jumpers necessary to connect inside wire or intra-building cable to CLEC facilities in the manner described in the MTE Access Protocol. If such damage accidentally occurs, the Party responsible for the damage shall immediately notify the other and shall be financially responsible for restoring the facilities and/or service to its original condition. Any intentional damage may be reported to the proper authorities and may be prosecuted to the full extent of the law.

2.0.4 Detached Terminal Subloop Access: Terms and Conditions

2.0.4.1 Except as to access at an MTE Terminal, access to Subloop elements at an accessible terminal must be made through a Field Connection Point (FCP) in conjunction

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with either a Cross Connect Collocation or, if power and/or heat dissipation is required, a Remote Collocation.

2.0.4.2 To the extent that the accessible terminal does not have adequate capacity to house the network interface associated with the FCP, CLEC may opt to use Adjacent Collocation to the extent it is Technically Feasible. Such adjacent access shall comport with NEBS Level 1 safety standards.

2.0.4.3 Field Connection Point

2.0.4.3.1 Information related to the FCP is available in your ICA

2.0.5 Ordering/Provisioning

2.0.5.1 All Subloop Types

2.0.5.1.1 CLEC may order Subloop elements through the Operational Support Systems described in Section 12 of your ICA.

2.0.5.1.2 CLEC shall identify Subloop elements by NC/NCI codes. This information shall be kept confidential and used solely for spectrum management purposes.

2.0.5.2 Additional Terms for Detached Terminal Subloop Access

2.0.5.2.1 CLEC may only submit orders for Subloop elements after the FCP is in place. The FCP shall be ordered pursuant to your ICA. CLEC will populate the LSR with the termination information provided at the completion of the FCP process.

2.0.5.2.2 Qwest shall dispatch a technician to run a jumper between its Subloop elements and CLEC's Subloop elements. CLEC shall not at any time disconnect Qwest facilities or attempt to run a jumper between its Subloop elements and Qwest's Subloop elements without specific written authorization from Qwest.

2.0.5.2.3 Once the FCP is in place, the Subloop Provisioning intervals contained in the Commercial SIG shall apply.

2.0.5.3 Additional Terms for MTE Terminal Subloop Access - MTE-Access Ordering Process

2.0.5.4.1 CLEC shall notify its account manager at Qwest in writing, including via email, of its intention to provide access to End User Customers that reside within a MTE. Upon receipt of such request, Qwest shall have up to ten (10) calendar Days to notify CLEC and the MTE owner whether Qwest believes it or the MTE owner owns the intra-building cable. In the event that there has been a previous determination of on-premises wiring ownership at the same MTE, Qwest shall provide such notification within two (2) business days. In the event that CLEC provides Qwest with a written claim by an authorized representative of the

MTE owner that such owner owns the facilities on the End User Customer side of the terminal, the preceding ten (10) Day period shall be reduced to five (5) calendar Days from Qwest's receipt of such claim.

2.0.5.4.2 If the MTE owner owns the facilities on the Customer side of the terminal, CLEC may obtain access to all facilities in the building.

2.0.5.4.3 If Qwest owns the facilities on the Customer side of the terminal and if CLEC requests space to enter the building and terminate its facilities and Qwest must rearrange facilities or construct new facilities to accommodate such access, CLEC shall notify Qwest. Upon receipt of such notification, the intervals set forth in the Commercial SIG shall begin.

2.0.5.4.4 CLEC may only submit orders for Subloop elements after the facilities are rearranged and/or a new facility constructed, if either are necessary. CLEC will populate the LSR with the termination information provided by CLEC at the completion of the inventory process except when submitting LSRs during the creation of the inventory.

2.0.5.4.5 If CLEC orders Intra-building Cable Loop, CLEC shall dispatch a technician to run a jumper between its Subloop elements and Qwest's Subloop elements to make a connection at the MTE-POI in accordance with the MTE Access Protocol. If CLEC ordered a Subloop type other than Intra-building Cable Loop, Qwest will dispatch a technician to run a jumper between CLEC's Subloop elements and Qwest's Subloop elements to make a connection at the MTE-POI. CLEC, at its option, may request that Qwest run the jumper for intra-building cable in MTEs when the inventory is done and a complete LSR has been submitted.

