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IDENTIFICATION OF AFFIANT

My name is Larry B. Brotherson. I am employed by Qwest Corporation ("Qwest") as a director in the Wholesale Markets organization.

My business address is 1801 California Street, Room 2350, Denver, Colorado 80202.

In 1979, I joined Northwestern Bell Telephone Company. I have held several assignments within Northwestern Bell, and later within Qwest, primarily within the Law Department. Over the past 20 years, I have been a state regulatory attorney in Iowa, a general litigation attorney, and a commercial attorney supporting several organizations within Qwest. My responsibilities have included evaluating and advising the company on legal issues, drafting contracts, and addressing legal issues that arise in connection with specific products. With the passage of the Telecommunications Act of 1996 ("the Act"), I was assigned to be the attorney in support of the Interconnection Group. In that role, I was directly involved in negotiating with the CLECs contract language implementing various sections of the Act, including the Act's reciprocal compensation provisions. In 1999, I assumed my current duties as director of wholesale advocacy.

My current responsibilities include coordinating the witnesses for all interconnection arbitrations and for hearings related to disputes over interconnection issues. Additionally, I work with various groups within the Wholesale Markets

1 organization of Qwest to develop testimony addressing issues associated with
2 interconnection services.

3 I have two degrees: a Bachelor of Arts degree from Creighton University in 1970,
4 and a Juris Doctorate degree from Creighton University in 1973.

5 I have testified in the Sprint arbitration, Docket Nos. T02432B-00-0026 and
6 T01051B-00-0026

7 **EXECUTIVE SUMMARY**

8 In this testimony I address Sections 1, 2, 3, 5, 11, 16, 17, 18, 19, and 22 of the
9 Statement of Generally Available Terms and Conditions ("SGAT").

10 The SGAT is an offer for an agreement between Qwest and any requesting
11 CLEC. It sets forth the terms, conditions and pricing under which Qwest will offer
12 network interconnection, access to unbundled network elements, ancillary services, and
13 telecommunications services available for resale within the geographical areas in which
14 both Parties are providing local exchange service at that time, and for which Qwest is
15 the incumbent Local Exchange Carrier within a State for purposes of providing local
16 telecommunications services. A copy of the SGAT is attached as Exhibit LBB-1.

17 **PURPOSE OF AFFIDAVIT**

18 My testimony describes certain portions of the Statement of Generally Available
19 Terms and Conditions ("SGAT") for services provided by Qwest Corporation ("Qwest")

1 to a Competitive Local Exchange Carrier ("CLEC") pursuant to Section 252(f) of the
2 Telecommunications Act of 1996. The SGAT fulfils Qwest's obligations under Sections
3 222, 251(a), (b), and (c), 252, 271, and other relevant provisions of the Act and the
4 Federal Communications Commission's ("FCC") rules and regulations. Other witnesses
5 address the substantive subjects of interconnection, collocation, unbundling, and resale.
6 My testimony addresses the more traditional contract type provisions. As with any
7 contractual arrangement between two parties, there are certain standard provisions that
8 protects each party's rights under the contract. I will describe these general terms and
9 conditions that protect the rights and define the obligations of each party that accepts
10 the SGAT in lieu of negotiating an interconnection agreement.

11 Section 1 of the SGAT is the title section that names the parties and describes
12 the nature of the SGAT and the procedure for CLECs' accepting its terms and
13 conditions. When the CLEC signs the SGAT and delivers it to Qwest pursuant to the
14 notice provisions, it becomes the Interconnection Agreement between the Parties. In
15 addition, it describes the method to modify or amend the SGAT after the SGAT
16 becomes effective.

17 Section 1 also includes the "pick and choose" language that has been discussed
18 by Qwest and CLECs in several state workshops. CLECs with existing interconnection
19 agreements can use the "pick and choose" provisions of Section 1.8 to amend their
20 interconnection agreement by adopting specific SGAT language. Qwest and CLECs

1 have reached agreement on this Section 1.8 language in workshops held in several
2 states, including Arizona, Colorado, and Washington.

3 Section 2 describes the contents of the SGAT, which includes appended
4 attachments and agreements, e.g., Exhibit A, Rates. This Section describes the
5 Existing Rules under which the SGAT was constructed and allows amendment or
6 modifications to the SGAT to the extent the Existing Rules are changed, dismissed,
7 stayed or modified.

8 Section 3 describes the requirements needed to jointly develop an
9 implementation schedule to begin the ordering process for services offered under the
10 SGAT.

11 Section 5 is captioned "TERMS AND CONDITIONS" and contains many of the
12 business relationship type of provisions between the parties as opposed to sections
13 dealing with specific network elements or interconnection elements. Section 5 is the
14 largest section that I address and it contains several subparts.

15 Terms and Conditions include the following Sections: Section 5.1 General
16 Provisions; Section 5.2 Term of Agreement; Section 5.3 Proof of Authorization; Section
17 5.4 Payment; Section 5.5 Taxes; Section 5.6 Insurance; Section 5.7 Force Majeure;
18 Section 5.8 Limitation of Liability; Section 5.9 Indemnity; Section 5.10 Intellectual
19 Property; Section 5.11 Warranties; Section 5.12 Assignment; Section 5.13 Default;
20 Section 5.14 Disclaimer of Agency; Section 5.15 Severability; Section 5.16

1 Nondisclosure; Section 5.17 Survival; Section 5.18 Dispute Resolution; Section 5.19
2 Controlling Law; Section 5.20 Responsibility for Environmental Contamination; Section
3 5.21 Notices; Section 5.22 Responsibility of Each Party; Section 5.23 No Third Party
4 Beneficiaries; Section 5.24 Referenced Documents; Section 5.25 Publicity; Section 5.26
5 Executed in Counterparts; Section 5.27 Compliance; Section 5.28 Compliance with the
6 Communications Assistance Law Enforcement Act of 1994; Section 5.29 Cooperation;
7 Sections 5.30 Amendments; and Section 5.31 Entire Agreement.

8 I will not address each of these sections in my direct testimony, however, I will
9 specifically address a few sections that have generated some discussion with CLECs.
10 The other sections are rather self-explanatory and are generally reciprocal with the
11 obligations of the particular section applying equally to either party. Many have not
12 been the subject of dispute in negotiated interconnection agreements.

13 Section 5.3 describes the requirement for a Proof of Authorization ("POA") that
14 demonstrates that the end user has requested a change of its local service provider.
15 The POA is required to ensure that end users are properly transferred from one local
16 service provider to another. The intent is to deter the unauthorized transfer of end users
17 between local service providers. The FCC, as well as State Commissions, have
18 received many complaints regarding slamming, the unauthorized transfer of an end
19 user's interexchange carrier to another interexchange carrier. This section will avoid
20 similar complaints for local services.

1 This requirement is based upon the Federal Communications Commission's
2 ("FCC") rules, 47 C.F.R. Section 64.100 et seq., to prevent slamming for local and long
3 distance services. The FCC requires confirmation that an end user has requested a
4 change in carrier before the change is executed.

5 The charge for failure to produce a POA is required because, as the FCC
6 concluded, the most effective way to deter slamming is to remove the profit out of
7 slamming. Qwest proposes a charge if the CLEC or Qwest can not provide a POA to
8 support the change of the local provider before the change is executed to protect the
9 end user. This process should protect the end user from having to endure the
10 unnecessary consternation of having to deal with the billing and conversion headaches
11 that slamming victims endured.

12 Section 5.4 describes the terms for the payment for services provided under the
13 SGAT. Specifically Sections 5.4.2 and 5.4.3 allows Qwest to discontinue processing
14 orders after 30 days of the bill due date if full payment is not received from the CLEC.
15 Full payment, in this instance, does not include billing amounts that are being disputed.
16 Further, Qwest may disconnect services if a CLEC fails to make full payment, less any
17 disputed amount, within 60 days of the billing due date. However, disconnection of
18 services will not begin without at least ten days written notice to the CLEC.

19 Section 5.8 is the Limitation of Liability clause offered through the SGAT used to
20 measure damages arising out of any act or omission in providing service. Section 5.8.3
21 describes Qwest's measure of damages as follows:

1 Except for indemnity obligations, or as otherwise set forth in this Section,
2 each Party's liability to the other Party for any loss relating to or arising out
3 of any act or omission in its performance of services or functions provided
4 under this Agreement, whether in contract or in tort, shall be limited to the
5 total amount that is or would have been charged to the other Party by
6 such breaching Party for service(s) or function(s) not performed or
7 improperly performed, including without limitation direct damages for loss
8 of or damaged to the CLEC's collocated equipment located within the
9 collocation space.

10 The Limitation of Liability language used to measure damages is universally used
11 in services offered on the interstate level in FCC tariffs. For example, AT&T, Sprint and
12 MCI all limit damages for outages in their toll networks to the price of the service.
13 CLEC's also routinely use this as a standard measure of damages when dealing with its
14 own customers. Furthermore, State Commissions have historically endorsed this
15 measure of damages.

16 Section 5.9 is the Indemnity section of General Terms in the SGAT that
17 describes Indemnity with respect to third party claims. This section reflect standard,
18 reciprocal indemnity provisions which govern the relationship between the parties when
19 a third party, an end user of the telecommunications service, files an action or seeks
20 recovery from one of the contracting parties.

21 The indemnification clause addresses the provision of line sharing through the
22 use of a POTS splitter. Section 5.9.1.4 states:

23 For purposes of this Section 5.9, where the Parties have agreed to
24 provision line sharing using a POTS splitter: "claims made by end users
25 or customers of one Party against the other Party" refers to claims relating
26 to the provision of DSL services made against the Party that provides
27 voice services, or claims relating to the provision of voice service made

1 against the Party that provides DSL services; and "immediate provider of
2 the Telecommunications Service to the end user or customer" refers to the
3 Party that provides DSL service for claims relating to DSL services, and to
4 the Party that provides voice service for claims relating to voice services.
5 For purposes of this Section 5.9, "customer" refers to the immediate
6 purchaser of the telecommunications service, whether or not that
7 customer is the ultimate end user of that service.

8 Line sharing is addressed separately because it is unique in that both companies
9 provide a service over the same single physical loop. Unlike other situations where one
10 party or the other uses the facility, here two companies each provide service over the
11 same wire at different bandwidths. In such case it is important to clarify who the end
12 user is and who the "immediate provider of telecommunications services" is, when the
13 parties have agreed to line sharing.

