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EX PARTE

REDACTED – FOR PUBLIC INSPECTION

VIA COURIER

November 10, 2009

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: *In the Matters of a National Broadband Plan for Our Future, GN Docket No. 09-51; Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 09-137; High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link Up, WC Docket No. 03-109; Universal Service Contribution Methodology, WC Docket No. 06-122; Developing A Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; IP-Enabled Services, WC Docket No. 04-36; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135*

Dear Ms. Dortch:

On October 20, 2009, Mary LaFave, Peter Copeland, Carolyn Hammack, Melissa Newman and Olivia Trusty, in person, and Loretta Huff, Tiffany Smink and Tim Boucher, by telephone, all of Qwest, met with Carol Matthey, Rebekah Goodheart, Rob Curtis, Tom Brown and Thornton Kendall of the Federal Communications Commission to discuss the above-captioned proceedings. The basis of the discussion was a series of slides entitled

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“Qwest Response to National Broadband Plan Interim Report”. During the meeting, the FCC representatives posed multiple follow up questions to which Qwest is responding to in this written *ex parte* presentation.

The attached presentation includes nine responses to the questions posed (the specific questions are also repeated). Some of the responses include confidential and highly confidential information. It was not feasible to physically separate the confidential and highly confidential information from the non-confidential information, per 47 C.F.R. § 0.459(a), so Qwest is filing non-redacted and redacted versions. Pursuant to the October 8, 2009 Protective Order in GN Docket No. 09-51, DA 09-2187, each page of the non-redacted version includes the following markings: **“HIGHLY CONFIDENTIAL & CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION”**. Each page of the redacted version, which omits the highly confidential and confidential information, is marked **“REDACTED – FOR PUBLIC INSPECTION”**. This cover *ex parte* letter contains no highly confidential or confidential information and is included (with the same text except for the markings) with both the non-redacted and redacted versions of the submission. Pursuant to paragraph 7 of the Protective Order, two copies of the non-redacted version (with highly confidential and confidential information) are to be delivered either to Elvis Stumbergs (Room 2-C125) or Simon Banyai, Room 4-C458 of the Media Bureau of the Federal Communications Commission at 445 12th Street, S.W., Washington, DC 20554. In GN Docket No. 09-51, for the non-redacted version of the submission, Qwest is submitting via courier one copy with the Office of the Secretary, along with an additional copy to be stamped and returned to the courier.

In addition, pursuant to the June 8, 2005 Order and Protective Order in WC Docket No. 05-25, 20 FCC Rcd 10160 (2005), each page of the non-redacted version includes the following markings: **“CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission”**. Pursuant to paragraphs 3 of the Order and 8.d. of the Protective Order, two copies of the non-redacted version (with confidential information, as well as highly confidential and confidential information being submitted pursuant to the October 8, 2009 Protective Order in GN Docket No. 09-51) are to be delivered in person either to Margaret Dailey (Room 5-A221) or Pamela Arluk (Room 5-A266), Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission at 445 12th Street, S.W., Washington, DC 20554. In WC Docket No. 05-25, for the non-redacted version of the submission, Qwest is submitting via courier one

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copy with the Office of the Secretary, along with an additional copy to be stamped and returned to the courier.

As to the redacted version of the submission, wherein the highly confidential and confidential information has been omitted, for both GN Docket No. 09-51 and WC Docket No. 05-25, Qwest is filing it via the FCC's Electronic Comment Filing System.

For the other proceedings, GN Docket No. 09-137, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket No. 06-122, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36 and WC Docket No. 07-135, Qwest requests highly confidential and confidential treatment of the marked information, submitted pursuant to 47 C.F.R. §§ 0.457 and 0.459. Qwest provides justification for the highly confidential and confidential treatment of the information in the Appendix to this cover letter, pursuant to 47 C.F.R. §§ 0.457(d) and 0.459. Qwest considers the highly confidential and confidential information to be trade secrets and/or commercial/financial or other information that is "not routinely available for public inspection." 47 C.F.R. § 0.457(d). For each of these proceedings, Qwest is filing with the Office of the Secretary, via courier, one copy of the non-redacted version, along with an additional copy to be stamped and returned to the courier. As to the redacted version, wherein the highly confidential and confidential information has been omitted, for each proceeding, Qwest is filing it via the FCC's Electronic Comment Filing System.