2.0.5.4.5.1 When CLEC accesses a MTE Terminal, it shall employ generally accepted best engineering practices in accordance with industry standards. CLEC shall clearly label the cross connect wires it uses. CLEC wiring will be neatly dressed. When CLEC accesses Subloops in MTE Terminals, it shall adhere to Qwest's Standard MTE Access Protocol unless the Parties have negotiated a separate document for such Subloop access.

2.0.5.4.6 Once inventory is complete and, if necessary, the facilities are rearranged and or a new facility constructed and when Qwest runs the jumper, the Subloop Provisioning intervals contained in the Commercial SIG shall apply.

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2.0.5.4.7 For access to Qwest's on-premises MTE wire as a Subloop element, CLEC shall be required to submit an LSR, but need not include thereon the circuit-identifying information or await completion of LSR processing by Qwest before securing such access. Qwest shall secure the circuit-identifying information, and will be responsible for entering it on the LSR when it is received. Qwest shall be entitled to charge for the Subloop element as of the time of LSR submission by CLEC.

2.0.7.2 MTE Terminal Subloop Access: Qwest will maintain all of its facilities and equipment in the MTE and CLEC will maintain all of its facilities and equipment in the MTE.

3.0 Loop Splitting

3.0.1 Description

Loop Splitting provides CLEC/DLEC with the opportunity to offer advanced data service simultaneously with voice service over an existing Commercial DS0 Loop by using the frequency range above the voice band on the copper Loop. The advanced data service will be requested by the Customer of Record (the voice service provider). The Splitter separates the voice and data traffic and allows the copper Loop to be used for simultaneous DLEC data transmission and CLEC provided voice service to the End User Customer. "CLEC" will herein be referred to as the voice service provider while "DLEC" will be referred to as the advanced data service provider. CLEC and DLEC may be the same entity.

3.0.2 Terms and Conditions

3.0.2.1 General

3.0.2.1.1 Qwest is not responsible for providing the Splitter, filter(s) and/or other equipment necessary for the End User Customer to receive separate voice and data service across a single copper Loop.

3.0.2.1.2 To order Loop Splitting, CLEC/DLEC must have a Splitter installed in the Qwest Wire Center that serves the End User Customer. The Splitter must meet the requirements for Central Office equipment Collocation set by the FCC or be compliant with ANSI T1.413.

3.0.2.1.3 There may only be one DLEC at any given time that provides advanced data service on any given Commercial DS0 Loop Facility.

3.0.2.1.4 If Loop Splitting is requested for an analog Loop, the Loop must be converted to a 2/4 wire non-loaded Loop or ADSL compatible Loop.

3.0.2.1.4.1 The Customer of Record will be able to request conditioning of the Commercial DS0 Loop Facility. Qwest will perform requested conditioning of Loops to remove load coils and excess Bridged Taps.

3.0.2.1.4.2 If requested conditioning significantly degrades the existing voice service over the Loop to the point that it is unacceptable to CLEC, Customer of Record shall pay to convert back to an analog (voice grade) Loop.

3.0.2.1.5 Splitters may be installed in Qwest Wire Centers at the discretion of CLEC/DLEC via the standard or Common Area Splitter Collocation arrangements set forth in the Collocation Section of your ICA. Under either option, Splitters will be appropriately hard-wired or pre-wired so that points of termination are kept to a minimum. For Loop Splitting, Qwest shall use the same length of tie pairs as it uses for other split services provided

2.0.6 Rate Elements

2.0.6.1 All Subloop Types

2.0.6.1.1 Subloop Recurring Charge - CLEC will be charged a monthly recurring charge pursuant to Exhibit A of this agreement for each Subloop ordered by CLEC.

2.0.6.1.2 Subloop Trouble Isolation Charge - CLEC will be charged a Trouble Isolation Charge pursuant to the Access to OSS - Maintenance and Repair Section when trouble is reported but not found on the Qwest facility.