14 Section 11 describes the responsibilities for both parties to the SGAT to insure
15 security, protection and prevention of harm or damage to each other's network. The
16 purpose of this section is to cooperatively create a safe environment for both parties'
17 personnel and equipment, and insure network security and integrity.

18 Section 16 describes the telephone number referral announcement that is placed
19 on an end user's telephone number whenever an end user does not retain its original
20 telephone number when it changes local service from Qwest to a CLEC or a CLEC to
21 Qwest. With number portability now in place, this is used on a limited basis.

22 Section 17 describes the Bon Fide Request ("BFR") process. This process
23 allows a CLEC to request an interconnection service, access to an unbundled network
24 element or ancillary service that is not already available in the SGAT. A BFR is not

1 required to order any service offered in the SGAT. However, it is required when a
2 CLEC requests a network interconnection, access to unbundled network element or
3 ancillary service that is not already available in the SGAT.

4 The BFR process begins when CLEC submits a completed form to Qwest. The
5 CLEC can obtain the BFR form from a number of sources, including the account
6 manager or the Internet, and, works together with Qwest personnel, if needed, to
7 prepare and submit the form to Qwest.

8 Within a maximum 15-day interval from the receipt of the BFR, Qwest will
9 acknowledge its receipt and review the BFR for completeness. Within a maximum of 21
10 days from the receipt of the BFR and all necessary information, Qwest will determine
11 technical feasibility and whether the requested service is required under the Act. Qwest
12 will provide price quotes to the CLEC within 45 days after the CLEC is notified that the
13 service is technically feasible and is required under the Act.

14 The BFR price quote will include, at a minimum, a description of each
15 interconnection service, network element, or ancillary service, the quantity to be
16 provided, any interface specifications, and the applicable rates (recurring and
17 nonrecurring) including the separately stated development costs and construction
18 charges of the interconnection service, unbundled network element or ancillary service
19 and any minimum volume and term commitments required. Additionally, Qwest will
20 provide the CLEC with the time frames for the provisioning of the request.

1 The CLEC will be required to submit a separate BFR for requests for additional
2 BFR services. The services provided via the BFR process are developed on a case-by-
3 case basis and, therefore, the circumstances and costs associated with it are specific to
4 the request. The response timeline for an "identical" BFR service may be streamlined
5 but the individual circumstances for the engineering and costs may not be similar at all.
6 Even a request to add another bay of equipment may not be similar to a prior request at
7 the same location if additions are required.

8 Section 18 describes the audit process to allow either party to the SGAT to
9 request billing and performance information to validate billing and performance
10 indicators. Either party may request this information or authorize an independent
11 auditor that is mutually agreed to by the parties to undertake the audit. All information
12 received or reviewed by the auditor(s) are considered Proprietary Information.

13 Section 19 describes the conditions under which Qwest may determine to
14 construct and assess construction charges for network interconnection, access to
15 unbundled network elements or ancillary services when existing facilities are not
16 available.

17 Since this document may be used to negotiate an Interconnection Agreement,
18 Section 22 is the signature page that each party signs to execute the Agreement. As
19 noted above, if a CLEC desires to accept the SGAT, thereby making it an Agreement
20 between the Parties, it is only necessary for the CLEC to sign and deliver the signed
21 copy to Qwest using the Notice procedure as set forth in Section 1.

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CONCLUSION

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As I state in my affidavit, any contractual arrangement between two parties contain certain standard provisions that protect each party's rights under the contract.

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The proposed general terms and conditions of the SGAT protect the rights and define the obligations of each party that accepts the SGAT in lieu of negotiating an interconnection agreement.

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The general terms and conditions specifically addressed in my testimony are reasonable and generally accepted in the provision of telecommunications services throughout the industry. The liability and indemnification provisions are commonly found in tariffs and inter-carrier contracts. The requirement for a Proof of Authorization is reasonable and will reduce complaints of an unauthorized or improper transfer of a customer from a local service provider to another. For these reasons, the referenced terms and conditions contained in the SGAT should be adopted.

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

DOCKET NO. T-000000A-97-0238

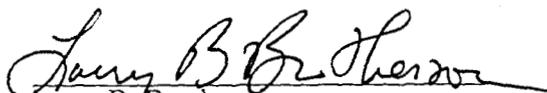
IN THE MATTER OF QWEST
CORPORATION'S
COMPLIANCE WITH SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

Affidavit of Larry B. Brotherson

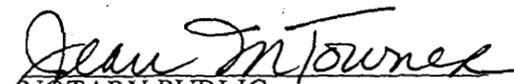
STATE OF COLORADO)
)
COUNTY OF DENVER)

Larry B. Brotherson, of lawful age being first duly sworn, deposes and states:

1. My name is Larry B. Brotherson. I am a Director in the Wholesale Markets organization of Qwest Corporation, located in Denver, Colorado.
2. Attached hereto and made a part hereof for all purposes is my Affidavit.
3. I hereby swear and affirm that my answers contained in the attached Affidavit to the questions therein propounded are true and correct to the best of my knowledge and belief.


Larry B. Brotherson

SUBSCRIBED AND SWORN to before me this 2nd day of April, 2001.


NOTARY PUBLIC

My Commission Expires:

4-13-2002

INDEX OF EXHIBITS

DESCRIPTION

EXHIBIT

Statement of Generally Available Terms and Conditions

LBB 1

Arizona Corporation Commission
Docket No. T-00000B-97-0238
Qwest Corporation LLB-1
Exhibit of Larry B. Brotherson
April 4, 2001

**STATEMENT OF GENERALLY AVAILABLE
TERMS AND CONDITIONS**

**STATEMENT OF GENERALLY AVAILABLE
TERMS AND CONDITIONS FOR INTERCONNECTION,
UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES,
AND RESALE OF TELECOMMUNICATION SERVICES
PROVIDED BY
QWEST CORPORATION
ARIZONA**

**GENERAL TERMS AND CONDITIONS
WORKSHOP VERSION**

For filing April 4, 2001

This document is redlined against the SGAT filed on 2/12/01

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Section 1.0 - GENERAL TERMS

1.1 This Statement of Generally Available Terms and Conditions ("SGAT") for Interconnection, unbundled network elements, Ancillary Services, and Resale of Telecommunications Services is filed by Qwest Corporation ("Qwest"), a Colorado Corporation with offices at 1801 California Street, Denver, Colorado 80202, pursuant to Section 252(f) of the Telecommunications Act of 1996, for purposes of fulfilling Qwest's obligations under Sections 222, 251(a), (b), and (c), 252, 271, and other relevant provisions of the Act and the rules and regulations promulgated thereunder.

1.2 If this document is being used as the basis for negotiations of an Interconnection Agreement, it is between _____, ("Competitive Local Exchange Carrier" or "CLEC") a _____ corporation and Qwest Corporation ("Qwest"), a Colorado corporation, pursuant to Section 252(f) of the Telecommunications Act of 1996, for purposes of fulfilling Qwest's obligations under Sections 222, 251(a), (b), and (c), 252, 271, and other relevant provisions of the Act and the rules and regulations promulgated thereunder.

1.3 This Agreement sets forth the terms, conditions and pricing under which Qwest will offer and provide to any requesting CLEC network Interconnection, access to unbundled network elements, Ancillary services, and Telecommunications Services available for resale within the geographical areas in which both Parties are providing local exchange service at that time, and for which Qwest is the incumbent Local Exchange Carrier within the State of Arizona for purposes of providing local Telecommunications Services. This Agreement is available for the term set forth herein.

1.4 Individual CLECs may adopt this SGAT, in lieu of entering into an individual Interconnection agreement, by signing the Signature Page Section of this SGAT and by delivering a signed copy of this SGAT to Qwest, pursuant to the notification provision of this SGAT. Upon adoption of the SGAT by CLEC, the SGAT becomes an Interconnection agreement between Qwest and CLEC. The date on which Qwest receives an executed copy of this SGAT shall hereafter be referred to as the "Effective Date" of the Agreement between Qwest and CLEC.

1.5 This SGAT, once it is approved or permitted to go into effect by the Commission, offers CLECs an alternative to negotiating an individual Interconnection agreement with Qwest or adopting an existing approved Interconnection agreement between Qwest and another CLEC pursuant to Section 252(i) of the Act. In this respect, neither the submission nor approval of this SGAT nor any provision herein shall affect Qwest's willingness to negotiate an individual agreement with any requesting carrier pursuant to Section 252 of the Telecommunications Act of 1996.

1.6 Qwest may modify this SGAT prior to the date it is approved or permitted to go into effect. If Qwest files a modification, the section modified shall be considered withdrawn, and the section as modified will be approved or permitted to go into effect pursuant to the Schedule for Review set forth in 252(f) of the Act. For the purposes of the Schedule for Review set forth in section 252(f) of the Act, the sixty-calendar-day timeframe for this SGAT to take effect shall commence from the filing of this SGAT and shall not be affected by the filing of any modification.

1.7 Following the date this SGAT is approved or allowed to take effect, Qwest may file amendments to this SGAT, which shall be approved or permitted to take effect pursuant to the Schedule for Review set forth in Section 252(f) of the Act. At the time any amendment is filed, the section amended shall be considered withdrawn, and no CLEC may adopt the section considered withdrawn following the filing of any amendment, even if such amendment has not yet been approved or allowed to take effect.

1.8 Because this SGAT is Qwest's standard contract offer, CLECs with a current Interconnection Agreement may opt into, through Section 252(i) of the Act, any provision of the SGAT by executing an appropriate amendment to its current Interconnection Agreement.

1.8.1 When opting into a provision, Qwest may require CLEC to accept legitimately related provisions to ensure that the provision retains the context set forth in the SGAT. At all times, Qwest bears the burden of establishing that an SGAT provision is legitimately related.

1.8.2 To opt into a provision of the SGAT through Section 252(i), CLEC must provide Qwest with written notice of such intention specifying in detail the provisions of the SGAT selected in the form of a proposed amendment to the Interconnection Agreement which has been signed by the CLEC. Qwest shall make a form or sample amendment as well as the currently effective SGAT, available in electronic form for use by CLEC to prepare the written notice. Once Qwest receives such written notice, it shall have a reasonable period of time to submit a formal written response either accepting the change and signing the amendment or identifying those additional provisions that Qwest believes are legitimately related and must also be included as part of the amendment. If Qwest identifies additional provisions that Qwest believes are legitimately related Qwest shall specify the provisions in the proposed amendment, if any, to which the additional provisions are not legitimately related and which could be included in a revised proposed amendment that would be acceptable to Qwest. Under ordinary circumstances, a reasonable period of time shall be deemed to be fifteen (15) business days. In extraordinary circumstances, where CLEC's requested modification is complex, Qwest shall have additional time to perform its review. When such extraordinary circumstances exist, Qwest will notify CLEC in writing within fifteen (15) business days from the notice and advise CLEC that additional time is necessary. In no event shall a reasonable period of time be deemed to be greater than twenty (20) business days from the time of CLEC's notice.