This *ex parte* is being filed pursuant to 47 C.F.R. § 1.1206(b). Please contact me at 202.429.3120 if you have any questions.

/s/ Melissa E. Newman

Melissa E. Newman
Vice President-Federal Relations

Attachment

Two copies of the non-redacted version to be delivered to:
Elvis Stumbergs or Simon Banyai
Margaret Dailey or Pamela Arluk

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A copy of the redacted version to:
Carol Matthey
Rebekah Goodheart
Rob Curtis
Tom Brown
Thorton Kendall

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APPENDIX

Confidentiality Request and Justification

Qwest requests highly confidential and confidential treatment of the Response associated with this correspondence in GN Docket No. 09-51, pursuant to the Protective Order, released October 8, 2009, as well as confidential treatment of the Response in WC Docket No. 05-25, pursuant to the Order and Protective Order, released June 8, 2005. The Response contains information that Qwest considers highly confidential and/or confidential under the GN Docket No. 09-51 Protective Order because it includes “detailed or granular information regarding the location, type, or cost of last-mile infrastructure used by [Qwest] to offer broadband service”, which is not available from public sources and is not routinely made available for public inspection. Qwest also considers information in the Response to be confidential under the June 8, 2005 Order and Protective Order in WC Docket No. 05-25 because it “is not otherwise available from publicly available sources[.]” Such information also should be afforded highly confidential and confidential treatment, under both 47 C.F.R. § 0.457(d) and § 0.459, in these and the other dockets referenced in this submission.

47 C.F.R. § 0.457(d)

Information contained in the Response is highly confidential, confidential and proprietary to Qwest as trade secrets and/or commercial/financial or other information that pursuant to Section 0.457(d) is withheld from public disclosure. Disclosure of such information to the public would risk revealing company-sensitive proprietary commercial/financial information. Therefore, in the normal course of Commission practice this information should be considered “Records not routinely available for public inspection.”

47 C.F.R. § 0.459

Specific information included with this submission is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

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Qwest requests that its submission containing highly confidential and confidential information be withheld from public disclosure under Exemption 4 of the Freedom of Information Act. The submission contains sensitive trade secrets, commercial/financial or other information which Qwest maintains as proprietary and/or confidential and is not normally made available to the public. Release of the information could have a substantial negative competitive impact on Qwest. The information which Qwest considers highly confidential and/or confidential is marked with the following legend: **“HIGHLY CONFIDENTIAL & CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION”** and **“CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission”**.

Commission proceeding in which the information was submitted

The filing is being submitted in *In the Matters of a National Broadband Plan for Our Future*, GN Docket No. 09-51; *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 09-137; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link Up*, WC Docket No. 03-109; *Universal Service Contribution Methodology*, WC Docket No. 06-122; *Developing A Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68; *IP-Enabled Services*, WC Docket No. 04-36; *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information designated as highly confidential and confidential contains sensitive trade secrets, commercial/financial and other information which Qwest maintains as proprietary and withholds from public inspection. Release of the information could have a substantial negative competitive impact on Qwest.

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Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

The type of trade secrets and commercial/financial information characterized as highly confidential information consists of “detailed or granular information regarding the location, type, or cost of last-mile infrastructure used by [Qwest] to offer broadband service.” The sensitive information or proprietary internal Qwest highly confidential and confidential commercial/financial information contained in the Response would generally not be subject to routine public inspection under the Commission’s rules (47 C.F.R. § 0.457(d)), which demonstrates that the Commission already anticipates that the release of this kind of information likely would produce competitive harm. Qwest confirms that release of this highly confidential and confidential information would cause it competitive harm by allowing competitors to become aware of sensitive trade secrets, commercial/financial or other confidential information regarding the operation of Qwest’s business as it relates to the provision of broadband services.

Measures taken by Qwest to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Qwest has treated and treats the information disclosed in this submission as highly confidential and confidential and has protected it from public disclosure to parties outside of the company.

Justification of the period during which Qwest asserts that the material should not be available for public disclosure

Qwest cannot determine at this time any date on which this information should not be considered highly confidential and confidential or would become stale for purposes of the current action, except that the information would be handled in conformity with general Qwest records retention policies, absent any continuing legal hold on the data.