2.0.6.2 Additional rates for Detached Terminal Subloop Access:

2.0.6.3.1 Cross Connect Collocation Charge: CLEC shall pay the full nonrecurring charge for creation of the Cross Connect Collocation set forth in Exhibit A upon submission of the Collocation Application. The FCP Request Form shall not be considered completed in its entirety until complete payment is submitted to Qwest.

2.0.6.3.2 Any Remote Collocation associated with a FCP in which CLEC will install equipment requiring power and/or heat dissipation shall be in accordance with the rate elements set forth in Section 8.3.

2.0.6.4 Additional Rates for MTE Terminal Subloop Access

2.0.6.4.1 Subloop Nonrecurring Charge - CLEC will be charged a nonrecurring charge for the time and materials required for Qwest to complete the inventory of CLEC's facilities within the MTE such that Subloop orders can be submitted and processed.

2.0.6.4.2 Subloop Nonrecurring Jumper Charge - If CLEC ordered a Subloop type other than Intra-building Cable Loop, CLEC will be charged a nonrecurring basic installation charge for Qwest running jumpers within the accessible terminal pursuant to Exhibit A for each Subloop ordered by CLEC.

2.0.7 Repair and Maintenance

2.0.7.1 Detached Terminal Subloop Access: Qwest will maintain all of its facilities and equipment in the accessible terminal and CLEC will maintain all of its facilities and equipment in the accessible terminal.

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under this Agreement, except for the additional CLEC-to-CLEC connection, which is required for Loop Splitting.

connecting to CLEC's/DLEC's collocated equipment in the same Wire Center.

3.0.3 Rate Elements

The following Loop Splitting rate elements are contained in Exhibit A of this Agreement.

3.0.3.1 Recurring Rates for Loop Splitting

3.0.3.1.1 Interconnection Tie Pairs (ITP) - A monthly recurring charge to recover the costs associated with the use of ITPs.

3.0.3.1.2 OSS Charge - A monthly recurring charge to recover the cost of the OSS modifications necessary to provide access to the high frequency portion of the Commercial DS0 Loop Facility.

3.0.3.2 Nonrecurring Rates for the Loop Splitting

3.0.3.2.1 Basic Installation Charge for Loop Splitting - A nonrecurring charge for the installation of Loop Splitting will apply.

3.0.3.3 Nonrecurring Rates for Maintenance and Repair

3.0.3.3.1 Trouble Isolation Charge - A nonrecurring charge for trouble isolation will be applied.

3.0.3.3.2 Additional Testing - The Customer of Record may request Qwest to perform additional testing, and Qwest may decide to perform the requested testing on a case-by-case basis. A nonrecurring charge will apply in accordance with Exhibit A of this Amendment.

3.0.3.4 Rates for Splitter Collocation are included in your ICA.

3.0.4 Ordering Process

3.0.4.1 Loop Splitting

3.0.4.1.1 As a part of the pre-order process, CLEC/DLEC may access Loop characteristic information through the Loop Information Tool described in the Access to OSS Section of your ICA. The Customer of Record will determine, in its sole discretion and at its risk, whether to add data services to any specific Commercial DS0 Loop Facility.

3.0.4.1.2 The Customer of Record will provide on the LSR, the appropriate frame terminations that are dedicated to Splitters. Qwest will administer all cross connects/jumpers on the COSMIC/MDF and IDF.

3.0.4.1.3 Basic Installation "lift and lay" procedure will be used for all Loop Splitting orders. Under this approach, a Qwest technician "lifts" the Loop from its current termination in a Qwest Wire Center and "lays" it on a new termination

3.0.4.1.4 The Customer of Record shall not place orders for Loop Splitting until all work necessary to provision Loop Splitting in a given Qwest Wire Center, including, but not limited to, Splitter installation and tie cable reclassification or augmentation has been completed.

3.0.4.1.5 The Customer of Record shall submit the appropriate LSRs associated with establishing the Commercial DS0 Loop Facility and Loop Splitting.