1.8.3 If Qwest has identified additional provisions that Qwest believes are legitimately related and has specified provisions in the proposed amendment to which those provisions are not legitimately related, CLEC may provide Qwest with a revised proposed amendment that deletes the disputed provisions, which Qwest shall accept and sign. Regardless of whether CLEC provides Qwest with a revised proposed amendment, if CLEC disputes Qwest's written response that additional SGAT provisions are legitimately related, then CLEC may immediately demand that the dispute be submitted to dispute resolution and CLEC shall submit such dispute to dispute resolution within fifteen (15) days from such receipt of Qwest's response. CLEC may, at its sole option, elect to have the

dispute resolution conducted through one of the following methods of dispute resolution:

1.8.3.1 The dispute may be settled by the Commission. Such dispute resolution shall be conducted pursuant to Commission rules or regulations specifying a procedure for submission, hearing and resolving issues pursuant to Section 252(i) of the Act or rules and regulations specifying procedures for submission of a dispute arising under an Interconnection Agreement, as appropriate. If the Commission shall not have established any such rules or regulations, CLEC may file a complaint with the Commission. The Commission may elect to hear the complaint under expedited procedures.

1.8.3.2 The dispute may be settled by arbitration. Such an arbitration proceeding shall be conducted by a single arbitrator. The arbitration proceedings shall be conducted under the then-current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the dispute. All expedited procedures prescribed by AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Except for a finding of bad faith as set forth in 1.8.3.3, each Party shall bear its own costs and attorney's fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Phoenix metropolitan area or in another mutually agreed upon location.

1.8.3.3 Each Party to the dispute shall bear the responsibility of paying its own attorney's fees and costs in prosecuting/defending the action. However, if either Party is found to have brought or defended the action in "bad faith", then that Party shall be responsible for reimbursing the other Party for its reasonable attorney's fees and costs in prosecuting or defending the action.

1.8.4 If Qwest accepts a CLEC proposed change to adopt certain SGAT language and signs the amendment, the Parties shall begin abiding by the terms of the amendment immediately upon CLEC's receipt of the signed amendment. Qwest shall be responsible for submitting the proposed change to the Commission for its approval within ten (10) business days from receipt of the signed amendment. The amendment shall be deemed effective upon approval of the amendment by the Commission.

Section 2.0 - INTERPRETATION AND CONSTRUCTION

2.1 This Agreement ("Agreement") includes this Agreement and all Exhibits appended hereto, each of which is hereby incorporated by reference in this Agreement and made a part hereof. All references to Sections and Exhibits shall be deemed to be references to Sections of, and Exhibits to, this Agreement unless the context shall otherwise require. The headings used in this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of this Agreement. Unless the context shall otherwise require, any reference to any agreement,

other instrument (including Qwest or other third party offerings, guides or practices), statute, regulation, rule or Tariff applies to such agreement, instrument, statute, regulation, rule or Tariff as amended and supplemented from time to time (and, in the case of a statute, regulation, rule or Tariff, to any successor provision).

2.2 The provisions in this Agreement are based, in large part, on the existing state of the law, rules, regulations and interpretations thereof, as of the date hereof (the "Existing Rules"). Among the Existing Rules are the results of arbitrated decisions by the Commission, which are currently being challenged by Qwest or CLEC. Among the Existing Rules are certain FCC rules and orders that are the subject of, or affected by, the opinion issued by the Supreme Court of the United States in *AT&T Corp., et al. v. Iowa Utilities Board, et al.* on January 25, 1999. Many of the Existing Rules, including rules concerning which Network Elements are subject to unbundling requirements, may be changed or modified during legal proceedings that follow the Supreme Court opinion. Among the Existing Rules are the FCC's orders regarding BOCs' applications under Section 271 of the Act. Qwest is basing the offerings in this Agreement on the Existing Rules, including the FCC's orders on BOC 271 applications. Nothing in this Agreement shall be deemed an admission by Qwest concerning the interpretation or effect of the Existing Rules or an admission by Qwest that the Existing Rules should not be vacated, dismissed, stayed or modified. Nothing in this Agreement shall preclude or estop 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, dismissed, stayed or modified. To the extent that the Existing Rules are changed, vacated, dismissed, stayed or modified, then this Agreement and all contracts adopting all or part of this Agreement shall be amended to reflect such modification or change of the Existing Rules. Where the Parties fail to agree upon such an amendment within sixty (60) days from the effective date of the modification or change of the Existing Rules, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement. It is expressly understood that this Agreement will be corrected to reflect the outcome of generic proceedings by the Commission for pricing, service standards, or other matters covered by this Agreement. This Section shall be considered part of the rates, terms and conditions of each Interconnection, service and network element arrangement contained in this Agreement, and this Section shall be considered legitimately related to the purchase of each Interconnection, service and network element arrangement contained in this Agreement.

2.3 In cases of conflict between Qwest's IRRG product descriptions, methods and procedures, or a Technical Publication, and this Agreement, the rates, terms and conditions of this Agreement shall prevail over such IRRG product descriptions, methods and procedures, or a Technical Publication.

Section 3.0 - IMPLEMENTATION SCHEDULE

3.1 Except as otherwise required by law, Qwest will not provide or establish Interconnection, unbundled network elements, ancillary services and/or resale of Telecommunications Services in accordance with the terms and conditions of this Agreement prior to CLEC's execution of this Agreement. Thereupon, the Parties shall complete Qwest's "CLEC Questionnaire," and negotiate an Interconnection implementation schedule as it applies to CLEC's obtaining of Interconnection, unbundled network elements, ancillary services, and/or resale of Telecommunications Services hereunder.

3.2 Prior to placing any orders for services under this Agreement, the Parties will jointly complete Qwest's "CLEC Questionnaire." This questionnaire will then be used to:

Determine geographical requirements;

Identify CLEC Identification Codes;

Determine Qwest system requirements to support CLEC's specific activity;

Collect credit information;

Obtain billing information;

Create summary bills;

Establish input and output requirements;

Create and distribute Qwest and CLEC contact lists; and Identify CLEC hours and holidays.

3.3 Prior to placing any orders for services under this Agreement, the Parties will finalize an Interconnection implementation schedule. Subject to the terms and conditions of this Agreement, each Party shall exercise reasonable efforts to adhere to the Interconnection implementation schedule.

3.4 ~~Intentionally Left Blank~~ CLEC will provide an initial two-year forecast prior to placing any orders for service under this Agreement. During the first year of the term of this Agreement, the forecast shall be updated and provided to Qwest on a quarterly basis. During the remaining term of this Agreement, CLEC will provide updated forecasts from time to time, as requested by Qwest. The information provided pursuant to this paragraph shall be considered Proprietary Information under the Nondisclosure Section of this Agreement. The initial forecast will minimally provide:

~~3.4.1 The date service will be offered (by city and/or state);~~

~~3.4.2 The type and quantity of service(s) which will be offered;~~

~~3.4.3 CLEC's anticipated order volumes; and~~

~~3.4.4 CLEC's key contact personnel.~~

Section 5.0 - TERMS AND CONDITIONS

5.1 General Provisions

5.1.1 Each Party shall use its best efforts to comply with the Implementation Schedule provisions that will be mutually agreed upon by the Parties.

5.1.2 The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

5.1.3 Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to either Party's end users. Each Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party notice of such violation at the earliest practicable time.

5.1.4 Each Party is solely responsible for the services it provides to its end users and to other Telecommunications Carriers.

5.1.5 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

5.1.6 Nothing in this Agreement shall prevent either Party from seeking to recover the costs and expenses, if any, it may incur in (a) complying with and implementing its obligations under this Agreement, the Act, and the rules, regulations and orders of the FCC and the Commission, and (b) the development, modification, technical installation and maintenance of any systems or other infrastructure which it requires to comply with and to continue complying with its responsibilities and obligations under this Agreement.

5.2 Term of Agreement

5.2.1 When this document is used for purposes of negotiating an Interconnection Agreement, this Agreement shall become effective upon Commission approval, pursuant to Sections 251 and 252 of the Act. This Agreement shall be binding upon the Parties upon the Effective Date and for a term of two years and shall terminate on _____.

5.2.2 Upon expiration of the term of this Agreement, this Agreement shall continue in force and effect until terminated by either Party on one hundred sixty (160) days written notice to the other Party. The date of this notice will be the starting point for the one hundred sixty-- (160) day negotiation window under Section 252 of the Act. If the Parties reach agreement, this Agreement will terminate on the date specified in the

notice or on the date the agreement is approved by the Commission, whichever is later. If the Parties arbitrate, this Agreement will terminate when the new agreement is approved by the Commission.

5.2.2.1 Prior to the conclusion of the term specified above, CLEC may obtain Interconnection services under the terms and conditions of a then-existing agreement to become effective at the conclusion of the term.

5.3 Proof of Authorization

5.3.1 Where so indicated in specific sections of this Agreement, each Party shall be responsible for obtaining and having in its possession Proof of Authorization ("POA"). POA shall consist of documentation of the end user's selection of its local service provider. Such selection may be obtained in the following ways:

5.3.1.1 The end user's written Letter of Authorization.

5.3.1.2 The end user's electronic authorization by use of an 8XX number.

5.3.1.3 The end user's oral authorization verified by an independent third party (with third party verification as POA).

5.3.2 The Parties shall make POAs available to each other upon request, in accordance with applicable laws and rules. A charge of \$100.00 will be assessed if the POA cannot be provided supporting the change in service provider. If there is a conflict between the end user designation and the other Party's written evidence of its authority, the Parties shall honor the designation of the end user and change the end user back to the previous service provider.

5.4 Payment

5.4.1 Amounts payable under this Agreement are due and payable within thirty (30) calendar days after the date of invoice, or within twenty (20) days after receipt of the invoice, whichever is later. If the payment due date is not a business day, the payment shall be made the next business day.