Other information that Qwest believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) trade secrets or commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question satisfies this test.

QWEST'S ADDITIONAL RESPONSE FROM THE 10-20-09 FCC/QWEST
BROADBAND PRESENTATION MEETING

- 1. In Qwest's footprint, what is the density of households per square mile? Also, please provide the estimated average household/living unit density per square mile for the last 14% of Qwest's territory that has not been upgraded.**

Qwest previously provided you with a breakdown of population and household density for each wire center in its 14-state territory. Because the remaining unserved areas in Qwest's territory are widely dispersed and range from very rural to more urban areas, it is not possible for Qwest to provide an accurate picture of density in those areas.

- 2. What is the cost to Qwest to deploy aerial fiber, and where in Qwest's footprint is Qwest precluded from using aerial by ordinance, HOA, etc.?**

Qwest's new deployment aerial pole placement costs, including the cost of fiber:

*****BEGIN HIGHLY CONFIDENTIAL***** [REDACTED]
*****END HIGHLY CONFIDENTIAL*****

Following are the percentages of Qwest facilities, by state, that are aerial, underground and buried.

2008			
State	Percent Aerial	Percent Underground	Percent Buried
Arizona	***BEGIN HIGHLY CONFIDENTIAL*** [REDACTED]	[REDACTED]	[REDACTED]
Colorado	[REDACTED]	[REDACTED]	[REDACTED]
Idaho	[REDACTED]	[REDACTED]	[REDACTED]
Iowa	[REDACTED]	[REDACTED]	[REDACTED]
Minnesota	[REDACTED]	[REDACTED]	[REDACTED]
Montana	[REDACTED]	[REDACTED]	[REDACTED]
Nebraska	[REDACTED]	[REDACTED]	[REDACTED]
New Mexico	[REDACTED]	[REDACTED]	[REDACTED]
North Dakota	[REDACTED]	[REDACTED]	[REDACTED]

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Oregon			
South Dakota			
Utah			
Washington			
Wyoming			
Total			***END HIGHLY CONFIDENTIAL***

3. What is the breakdown of Qwest's costs for Fiber to the Node ("FTTN")?

Provided below is the percentage breakdown of Qwest's costs for FTTN (*DAs serving more than 50 Living Units*):

BEGIN HIGHLY CONFIDENTIAL	
	END HIGHLY CONFIDENTIAL

4. How frequently does Qwest need to reinforce IOF as part of BB deployment?

*****BEGIN CONFIDENTIAL*****

[REDACTED]

*****END CONFIDENTIAL*****

5. What are Qwest's average loop lengths?

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QWEST'S ADDITIONAL RESPONSE FROM THE 10-20-09 FCC/QWEST
BROADBAND PRESENTATION MEETING

Provided below is Qwest's average loop length by Urban, Non-Urban, and Rural distribution categories:

<u>Distribution Category</u>	<u>Qwest's Average Loop Length (in Kft.)</u>
BEGIN HIGHLY CONFIDENTIAL	
	END HIGHLY CONFIDENTIAL

6. How long would it take Qwest to build broadband to 95% of living units?

BEGIN CONFIDENTIAL

 END CONFIDENTIAL

7. How much would it cost Qwest to deploy broadband to the last 5% (from 95 to 100% served) of living units?

BEGIN HIGHLY CONFIDENTIAL

 END HIGHLY CONFIDENTIAL

8. To whom does Qwest sell Qwest Metro Optical Ethernet ("QMOE")?

BEGIN CONFIDENTIAL


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QWEST'S ADDITIONAL RESPONSE FROM THE 10-20-09 FCC/QWEST
BROADBAND PRESENTATION MEETING

END CONFIDENTIAL

9. What are the barriers in the ERate and RHC programs?

Currently, Qwest does not see significant barriers to usage of the ERate program. This is underscored by the fact that “since the inception of the E-Rate program, the number of schools connected to the Internet has grown from 14 to 92 percent nationwide, and schools in low-income areas have grown from 5 percent to over 90 percent.”¹ The Rural Healthcare program is a worthwhile program, but is underutilized. Qwest believes this could be remedied through targeted efforts to insure that potential beneficiaries of the program are aware of its existence and, more importantly, how to seek funds and take advantage of the program.

¹ <http://rockefeller.senate.gov/issues/education/erate.cfm>

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