3.0.4.1.6 If the voice service is disconnected on a Loop Splitting arrangement, the Loop Splitting arrangement shall terminate. CLEC may arrange to provide DSL service to the End User Customer through purchase of another product.

3.0.5 Billing

3.0.5.1 Qwest shall provide a bill to the Customer of Record, on a monthly basis, within seven (7) to ten (10) calendar Days of the last day of the most recent Billing period, in an agreed upon standard electronic Billing format.

3.0.5.2 Qwest shall bill the Customer of Record for all recurring and nonrecurring Loop Splitting rate elements.

3.0.6 Repair and Maintenance

3.0.6.1 Qwest will allow CLEC/DLEC to access Loop Splitting at the point where the combined voice and data Loop is cross connected to the Splitter.

3.0.6.2 The Customer of Record will be responsible for reporting to Qwest service troubles over Loop Splitting. Qwest will be responsible to repair troubles on the physical line between Network Interface Devices at the End User Customer premises and the point of demarcation in Qwest Wire Centers. Qwest, CLEC and DLEC each will be responsible for maintaining its equipment. The entity that controls the Splitters will be responsible for their maintenance.

3.0.6.3 Qwest, CLEC and DLEC will continue to develop repair and maintenance procedures for Loop Splitting and agree to document final agreed to procedures in a methods and procedures document that will be made available on Qwest's web site.

3.0.7 Customer of Record and Authorized Agents

3.0.7.1 "Customer of Record" is defined for the purposes of this section as the voice service provider. Qwest will bill the Customer of Record for Loop Splitting. The Customer of Record may designate an authorized agent pursuant to the terms of sections 3.0.7.2 and 3.0.7.3 to perform ordering and/or Maintenance and Repair functions.

3.0.7.2 In order for the authorized agent of the Customer of Record to perform ordering and/or Maintenance and Repair functions, the Customer of Record must provide its authorized agent the necessary access and security devices, including but not limited to user identifications, digital certificates and SecurID cards, that will allow the

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authorized agent to access the records of the Customer of Record. Such access will be managed by the Customer of Record.

3.0.7.3 The Customer of Record shall hold Qwest harmless with regard to any harm Customer of Record receives as a direct and proximate result of the acts or omissions of the authorized agent of the Customer of Record or any other Person who has obtained from the Customer of Record the necessary access and security devices, including but not limited to user identifications, digital certificates and SecurID cards, that allow such Person to access the records of the Customer of Record unless such access and security devices were wrongfully obtained by such Person through the willful or negligent behavior of Qwest.