5.4.2 Qwest may discontinue processing orders for the failure of CLEC to make full payment, less any disputed amount as provided for in Section 5.4.4 of this Agreement, for the services provided under this Agreement within thirty (30) days of the due date on CLEC's bill. Qwest will notify CLEC in writing at least ten (10) days prior to discontinuing the processing of orders. If Qwest does not refuse to accept additional orders on the date specified in the ten (10) days notice, and CLEC's non-compliance continues, nothing contained herein shall preclude Qwest's right to refuse to accept additional orders from the non-complying CLEC without further notice. For order processing to resume, CLEC will be required to make full payment of all past and current charges. Additionally, Qwest may require a deposit (or additional deposit) from CLEC, pursuant to this section.

5.4.3 Qwest may disconnect any and all services for failure by CLEC to make full payment, less any disputed amount as provided for in Section 5.4.4 of this Agreement, for the services provided under this Agreement within sixty (60) days of the due date on

CLEC's bill. CLEC will pay the Tariff charge required to reconnect each resold end user line disconnected pursuant to this paragraph. Qwest will notify CLEC in writing at least ten (10) business days prior to disconnection of the service(s). In case of such disconnection, all applicable charges, including termination charges, shall become due. If Qwest does not disconnect CLEC's service(s) on the date specified in the ten (10) day notice, and CLEC's noncompliance continues, nothing contained herein shall preclude Qwest's right to disconnect any or all services of the non-complying CLEC without further notice. For reconnection of service to occur, CLEC will be required to make full payment of all past and current charges. Additionally, Qwest will request a deposit (or additional deposit) from CLEC, pursuant to this section. Qwest agrees, however, that the application of this provision will be suspended for the initial three (3) billing cycles of this Agreement and will not apply to amounts billed during those three (3) cycles.

5.4.4 Should CLEC or Qwest dispute, in good faith, any portion of the monthly billing under this Agreement, the Parties will notify each other in writing within thirty (30) calendar days of the receipt of such billing, identifying the amount, reason and rationale of such dispute. At a minimum, CLEC and Qwest shall pay all undisputed amounts due. Both CLEC and Qwest agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies.

5.4.4.1 If a Party disputes charges and does not pay such charges by the payment due date, such charges will be subject to late payment charges. If the disputed charges have been withheld and the dispute is resolved in favor of the billing Party, the withholding Party shall pay the disputed amount and applicable late payment charges no later than the second billing period following the resolution. If the disputed charges have been withheld and the dispute is resolved in favor of the disputing Party, the billing Party shall credit the bill of the disputing Party for the amount of the disputed charges no later than the second Bill Date after the resolution of the dispute. If a Party pays the disputed charges and the dispute is resolved in favor of the billing Party, no further action is required.

5.4.4.2 If a Party pays the disputed charges and the dispute is resolved in favor of the disputing Party, the billing Party shall credit the disputing Party's bill for the disputed amount and any associated interest no later than the second bill payment due date after the resolution of the dispute. 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.

5.4.5 Qwest will determine CLEC's credit status based on previous payment history with Qwest or credit reports such as Dun and Bradstreet. If CLEC has not established satisfactory credit with Qwest according to the above provisions or CLEC is repeatedly delinquent in making its payments, or CLEC is being reconnected after a disconnection of service or discontinuance of the processing of orders by Qwest due to a previous nonpayment situation, Qwest will 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 received thirty (30) calendar days or more after the due date, three (3) or more times during a twelve (12) month period. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a surety bond if allowed by the

applicable Commission rules, regulations or Tariffs, a letter of credit with terms and conditions acceptable to Qwest, or some other form of mutually acceptable security such as a cash deposit. Required deposits are due and payable within ten (10) calendar days after demand.

5.4.6 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to CLEC's account or refunded, as appropriate, upon the earlier of the two year term or the establishment of satisfactory credit with Qwest, which will generally be one full year of timely payments in full by CLEC. The fact that a deposit has been made does not relieve CLEC from any requirements of this Agreement.

5.4.7 Qwest may review CLEC's credit standing and modify the amount of deposit required.

5.4.8 The late payment charge for amounts that are billed under this Agreement shall be in accordance with Commission requirements.

5.4.9 CLEC agrees to inform end-user in writing of pending disconnection by CLEC to allow end user to make other arrangements for Telecommunications Services.

5.5 Taxes

5.5.1 Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Until such time as a resale tax exemption certificate is provided, no exemptions will be applied.

5.6 Insurance

5.6.1 CLEC 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.

5.6.1.1 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.

5.6.1.2 Commercial General Liability insurance covering claims for bodily injury, death, personal injury or property damage occurring or arising out of the use or occupancy of the premises, including coverage for independent contractor's protection (required if any work will be subcontracted), premises-operations, products and/or completed operations and contractual liability with respect to the liability assumed by CLEC hereunder. The limits of insurance shall

not be less than \$1,000,000 each occurrence and \$2,000,000 general aggregate limit.

5.6.1.3 Comprehensive automobile liability insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

5.6.1.4 Umbrella/Excess Liability insurance in an amount of \$10,000,000 excess of Commercial General Liability insurance specified above. These limits may be obtained through any combination of primary and excess or umbrella liability insurance so long as the total limit is \$11,000,000.

5.6.1.5 "All Risk" Property coverage on a full replacement cost basis insuring all of CLEC personal property situated on or within the premises. CLEC may elect to purchase business interruption and contingent business interruption insurance. Qwest has no liability for loss of profit or revenues should an interruption of service occur.

5.6.2 CLEC shall provide certificate(s) of insurance evidencing coverage, and annually thereafter within ten (10) calendar days of renewal of any coverage maintained pursuant to this Section. Such certificates shall (1) name Qwest as an additional insured under commercial general liability coverage as respects Qwest's interests; (2) provide Qwest 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 Qwest; and (4) provide severability of interest/cross liability coverage.

5.7 Force Majeure

5.7.1 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, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). 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.

5.8 Limitation of Liability

5.8.1 Except for losses relating to or arising out of any act or omission in its performance of services or functions provided under this Agreement, each Party shall be liable to the other for direct damages for any loss, defect or equipment failure including

without limitation any penalty, reparation or liquidated damages assessed by the Commission or under a Commission-ordered agreement (including without limitation penalties or liquidated damages assessed as a result of cable cuts), resulting from the causing Party's conduct or the conduct of its agents or contractors.

5.8.2 Neither Party shall be liable to the other for indirect, incidental, consequential, 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.

5.8.3 Except for indemnity obligations, or as otherwise set forth in this Section, each Party's liability to the other Party for any loss relating to or arising out of any act or omission in its performance of services or functions provided under this Agreement, whether in contract or in tort, shall be limited to the total amount that is or would have been charged to the other Party by such breaching Party for the service(s) or function(s) not performed or improperly performed, including without limitation direct damages for loss of or damaged to CLEC's collocated equipment located within the Collocation space.

5.8.4 Nothing contained in this Section shall limit either Party's liability to the other for willful or intentional misconduct.

5.8.5 Nothing contained in this Section shall limit either Party's obligations of indemnification as specified in the Indemnity Section of this Agreement.

5.8.6 CLEC is liable for all fraud associated with service to its end-users and accounts. Qwest takes no responsibility, will not investigate, and will make no adjustments to CLEC's account in cases of fraud unless such fraud is the result of any intentional act or gross negligence of Qwest. Notwithstanding the above, if Qwest becomes aware of potential fraud with respect to CLEC's accounts, Qwest will promptly inform CLEC and, at the direction of CLEC, take reasonable action to mitigate the fraud where such action is possible.

5.9 Indemnity

5.9.1 With respect to third party claims, the Parties agree to indemnify each other as follows:

5.9.1.1 Except for claims made by end users of one Party against the other Party, which claims are based on defective or faulty services provided by the other Party to the one Party, each of the Parties 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, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other Party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the

indemnifying Party's performance, breach of applicable law, or status of its employees, agents and subcontractors; or for failure to perform under this Agreement, regardless of the form of action.

5.9.1.2 Where the third party claim is made by (or through) an end user of one Party against the other Party, which claim is based on defective or faulty services provided by the other Party to the one Party, then there shall be no obligation of indemnity unless the act or omission giving rise to the defective or faulty services is shown to be intentional and malicious misconduct of the other Party.

5.9.1.3 If the claim is made by (or through) an end user and where a claim is in the nature of a claim for invasion of privacy, libel, slander, or other claim based on the content of a transmission, and it is made against a Party who is not the immediate provider of the Telecommunications Service to the end user (the indemnified provider), then in the absence of fault or neglect on the part of the indemnified provider, the Party who is the immediate seller of such Telecommunications Service shall indemnify, defend and hold harmless the indemnified provider from such claim.

5.9.1.4 For purposes of this Section, where the Parties have agreed to provision line sharing using a POTS splitter: "claims made by end users or customers of one Party against the other Party" refers to claims relating to the provision of DSL services made against the Party that provides voice services, or claims relating to the provision of voice service made against the Party that provides DSL services; and "immediate provider of the Telecommunications Service to the end user or customer" refers to the Party that provides DSL service for claims relating to DSL services, and to the Party that provides voice service for claims relating to voice services. For purposes of this Section, "customer" refers to the immediate purchaser of the telecommunications service, whether or not that customer is the ultimate end user of that service.

5.9.2 The indemnification provided herein shall be conditioned upon:

5.9.2.1 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.

5.9.2.2 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.

5.9.2.3 In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

5.10 Intellectual Property

5.10.1 Each Party hereby grants to the other Party the limited, personal and

nonexclusive right and license to use its patents, copyrights and trade secrets but only to the extent necessary to implement this Agreement or specifically required by the then-applicable federal and state rules and regulations relating to Interconnection and access to telecommunications facilities and services, and for no other purposes. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trademarks.

5.10.2 The rights and licenses above are granted "AS IS, WITH ALL FAULTS", and the other Party's exercise of any such right and license shall be at the sole and exclusive risk of the other Party. Neither Party shall have any obligation to defend, indemnify or hold harmless the other based on or arising from any claim, demand, or proceeding (hereinafter "claim") by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision of any facilities by either Party under this Agreement constitutes infringement, or misuse or misappropriation of any patent, copyright, trade secret, or any other proprietary or intellectual property right of any third party.

5.10.3 To the extent required under applicable federal and state rules law, the Party providing access shall use its best efforts to obtain, from its vendors who have licensed intellectual property rights to such Party in connection with facilities and services provided hereunder, licenses under such intellectual property rights as necessary for the other Party to use such facilities and services as contemplated hereunder.

5.10.4 Except as expressly provided in this Intellectual Property Section, nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, logo, trademark, trade name, trade secret or any other intellectual property right now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyright, logo, trademark, trade name, trade secret or other intellectual property rights of the other Party or its affiliates without execution of a separate agreement between the Parties.

5.10.5 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 resold goods and services are in any way associated with or originated from the other or any of its affiliates. Nothing in this paragraph shall prevent either Party from truthfully describing the network elements it uses to provide service to its end users, provided it does not represent the network elements as originating from the other Party or its affiliates in any marketing, advertising or promotional activities or materials.

5.10.6 For purposes of resale only and notwithstanding the above, unless otherwise prohibited by Qwest pursuant to an applicable provision herein, CLEC may use the phrase "CLEC is a Reseller of Qwest's services" (the "Authorized Phrase") in CLEC's printed materials provided:

5.10.6.1 The Authorized Phrase is not used in connection with any goods or services other than Qwest services resold by CLEC.

5.10.6.2 CLEC's use of the Authorized Phrase does not cause end users to believe that CLEC is Qwest.

5.10.6.3 The Authorized Phrase, when displayed, appears only in text form (CLEC may not use the Qwest logo) with all letters being the same font and point size. The point size of the Authorized Phrase shall be no greater than one fourth the point size of the smallest use of CLEC's name and in no event shall exceed 8 point size.

5.10.6.4 CLEC shall provide all printed materials using the Authorized Phrase to Qwest for its prior written approval.

5.10.6.5 If Qwest determines that CLEC's use of the Authorized Phrase causes end user confusion, Qwest may immediately terminate CLEC's right to use the Authorized Phrase.

5.10.6.6 Upon termination of CLEC's right to use the Authorized Phrase or termination of this Agreement, all permission or right to use the Authorized Phrase shall immediately cease to exist and CLEC shall immediately cease any and all such use of the Authorized Phrase. CLEC shall either promptly return to Qwest or destroy all materials in its possession or control displaying the Authorized Phrase.

5.10.7 CLEC acknowledges the value of the mark "Qwest" Qwest and the goodwill associated therewith and acknowledges that such goodwill is a property right belonging to Qwest Communications International Inc. Qwest (the "Owner"). CLEC recognizes that nothing contained in this Agreement is intended as an assignment or grant to CLEC of any right, title or interest in or to the Mark and that this Agreement does not confer any right or license to grant sublicenses or permission to third parties to use the Mark and is not assignable. CLEC will do nothing inconsistent with the Owner's ownership of the Mark, and all rights, if any, that may be acquired by use of the Mark shall inure to the benefit of the Owner. CLEC will not adopt, use (other than as authorized herein), register or seek to register any mark anywhere in the world which is identical or confusingly similar to the Mark or which is so similar thereto as to constitute a deceptive colorable imitation thereof or to suggest or imply some association, sponsorship, or endorsement by the Owner. The Owner makes no warranties regarding ownership of any rights in or the validity of the Mark.

5.11 Warranties

5.11.1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THAT ALL PRODUCTS AND SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS," WITH ALL FAULTS.

5.12 Assignment

5.12.1 Neither Party may 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 the other Party. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a corporate affiliate or an entity under its common control; however, if CLEC's assignee or transferee has an Interconnection agreement with Qwest, no assignment or transfer of this Agreement shall be effective without the prior written consent of Qwest. Such consent shall include appropriate resolutions of conflicts and discrepancies between the assignee's or transferee's Interconnection agreement and this Agreement. 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.

5.12.2 Without limiting the generality of the foregoing subsection, any merger, dissolution, consolidation or other reorganization of CLEC, or any sale, transfer, pledge or other disposition by CLEC of securities representing more than fifty percent (50%) of the securities entitled to vote in an election of CLEC's board of directors or other similar governing body, or any sale, transfer, pledge or other disposition by CLEC of substantially all of its assets, shall be deemed a transfer of control. If any entity, other than CLEC, involved in such merger, dissolution, consolidation, reorganization, sale, transfer, pledge or other disposition of CLEC has an Interconnection agreement with Qwest, the Parties agree that only one agreement, either this Agreement or the Interconnection agreement of the other entity, will remain valid. All other Interconnection agreements will be terminated. The Parties agree to work together to determine which Interconnection agreement should remain valid and which should terminate. In the event the Parties cannot reach agreement on this issue, the issue shall be resolved through the Dispute Resolution process contained in this Agreement.

5.13 Default

5.13.1 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 shall continue for thirty (30) calendar days after written notice thereof, the other Party may seek relief in accordance with the Dispute Resolution provision of this Agreement. 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.

5.14 Disclaimer of Agency

5.14.1 Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

5.15 Severability

5.15.1 In the event that any one or more of the provisions contained herein shall

for any reason be held to be unenforceable or invalid in any respect under law or regulation, the Parties will negotiate in good faith for replacement language as set forth herein. If any part of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will affect only the portion of this Agreement which is invalid or unenforceable. In all other respects, this Agreement will stand as if such invalid or unenforceable provision had not been a part hereof, and the remainder of this Agreement shall remain in full force and effect.

5.16 Nondisclosure

5.16.1 All 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 end user specific, facility specific, or usage specific information, other than end user 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" (collectively referred to as "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.

5.16.2 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.

5.16.3 Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only in connection with this Agreement. 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.

5.16.4 Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:

- 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; or
- b) is or becomes publicly known through no wrongful act of the receiving Party; or
- 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; or

- d) is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
- e) is disclosed to a third person by the disclosing Party without similar restrictions on such third person's rights; or
- f) is approved for release by written authorization of the disclosing Party; or
- g) is required to be made public 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.

5.16.5 Nothing herein is intended to prohibit a Party from supplying factual information about its network and Telecommunications Services on or connected to its network to regulatory agencies including the Federal Communications Commission and the Commission so long as any confidential obligation is protected.

5.16.6 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.

5.17 Survival

5.17.1 Any liabilities or obligations of a Party for acts or omissions prior to the completion of the two year term, and any obligation of a Party under the provisions regarding indemnification, Confidential or Proprietary Information, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, shall survive cancellation or termination hereof.

5.18 Dispute Resolution

5.18.1 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 (the "Dispute"), then it shall be resolved in accordance with the dispute resolution process set forth in this Section. Each notice of default, unless cured within the applicable cure period, shall be resolved in accordance herewith.

5.18.2 At the written request of either Party, and prior to any other formal dispute resolution proceedings, each Party shall designate a vice-presidential level employee 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.

5.18.3 If the vice-presidential level representatives have not reached a resolution of the Dispute within thirty (30) calendar days after the matter is referred to them, then either Party may demand that the Dispute be settled by arbitration. Such an arbitration proceeding shall be conducted by a single arbitrator, knowledgeable about the telecommunications industry unless the Dispute involves amounts exceeding one million dollars (\$1,000,000) in which case the proceeding shall be conducted by a panel of three arbitrators, knowledgeable about the telecommunications industry. The arbitration proceedings shall be conducted under the then-current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the Dispute. All expedited procedures prescribed by the AAA rules shall apply. 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 Phoenix, Arizona 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).

5.18.4 Should it become necessary to resort to court proceedings to enforce a Party's compliance with the dispute resolution process set forth herein, and the court directs or otherwise requires compliance herewith, then all of the costs and expenses, including its reasonable attorney fees, incurred by the Party requesting such enforcement shall be reimbursed by the non-complying Party to the requesting Party.

5.18.5 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.

5.18.6 Nothing in this Section is intended to divest or limit the jurisdiction and authority of the Commission or the FCC as provided by state and federal law.

5.19 Controlling Law

5.19.1 This Agreement is offered by Qwest and accepted by CLEC in accordance with the terms of the Act and the State law of Arizona. It shall be interpreted solely in accordance with the terms of the Act and the State law of Arizona.

5.20 Responsibility for Environmental Contamination

5.20.1 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.

5.21 Notices

5.21.1 Any notices required by or concerning this Agreement shall be in writing and sent by certified mail, return receipt requested, to Qwest and CLEC at the addresses shown below:

Qwest Corporation
Director Interconnection Compliance
1801 California, Room 2410
Denver, CO 80202

With copy to:

Qwest Attention:
Corporate Counsel, Interconnection
1801 California Street, ~~54th~~ 49th Floor
Denver, CO 80202

and to CLEC at the address shown below:

Name:

Each Party shall inform the other of any change in the above contact person and/or address.

5.22 Responsibility of Each Party

5.22.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances

or materials that it or its contractors or agents bring to, create or assume control over at work locations, and (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal, and (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

5.23 No Third Party Beneficiaries

5.23.1 Unless specifically set forth herein, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

5.24 Referenced Documents

5.24.1 All references to Sections shall be deemed to be references to Sections of this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, Qwest practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, Qwest practice, or publication of industry standards. The existing configuration of either Party's network may not be in immediate compliance with the latest release of applicable referenced documents.

5.25 Publicity

5.25.1 Neither Party shall publish or use any publicity materials with respect to the execution and delivery or existence of this Agreement without the prior written approval of the other Party.

5.26 Executed in Counterparts

5.26.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

5.27 Compliance

5.27.1 Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement. Without limiting the foregoing, Qwest and CLEC agree to keep and maintain in full force and effect all permits, licenses, certificates, and other authorities needed to perform their respective obligations hereunder.

5.28 Compliance with the Communications Assistance Law Enforcement Act of 1994

5.28.1 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the Communications Assistance Law Enforcement Act of 1994 ("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.

5.29 Cooperation

5.29.1 The Parties agree that this Agreement involves the provision of Qwest services in ways such services were not previously available and the introduction of new processes and procedures to provide and bill such services. Accordingly, the Parties agree to work jointly and cooperatively in testing and implementing processes for pre-ordering, ordering, maintenance, provisioning and billing and in reasonably resolving issues which result from such implementation on a timely basis. Electronic processes and procedures are addressed in the Support Functions Section of this Agreement.

5.30 Amendments

5.30.1 When this document is being used as an Interconnection agreement, it can only be amended in writing, executed by the duly authorized representatives of the Parties.

5.31 Entire Agreement

5.31.1 This Agreement constitutes the entire agreement between Qwest and CLEC and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

5.32 Pick and Choose

5.32.1 If this document is being used to negotiate an Interconnection Agreement, the Parties agree to comply with Section 252(i) of the Act, and rules promulgated thereunder.