Commercial DS0 Loop - Nebraska						Accounting	Non-Accounting	Notes
109.0	Commercial DS0 Loop Facility							
109.1	Interconnection Tie Pairs (ITP) – Per Termination							
	109.1.1	DS0				\$0.44		
109.2	Commercial DS0 Loops							
	109.2.1	Analog Loops					See 109.2.4	
	109.2.1.1	2-Wire Voice Grade Loop						
		109.2.1.1.1	Zone O			\$15.71		
	109.2.1.2	4-Wire Voice Grade Loop						
		109.2.1.2.1	Zone O			\$30.84		
	109.2.2	Nonloaded Loops					See 109.2.4	
	109.2.2.1	2-Wire Nonloaded Loop						
		109.2.2.1.1	Zone O			\$15.71		
	109.2.2.2	4-Wire Nonloaded Loop						
		1.9.2.2.2.1	Zone O			\$30.84		
	109.2.2.3	Cable Unloading / Bridge Tap Removal					\$615.79	
	109.2.3	Digital Capable Loops						
	109.2.3.1	Basic Rate ISDN / xDSL - I Capable / ADSL Compatible Loops					See 109.2.4	
		109.2.3.1.1	Zone O			\$15.71		
	109.2.4	Loop Installation Charges for 2 and 4 wire analog, 2 and 4 wire non-loaded, ADSL Compatible, ISDN BRI Capable and xDSL - I Capable Loops where conditioning is not required. (Note: If conditioning is required, additional conditioning charges may apply as specified above).			See Above			
	109.2.4.1	Basic Installation						
		109.2.4.1.1					\$55.27	
	109.2.4.2	Basic Installation with Performance Testing						
		109.2.4.2.1					\$142.10	
	109.2.4.3	Coordinated Installation with Cooperative Testing / Project Coordinated Installation						
		109.2.4.3.1					\$171.87	
	109.2.4.4	Coordinated Installation without Cooperative Testing / Project Coordinated Installation						
		109.2.4.4.1					\$59.81	
	109.2.4.5	Basic Installation with Cooperative Testing						
		109.2.4.5.1					\$142.10	
109.3	Subloop							
	109.3.1	2-Wire Distribution Loop					\$90.71	
		109.3.1.1	Zone O			\$8.54		
	109.3.2	Intra-Building Cable Loop, per Pair					\$55.30	
		109.3.2.1	Zone O			\$0.55		
	109.3.3	MTE Terminal Subloop Access						
		109.3.3.1	MTE - POI Site Inventory (per request)				\$266.90	
		109.3.3.2	MTE - POI Rearrangement of Facilities				ICB	
		109.3.3.3	MTE-POI Construction of New SPOI		ICB			
	109.3.4	Field Connection Point						
		109.3.4.1	Feasibility Fee / Quote Preparation Fee				\$1,545.82	
109.4	Shared Services							
	109.4.1	Loop Splitting						
		109.4.1.1	Basic Installation Charge for Loop Splitting				\$26.98	
	109.4.2	OSS, per line, per month				\$0.00		
	109.4.3	Reclassification Charge					ICB	
	109.4.4	Splitter Shelf Charge				\$4.69	\$489.31	
	109.4.5	Splitter Tie Cable Connections						

Commercial DS0 Loop - Nebraska

				Recurring	Not-Recurring	Notes
	109.4.5.1	Splitter in the common Area - Data to 410 block		\$4.85	\$2,804.57	
	109.4.5.2	Splitter in Common area - Data Direct to CLEC		\$5.18	\$2,788.57	
	109.4.5.3	Splitter on the IDF - Data to 410 Block		\$1.48	\$792.20	
	109.4.5.4	Splitter on the IDF - Data Direct to CLEC		\$2.91	\$1,559.71	
	109.4.5.5	Splitter on the MDF - Data to 410 Block		\$1.53	\$819.66	
	109.4.5.6	Splitter on the MDF - Data Direct to CLEC		\$3.45	\$1,849.64	
109.20	Miscellaneous Charges					1
	109.20.1	Additional Engineering, per Half Hour or fraction thereof				
	109.20.1.1	Additional Engineering - Basic			\$30.03	
	109.20.1.2	Additional Engineering - Overtime			\$37.14	
	109.20.2	Additional Labor Installation, per Half Hour or fraction thereof				
	109.20.2.1	Additional Labor Installation - Overtime			\$8.54	
	109.20.2.2	Additional Labor Installation - Premium			\$17.08	
	109.20.3	Additional Labor Other, per Half Hour or fraction thereof				
	109.20.3.1	Additional Labor Other - (Optional Testing) Basic			\$26.18	
	109.20.3.2	Additional Labor Other - (Optional Testing) Overtime			\$34.96	
	109.20.3.3	Additional Labor Other - (Optional Testing) Premium			\$43.76	
	109.20.4	Testing and Maintenance, per Half Hour or fraction thereof				
	109.20.4.1	Testing and Maintenance - Basic			\$27.81	
	109.20.4.2	Testing and Maintenance - Overtime			\$37.14	
	109.20.4.3	Testing and Maintenance - Premium			\$46.48	
	109.20.5	Additional Cooperative Acceptance Testing, per Half Hour or fraction thereof				
	109.20.5.1	Additional Cooperative Acceptance Testing - Basic			\$27.81	
	109.20.5.2	Additional Cooperative Acceptance Testing - Overtime			\$37.14	
	109.20.5.3	Additional Cooperative Acceptance Testing - Premium			\$46.48	
	109.20.6	Nonscheduled Cooperative Testing, per Half Hour or fraction thereof				
	109.20.6.1	Nonscheduled Cooperative Testing - Basic			\$27.81	
	109.20.6.2	Nonscheduled Cooperative Testing - Overtime			\$37.14	
	109.20.6.3	Nonscheduled Cooperative Testing - Premium			\$46.48	
	109.20.7	Nonscheduled Manual Testing, per Half Hour or fraction thereof				
	109.20.7.1	Nonscheduled Manual Testing - Basic			\$27.81	
	109.20.7.2	Nonscheduled Manual Testing - Overtime			\$37.14	
	109.20.7.3	Nonscheduled Manual Testing - Premium			\$46.48	
	109.20.8	Cooperative Scheduled Testing				
	109.20.8.1	Cooperative Scheduled Testing - Loss		\$0.08		
	109.20.8.2	Cooperative Scheduled Testing - C Message Noise		\$0.08		
	109.20.8.3	Cooperative Scheduled Testing - Balance		\$0.31		
	109.20.8.4	Cooperative Scheduled Testing - Gain Slope		\$0.08		
	109.20.8.5	Cooperative Scheduled Testing - C Notched Noise		\$0.08		
	109.20.9	Manual Scheduled Testing				
	109.20.9.1	Manual Scheduled Testing - Loss		\$0.18		
	109.20.9.2	Manual Scheduled Testing - C- Message Noise		\$0.18		
	109.20.9.3	Manual Scheduled Testing - Balance		\$0.63		
	109.20.9.4	Manual Scheduled Testing - Gain Slope		\$0.18		
	109.20.9.5	Manual Scheduled Testing - C Notched Noise		\$0.18		
	109.20.10	Additional Dispatch			\$79.80	
	109.20.11	Maintenance of Service, per Half Hour or fraction thereof				
	109.20.11.1	Maintenance of Service - Basic			\$26.18	
	109.20.11.2	Maintenance of Service - Overtime			\$34.96	
	109.20.11.3	Maintenance of Service - Premium			\$43.76	
	109.20.12	Design Change			\$50.00	
	109.20.13	Expedite Charge, per day advanced			\$200.00	
	109.20.14	Cancellation Charge			ICB	