Section 11.0 - NETWORK SECURITY

11.1 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 users, or their property as it employs to protect its own personnel, end users and property, etc.

11.2 Each Party is responsible to provide security and privacy of

communications. This entails protecting the confidential nature of telecommunications transmissions between end users 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 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.

11.3 The Qwest telecommunications network is part of the national security network, and as such, is 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. CLEC is responsible for covering its employees on such security requirements and penalties.

11.4 Qwest and CLEC share responsibility for security and network protection for each Collocation arrangement. Each Party's employees, agents or representatives must secure its own portable test equipment, spares, etc. and shall not use the test equipment or spares of other parties. Use of such test equipment or spares without written permission constitutes theft and may be prosecuted. Exceptions are the use of Qwest ladders in the Wire Center, either rolling or track, which CLEC may use in the course of work operations. Qwest assumes no liability to CLEC, its agents, employees or representatives, if CLEC uses a Qwest ladder available in the Wire Center.

11.5 Each Party is responsible for the physical security of its employees, agents or representatives. Providing safety glasses, gloves, etc. must be done by the respective employing Party. Hazards handling and safety procedures relative to the telecommunications environment is the training responsibility of the employing Party. Proper use of tools, ladders, and test gear is the training responsibility of the employing Party.

11.6 In the event that one Party's employees, agents or representatives inadvertently damage or impair the equipment of the other Party, prompt notification will be given to the damaged Party by verbal notification between the Parties' technicians at the site or by telephone to each Party's 24 x 7 security numbers.

11.7 Each Party shall comply at all times with Qwest security and safety procedures and requirements.

11.8 Qwest will allow CLEC to inspect or observe spaces which house or contain CLEC equipment or equipment enclosures at any time and to furnish CLEC with all keys, entry codes, lock combinations, or other materials or information which may be needed to gain entry into any secured CLEC space, in a manner consistent with that used by Qwest.

11.9 Qwest will limit the keys used in its keying systems for enclosed collocated spaces which contain or house CLEC equipment or equipment enclosures to its employees and representatives to emergency access only. CLEC shall further have the right to change locks where deemed necessary for the protection and security of such

spaces.

11.10 Keys may entail either metallic keys or combination electronic ID/key cards. It is solely the responsibility of CLEC to ensure keys are not shared with unauthorized personnel and recover keys and electronic ID/keys promptly from discharged personnel, such that office security is always maintained. Qwest has similar responsibility for its employees.

11.11 CLEC will train its employees, agents and vendors on Qwest security policies and guidelines.

11.12 When working on Qwest ICDF Frames or in Qwest equipment line-ups, CLEC employees, agents and vendors agree to adhere to Qwest quality and performance standards provided by Qwest and as specified in this Agreement.

11.13 CLEC shall report all material losses to Qwest Security. All security incidents are to be referred directly to local Qwest Security – 1-888-Qwest-SECURE. In cases of emergency, CLEC shall call 911 and 1-888-Qwest-SECURE.

11.14 CLEC employees, agents and vendors will display the identification/access card above the waist and visible at all times.

11.15 CLEC employees will ensure adherence by its employees, agents and vendors to all Qwest environmental health and safety regulations. This includes all fire/life safety matters, OSHA, EPA, Federal, State and local regulations, including evacuation plans and indoor air quality.

11.16 CLEC employees, agents and vendors will secure and lock all doors and gates.

11.17 CLEC will report to Qwest all property and equipment losses immediately, any lost cards or keys, vandalism, unsecured conditions, security violations, anyone who is unauthorized to be in the work area or is not wearing the Qwest identification/access card.

11.18 CLEC's employees, agents and vendors will comply with Qwest Central Office fire and safety regulations, which include but are not limited to, wearing safety glasses in designated areas, keeping doors and aisles free and clean of trip hazards such as wire, checking ladders before moving, not leaving test equipment or tools on rolling ladders, not blocking doors open, providing safety straps and cones in installation areas, using electrostatic discharge protection, and exercising good housekeeping.

11.19 Smoking is not allowed in Qwest buildings, Wire Centers, and all other Qwest facilities. No open flames shall be permitted anywhere within the buildings. Failure to abide by this restriction will result in immediate denial of access for that individual and will constitute a violation of the access rules, subjecting CLEC to denial of unescorted access.

11.20 No flammable or explosive fluids or materials are to be kept or used anywhere within the Qwest buildings or on the grounds.

11.21 No weapons of any type are allowed on Qwest Premises. Vehicles on Qwest property are subject to this restriction as well.

11.22 CLEC's employees, agents or vendors may not make any modifications, alterations, additions or repairs to any space within the building or on the grounds.

11.23 Qwest employees may request CLEC's employee, agent or vendor to stop any work activity that in their reasonable judgment is a jeopardy to personal safety or poses a potential for damage to the building, equipment of services within the facility.

11.24 Qwest is not liable for any damage, theft or personal injury resulting from CLEC's employees, agents or vendors parking in a Qwest parking area.

11.25 CLEC's employees, agents or vendors outside the designated CLEC access area or without proper identification will be asked to vacate the Premises and Qwest Security will be notified. Continued violations may result in termination of access privileges.

11.26 Building related problems may be referred to the Qwest Work Environment Centers:

800-879-3499 (CO, WY, AZ, NM)
800-201-7033 (all other Qwest states)

11.27 CLEC will submit a Qwest Collocation Access Application form for individuals needing to access Qwest facilities. CLEC and Qwest will meet to review applications and security requirements.

11.28 CLEC employees, agents and vendors will utilize only corridors, stairways and elevators that provide direct access to CLEC's space or the nearest restroom facility. Such access will be covered in orientation meetings. Access shall not be permitted to any other portions of the building.

11.29 CLEC will collect identification/access cards for any employees, agents or vendors no longer working on behalf of CLEC and forward them to Qwest Security. If cards or keys cannot be collected, CLEC will immediately notify Qwest at 800-210-8169.

11.30 CLEC will assist Qwest in validation and verification of identification of its employees, agents and vendors by providing a telephone contact available 7 days a week, 24 hours a day.

11.31 CLEC employees, agents and vendors will notify Qwest Service Assurance (800-713-3666) when gaining access into a Central Office after hours. Normal business hours are 7:00 a.m. to 5:00 p.m.

11.32 CLEC will notify Qwest if CLEC has information that its employee, agent or vendor poses a safety and/or security risk. Qwest may deny access to anyone who in the reasonable judgment of Qwest threatens the safety or security of facilities or personnel.

11.33 CLEC will supply to Qwest Security, and keep up to date, a list of its

employees, agents and vendors who require access to CLEC's space. The list will include names and social security numbers. Names of employees, agents or vendors to be added to the list will be provided to Qwest Security, who will provide it to the appropriate Qwest personnel.

11.34 Revenue Protection. Qwest shall make available to CLEC all present and future fraud prevention or revenue protection features. These features include, but are not limited to, screening codes, 900 and 976 numbers. Qwest shall additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent Operations Support Systems which include but are not limited to LIDB Fraud monitoring systems.

11.35 Law Enforcement Interface. Qwest provides emergency assistance to 911 centers and law enforcement agencies seven days a week/twenty-four hours a day. Assistance includes, but is not limited to, release of 911 trace and subscriber information; in-progress trace requests; establishing emergency trace equipment, release of information from an emergency trap/trace or *57 trace; requests for emergency subscriber information; assistance to law enforcement agencies in hostage/barricade situations, kidnappings, bomb threats, extortion/scams, runaways and life threats.

11.36 Qwest provides trap/trace, pen register and Title III assistance directly to law enforcement, if such assistance is directed by a court order. This service is provided during normal business hours, Monday through Friday. Exceptions are addressed in the above paragraph. The charges for these services will be billed directly to the law enforcement agency, without involvement of CLEC, for any lines served from Qwest Wire Centers or cross boxes.

11.37 In all cases involving telephone lines served from Qwest Wire Centers or cross boxes, whether the line is a resold line or part of an Unbundled Local Switching or Unbundled Loop element, Qwest will perform trap/trace Title III and pen register assistance directly with law enforcement. CLEC will not be involved or notified of such actions, due to non-disclosure court order considerations, as well as timely response duties when law enforcement agencies are involved. Exceptions to the above will be those cases, as yet undetermined, where CLEC must participate due to technical reasons wherein its circuitry must be accessed or modified to comply with law enforcement, or for legal reasons that may evolve over time. CLEC will provide Qwest with a 24 hour a day, 7 days a week contact for processing such requests, should they occur.

Section 17.0 - BONA FIDE REQUEST PROCESS

17.1 Any request for Interconnection or access to an unbundled network element or ancillary service that is not already available as described in other sections of this Agreement shall be treated as a Bona Fide Request (BFR). Qwest shall use the BFR Process to determine the terms and timetable for providing the requested Interconnection, access to UNEs or ancillary services, if available, and the technical feasibility of new/different points of Interconnection. Qwest will administer the BFR Process in a non-discriminatory manner.

17.2 A BFR shall be submitted in writing and on the appropriate Qwest form for BFRs. CLEC and Qwest will work together to prepare the BFR form. This form shall be accompanied by the non-refundable Processing Fee specified in Exhibit A of this Agreement. The form will request, and CLEC will need to provide, the following information, as well as, any additional information that may be helpful in describing and analyzing CLEC's request:

- (a) a technical description of each requested Network Element or new/different points of Interconnection or ancillary services;
- (b) the desired interface specification;
- (c) each requested type of Interconnection or access;
- (d) a statement that the Interconnection or Network Element or ancillary service will be used to provide a Telecommunications Service;
- (e) the quantity requested;
- (f) the specific location requested;
- (g) if the requested unbundled network element is a proprietary element as specified in Section 251(d)(2) of the Act, CLEC must submit documentation that demonstrates that access to such Network Element is necessary, that the failure to provide access to such Network Element would impair the ability of CLEC to provide the services that it seeks to offer, and that CLEC's ability to compete would be significantly impaired or thwarted without access to such requested proprietary element; and
- (h) if the requested Unbundled Network Element is a non-proprietary element as specified in Section 251(d)(2) of the Act, CLEC must submit documentation that demonstrates that denial of access to such non-proprietary unbundled network element would impair the ability of CLEC to provide the services that it seeks to offer, and that CLEC's ability to compete would be significantly impaired or thwarted without access to such unbundled network element.

17.3 Within fifteen (15) calendar days of its receipt, Qwest shall acknowledge receipt of the BFR and in such acknowledgment advise CLEC of missing information, if any, necessary to process the BFR. Thereafter, Qwest shall promptly advise CLEC of the need for any additional information required to complete the analysis of the BFR.

17.4 Within twenty-one (21) calendar days of its receipt of the BFR and all information necessary to process it, Qwest shall provide to CLEC a preliminary analysis of the BFR. The preliminary analysis shall specify Qwest's conclusions as to whether or not the requested Interconnection or access to an unbundled network element complies with the unbundling requirements of the Act.

17.5 If Qwest determines during the twenty-one (21) day period that a BFR does not qualify as an unbundled network element or Interconnection or ancillary service that is required to be provided under the Act, Qwest shall advise CLEC as soon as

reasonably possible of that fact, and Qwest shall promptly, but in no case later than ten (10) calendar days after making such a determination, provide a written report setting forth the basis for its conclusion.

17.6 If Qwest determines during the twenty-one (21) day period that the BFR qualifies under the Act, it shall notify CLEC in writing of such determination within ten (10) calendar days.

17.7 As soon as feasible, but in any case within forty-five (45) calendar days after Qwest notifies CLEC that the BFR qualifies under the Act, Qwest shall provide to CLEC a BFR quote. The BFR quote will include, at a minimum, a description of each Interconnection, Network Element, and ancillary service, the quantity to be provided, any interface specifications, and the applicable rates (recurring and nonrecurring) including the separately stated development costs and construction charges of the Interconnection, unbundled network element or ancillary service and any minimum volume and term commitments required, and the timeframes the request will be provisioned.

17.8 A CLEC has thirty (30) business days upon receipt of the BFR quote, to either agree to purchase under the quoted price, cancel its BFR, or seek mediation or arbitration.

17.9 If CLEC has agreed to minimum volume and term commitments under the preceding paragraph, CLEC may cancel the BFR or volume and term commitment at any time, but in the event of such cancellation CLEC will pay Qwest's reasonable development costs incurred in providing the Interconnection, Unbundled Network Element, or ancillary service to the extent that those development costs are not otherwise amortized.

17.10 If either Party believes that the other Party is not requesting, negotiating or processing any BFR in good faith, or disputes a determination or quoted price or cost, it may seek arbitration pursuant to the Dispute Resolution provision of this Agreement.

17.11 All time intervals within which a response is required from one Party to another under this Section are maximum time intervals. Each Party agrees that it will provide all responses to the other Party as soon as the Party has the information and analysis required to respond, even if the time interval stated herein for a response is not over.

Section 18.0 - AUDIT PROCESS

18.1 "Audit" shall mean the comprehensive review of:

18.1.1 Data used in the billing process for services performed, including reciprocal compensation, and facilities provided under this Agreement; and

18.1.2 Data relevant to provisioning and maintenance for services performed or facilities provided by either of the Parties for itself or others that are similar to the services performed or facilities provided under this Agreement for Interconnection or access to unbundled loops, ancillary and finished services.

18.2 The data referred to above shall be relevant to any performance indicators that are adopted in connection with this Agreement, through negotiation, arbitration or otherwise. This Audit shall take place under the following conditions:

18.2.1 Either Party may request to perform an Audit.

18.2.2 The Audit shall occur upon thirty (30) business days written notice by the requesting Party to the non-requesting Party.

18.2.3 The Audit shall occur during normal business hours.

18.2.4 There shall be no more than two Audits requested by each Party under this Agreement in any 12-month period.

18.2.5 The requesting Party may review the non-requesting Party's records, books and documents, as may reasonably contain information relevant to the operation of this Agreement.

18.2.6 The location of the Audit shall be the location where the requested records, books and documents are retained in the normal course of business.

18.2.7 All transactions under this Agreement which are over twenty-four (24) months old will be considered accepted and no longer subject to Audit. The Parties agree to retain records of all transactions under this Agreement for at least 24 months.

18.2.8 Each Party shall bear its own expenses occasioned by the Audit, provided that the expense of any special data collection shall be born by the requesting Party.

18.2.9 The Party requesting the Audit may request that an Audit be conducted by a mutually agreed-to independent auditor. Under this circumstance, the costs of the independent auditor shall be paid for by the Party requesting the Audit.

18.2.10 In the event that the non-requesting Party requests that the Audit be performed by an independent auditor, the Parties shall mutually agree to the selection of the independent auditor. Under this circumstance, the costs of the independent auditor shall be shared equally by the Parties.

18.2.11 The Parties agree that if an Audit discloses error(s), the Party responsible for the error(s) shall, in a timely manner, undertake corrective action for such error(s). All errors not corrected within thirty (30) business days shall be escalated to the Vice-President level.

18.3 All information received or reviewed by the requesting Party or the independent auditor in connection with the Audit is to be considered Proprietary Information as defined by this Agreement. The non-requesting Party reserves the right to require any non-employee who is involved directly or indirectly in any Audit or the resolution of its findings as described above to execute a nondisclosure agreement satisfactory to the non-requesting Party. To the extent an Audit involves access to

information of other competitors, CLEC and Qwest will aggregate such competitors' data before release to the other Party, to insure the protection of the proprietary nature of information of other competitors. To the extent a competitor is an affiliate of the Party being audited (including itself and its subsidiaries), the Parties shall be allowed to examine such affiliates' disaggregated data, as required by reasonable needs of the Audit.

Section 19.0 - CONSTRUCTION CHARGES

19.1 All rates, charges and initial service periods specified in this Agreement contemplate the provision of network Interconnection services and access to unbundled loops or ancillary services to the extent existing facilities are available. Except for modifications to existing facilities necessary to accommodate Interconnection and access to unbundled loops or ancillary services specifically provided for in this Agreement, Qwest will consider requests to build additional or further facilities for network Interconnection and access to unbundled loops or ancillary services, as described in the applicable section of this Agreement.

19.2 All necessary construction will be undertaken at the discretion of Qwest, consistent with budgetary responsibilities, consideration for the impact on the general body of end users and without discrimination among the various carriers.

19.3 A quote for CLEC's portion of a specific job will be provided to CLEC. The quote will be in writing and will be binding for ninety (90) business days after the issue date. When accepted, CLEC will be billed the quoted price and construction will commence after receipt of payment. If CLEC chooses not to have Qwest construct the facilities, Qwest reserves the right to bill CLEC for the expense incurred for producing the engineered job design.

19.4 In the event a construction charge is applicable, CLEC's service Application Date will become the date upon which Qwest receives the required payment.

Section 22.0 - SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

(CLEC)

Qwest Corporation

Signature

Signature

Name Printed/Typed

Name Printed/Typed

Title

Title

Date

Date

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARK SPITZER
COMMISSIONER

IN THE MATTER OF QWEST)
CORPORATION'S COMPLIANCE WITH)
§ 271 OF THE)
TELECOMMUNICATIONS ACT OF)
1996)

DOCKET NO. T-00000B-97-0238

SUPPLEMENTAL AFFIDAVIT

OF

MARGARET S. BUMGARNER

QWEST CORPORATION

RE: CHECKLIST ITEM NO. 1 – COLLOCATION FORECASTS

APRIL 4, 2001

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Identification of Affiant

My name is Margaret S. Bumgarner. I am employed by Qwest Corporation ("Qwest") as a Director in the Policy and Law organization. My business address is Room 2803, 1600 Seventh Avenue, Seattle, Washington 98191.

Purpose of Supplemental Affidavit

The purpose of this supplemental affidavit is to address issues surrounding forecasting by CLECs for collocation space and associated requirements. Specifically, I will review the SGAT language that permits CLECs to submit to Qwest forecasts of their individual collocation needs, the frequency of the forecasts, and how such forecasts are used by Qwest. In addition, I will address why the absence of such forecasts can result in longer intervals for the provisioning of collocation by Qwest.

Executive Summary

Collocation forecasting, as described in this supplemental affidavit, gives Qwest a comprehensive picture of CLECs' future collocation needs. This allows Qwest to plan for the necessary resources to meet its commitments for completing collocation installations in a timely manner. To date, the volume of collocation applications has varied dramatically from month to month. Qwest will use the forecasts to plan for the resources necessary for: 1) engineering and related personnel to process the applications, and design and engineer the collocation request; 2) Qwest and vendor-provided installation personnel to provision the collocations; and, 3) warehousing of cabling and other common hardware for provisioning collocations. Forecasting allows Qwest to be

prepared for CLECs' future ordering of collocation and for meeting its commitments.

Forecasting Requirements of the SGAT

The SGAT requires a CLEC to submit, on a quarterly basis, a forecast of its collocation requirements for the upcoming year. The forecast includes, for each premise in which collocation will be required: the amount of floor space, power, heat dissipation (for air conditioning), the type of collocation (virtual, physical, etc.), the type of entrance facility, the type and quantity of terminations, and the date the CLEC plans to submit an Application (order) for collocation at the Qwest premise.

Agreement has been reached on the forecast requirements contained in the SGAT in the previous state workshops regarding Collocation, including Arizona's Collocation workshop. The specific SGAT language on forecasting is contained in Section 8.4.1.4 of the SGAT:

8.4.1.4 CLEC shall submit an annual forecast, updated at the end of each quarter, of its future Collocation requirements. The quarterly forecast shall be reviewed by CLEC and the Qwest Account team. CLEC forecast shall be considered accurate for purposes of Collocation intervals if the subsequent Collocation Application correctly identifies a) and e) below, and b) and c) below are within twenty (20) percent of the forecast. If at the time the Application is made the forecasted type of Collocation is not available, CLEC may specify a different type of Collocation without affecting the Collocation intervals. The forecast shall include, for each Qwest Premises, the following:

- a) Identification of the Qwest Premises;
- b) Floor space requirements, including the number of bays for a Cageless Collocation arrangement;
- c) Power requirements;
- d) Heat Dissipation (optional);

- e) Type of Collocation (e.g., caged physical, cageless physical, shared, ICDF, virtual, etc.);
- f) Intentionally Left Blank
- g) Entrance Facility Type (e.g., Express Fiber, Private Line);
- h) Type and Quantity of Terminations (optional);
- i) Month or Quarter, during or after which, CLEC expects to submit its Collocation Application; and
- j) Intentionally Left Blank

8.4.1.4.1 The following terms shall apply to the forecasting process:

- a) CLEC forecasts shall be provided as detailed in Section 8.4.1.4;
- b) CLEC forecasts shall be confidential information and Qwest may not distribute, disclose or reveal, in any form, CLEC forecasts other than as allowed and described in subsections "c" and "d" below.
- c) Qwest may disclose, on a need to know basis only, CLEC forecasts, to Qwest network and growth planning personnel responsible for ensuring that Qwest's local network can meet wholesale customer demand. In no case shall the Qwest network and growth planning personnel that have access to CLEC forecasts be involved in or responsible for Qwest's retail marketing, sales or strategic planning. Qwest will inform all network and planning personnel with access to CLEC forecasts of the confidential nature of such forecasts, and Qwest will have such personnel sign non-disclosure agreements related thereto. The non-disclosure agreements shall inform such personnel that, upon threat of termination, they may not reveal or discuss CLEC forecasts with those not authorized to receive such information.
- d) Qwest shall maintain CLEC forecasts in secure files

and locations such that access to the forecasts is limited to the personnel designated in subsection "c)" above and such that no other personnel have computer access to such information.