1. Rates set at current FCC1 Tariff Rates 3/6/06. Qwest will apply the rates in the ICA until such time as mechanization can be introduced to bill the Tariffed Rate on Commercial A

Declaration of Don Eben

Exhibit 4



June 13, 2007

Larry Christensen
Qwest
Director – Interconnection Agreements
1801 California Street, Room 2430
Denver, CO 80202

Delivered via USPS and electronic mail

Re: Omaha Forbearance Order ICA Amendment

Dear Mr. Christensen:

This responds to Qwest's letter demanding that McLeodUSA execute the Omaha Forbearance Order template ICA amendment prepared by Qwest. There are a few issues that McLeodUSA seeks to have clarified before signing the amendment. One of the clarifications concerns the "applicable non-recurring charges" language contained in the amendment. I would expect that since McLeodUSA and Qwest recently reached a settlement on the applicable non-recurring charges that apply in the TRRO context that the parties would agree to apply the same conversion NRCs in the COs affected by the OFO. The conversion work is identical, and therefore, it makes sense to have the same NRC apply.

In addition, McLeodUSA also hereby renews its request for Qwest to provide a price list for the affected network elements in the nine COs based on Qwest's Section 271 obligation to provide just and reasonable prices for these network elements. The FCC rejected Qwest's request to forbear from applying this obligation in the nine affected COs. As you know, several state utility commissions have begun proceedings to set 271 pricing. Indeed, at least two state Commissions have used TELRIC pricing as an interim price until such time as the Section 271 price is established. McLeodUSA is willing to consider any reasonable starting point for the negotiation of 271 pricing.

Mr. Larry Christensen
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If the NRC issue can be clarified, McLeodUSA will promptly execute the OFO amendment. Please contact Julia Redman-Carter at your earliest convenience to advise of Qwest's position.

Sincerely,



William A. Haas

Vice President and Deputy General Counsel

Cc: Sherry Krewett
Julia Redman-Carter
Phil Macres, Bingham