Why Does Qwest Require Collocation Forecasts?

On August 10, 2000, the FCC issued an Order on Reconsideration¹ ("Order") establishing a national 90 day default physical collocation provisioning interval. This Order required Qwest, under ordinary circumstances, to complete all aspects of collocation in 90 days instead of the 155 days that had been included in Qwest's standard SGAT arrangement. The August 10, 2000 Order also required Qwest and other incumbent LECs to amend their SGATs to reflect the new national standard. The Order also states that "[a]n incumbent LEC also may require a competitive LEC to forecast its physical collocation demands."²

On November 7, 2000, in response to waiver requests filed by Qwest, Verizon, and SBC, the FCC released an Amended Order³, which clarified its earlier decision, and specifically established interim standards that apply during the pendency of the FCC's ongoing reconsideration of its August 10, 2000 Order. The FCC's interim standards for Qwest include forecasts as a precondition for the 90 day interval. The FCC's interim standards for Qwest also permit longer intervals (150 days) for unforecasted collocation applications not requiring major infrastructure modifications, and even longer intervals for unforecasted collocation applications that require Qwest to perform major

¹ See Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, (FCC 00-297), released August 10, 2000, ("Order on Reconsideration").

² Order on Reconsideration at ¶39.

³ See Memorandum Opinion and Order, in CC Docket No. 98-147, In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, released November 7, 2000, ("Amended Order")

infrastructure modifications such as adding DC Power, Standby Power Generators, and/or HVAC to the requested premises.⁴ These intervals were specifically authorized by the FCC in its Amended Order.

The FCC's Amended Order stated that: "Qwest's proposed reliance on forecasts [constitutes a] reasonable . . . interim measure to the extent it permits a 60-day increase in interval length when the carrier requesting collocation has failed to provide a timely and accurate forecast. We therefore will allow Qwest to increase the provisioning interval for a proposed physical collocation arrangement no more than 60 calendar days in the event a competitive LEC fails to timely and accurately forecast the arrangement."⁵

This forecasting requirement is reasonable and appropriate because it may be practically, if not physically, impossible to timely provision a collocation arrangement without the forecast. In workshops throughout Qwest's region, most CLECs have supported the concept of providing collocation forecasts to Qwest.⁶ These CLECs recognize that "forecasts are very important for any kind of application like this. One CLEC specifically agreed that it would not object to providing collocation forecasts to Qwest in exchange for the 90 day provisioning interval."⁷

Forecasts are critical because collocation is not a simple request. As of the end of December 2000, for a twenty-four month period, Qwest has provisioned a total of 4,387 collocations in 486 central offices in its region.

⁴ Amended Order at ¶¶13-20.

⁵ Amended Order at ¶19.

⁶ Six State Collaborative Workshops, Salt Lake City, Utah, Workshop 1, October 6, 2000, Tr. pgs. 83-84.

⁷ Six State Collaborative Workshop, Salt Lake City, Utah, Workshop 1, October 4, 2000, Tr. Pgs. 86-87: Mr. Steese: And McLeod would have no objection to submitting collocation forecasts on a routine basis to get those shortened time frames? Mr. Jennings: We'd have no objection to that. Mr. Steese: McLeod would be willing to provide forecasts to Qwest to get the shortened intervals? Mr. Jennings: Yes.

Qwest received an average of 320.8 collocation applications per month; with an average of over 15 applications per business day for year 2000. In Arizona, Qwest has provisioned a total of 455 collocations in 80 central offices. Qwest received an average of 61 collocation applications per month, with an average of 3 applications per business day for year 2000. The number of collocation applications received also varies substantially from month to month. In the year 2000, the volume of collocation applications received in Arizona varied from 2 to 196 received in a month and region-wide from 102 to 802 received in a month. These volumes require Qwest to spend substantial efforts planning and coordinating its efforts to provide timely collocation feasibilities, quotes and installations. Forecasts are central to these efforts. Exhibit MSB-26 provides the volumes of collocation applications received by Qwest for Arizona and region-wide.

One of the reasons that Qwest is so adamant about the use of collocation forecasts is because, in some instances, Qwest must complete major structural changes in order to provision the requested collocation. For example, Qwest may have to add, among other things, (a) DC Power Plants, (b) AC Standby Generators, (c) heating, ventilation or air conditioning (HVAC) when Qwest is converting administrative space into additional space for equipment, or (d) when Qwest must remove its own obsolete and unused equipment from the premises. These tasks take longer than 150 days to complete. For example, parties have already acknowledged that it takes approximately 180 days to install an additional power plant in a central office.⁸

⁸ Six State Collaborative Workshop, Salt Lake City, Utah, Workshop 1, October 5, 2000, Tr. generally at Pgs. 171-178; Colorado Workshop 2, September 20, 2000, Tr. Pg. 95; Colorado Workshop 2, September 21, 2000, Tr. at Pgs. 11 and 14.

How Does Qwest use Collocation Forecasts?

Qwest has not generally received collocation forecasts from CLECs. Indeed, Qwest has received only four collocation forecasts from four CLECs in the past six months. Unfortunately, as a result, Qwest does not have any significant experience in using CLEC collocation forecasts.

However, given the FCC's recent Order and Amended Order that implemented new national rules for collocation intervals, and a specific waiver that permits Qwest to establish forecasts as a precondition for the 90 day intervals, Qwest expects that it should begin receiving forecasts from CLECs.

Qwest intends to use these forecasts for several purposes.

Engineering -- Qwest will use the forecast to estimate the number of engineers and related personnel that must be available to process collocation applications -- including the completion of feasibility studies in the required 10 calendar days, and the completion of quotations in 25 calendar days. Qwest's experience is that the volume of collocation applications varies widely from week to week and is most difficult to predict. This is illustrated in the attached Exhibit MSB-26 which show the quantity of applications processed by Qwest in each month over the past twenty-four month period for region-wide and Arizona.

Qwest expects that CLEC forecasts will allow Qwest to ensure it has sufficient engineering personnel trained, and available, to process CLEC collocation applications in a timely manner, as required by the FCC's rules.

Installation Personnel -- Qwest will use the forecast to estimate the number of installation technicians and/or installation contractors and related personnel that must be available to install the CLECs' collocation applications. This is particularly critical, given the fact that Qwest must complete the

installation of a CLEC's arrangement within a very narrow 48 day period after the CLEC has reviewed the quotation, decided to proceed with the collocation arrangement, and submitted the 50 percent down payment to Qwest.⁹

Qwest expects that CLEC forecasts will allow Qwest to ensure it has sufficient installation technicians, or commitments for sufficient additional resources from installation vendors, to install CLEC collocation arrangements in a timely manner, as required by the FCC's rules.

Cabling and Associated Hardware – Qwest will also use the collocation forecasts to ensure it has sufficient power cabling, tie cables, cable racking, and other common hardware required for a typical collocation installation available in Qwest warehouses to avoid delays in installation. Qwest will also use the collocation forecasts to ensure it has sufficient space for terminations on other infrastructure equipment such as the COSMIC frames. The FCC's shorter installation intervals, which require installations to be completed roughly 55 days after engineering has been completed,¹⁰ simply do not provide sufficient time for Qwest to order such cabling, frames, and other hardware from vendors. Instead, Qwest will order such supplies based upon the forecasted volumes provided by CLEC collocation forecasts.

Why Does Qwest Require Collocation Forecasts on a Quarterly Basis?

Qwest proposes that forecasts be updated on a quarterly basis to ensure the accuracy of the forecasts. This allows the CLEC to reflect its most current plans in a rapidly changing market.

⁹ The FCC's 90 day interval typically will result in a 10 day feasibility study, a 25 day period for developing the quotation, a seven day period for the CLEC to accept the quotation, leaving only 48 days for installation.

¹⁰ Engineering is generally completed at the time the quotation is completed. The CLEC then has seven days to accept the quotation, and the installation interval is 48 days, or a total of 55 days.

Does Qwest Construct Facilities in Response to a Collocation Forecast?

Major infrastructure additions can include DC Power Plants, Standby AC Generators, Reconditioning of Space, and upgrades to Heating, Ventilation, and Air Conditioning (HVAC). Qwest will not automatically construct such additions based exclusively upon CLEC forecasts. Instead, Qwest will use its best judgement to evaluate the reliability of the totality of forecasts for a given premise before proceeding with such construction. In addition, when the totality of forecasts suggests the need for infrastructure improvements, Qwest may also contact the CLECs to request the submission of Reservations or Applications to provide the funding and commitment necessary to support the necessary infrastructure additions.

Conclusion

Collocation forecasting, as described in this affidavit gives Qwest a comprehensive picture of CLECs' future collocation needs. This allows Qwest to plan its resources – Qwest engineering and installation personnel; commitments from vendors for installation technicians; warehousing of sufficient cabling and other common hardware necessary for collocation installation; and; space planning. Forecasting is essential for Qwest to be prepared for CLECs' future ordering of collocation and meet its commitments.

BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

IN THE MATTER OF QWEST)
CORPORATION'S COMPLIANCE WITH)
§ 271 OF THE)
TELECOMMUNICATIONS ACT OF)
1996)
_____)

DOCKET NO. T-00000B-97-0238

EXHIBITS OF
MARGARET S. BUMGARNER
QWEST CORPORATION

RE: CHECKLIST ITEM NO. 1 – COLLOCATION FORECASTS

APRIL 4, 2001

INDEX OF EXHIBITS

DESCRIPTION

EXHIBIT

Qwest Region-wide and Arizona Collocation Applications Submitted

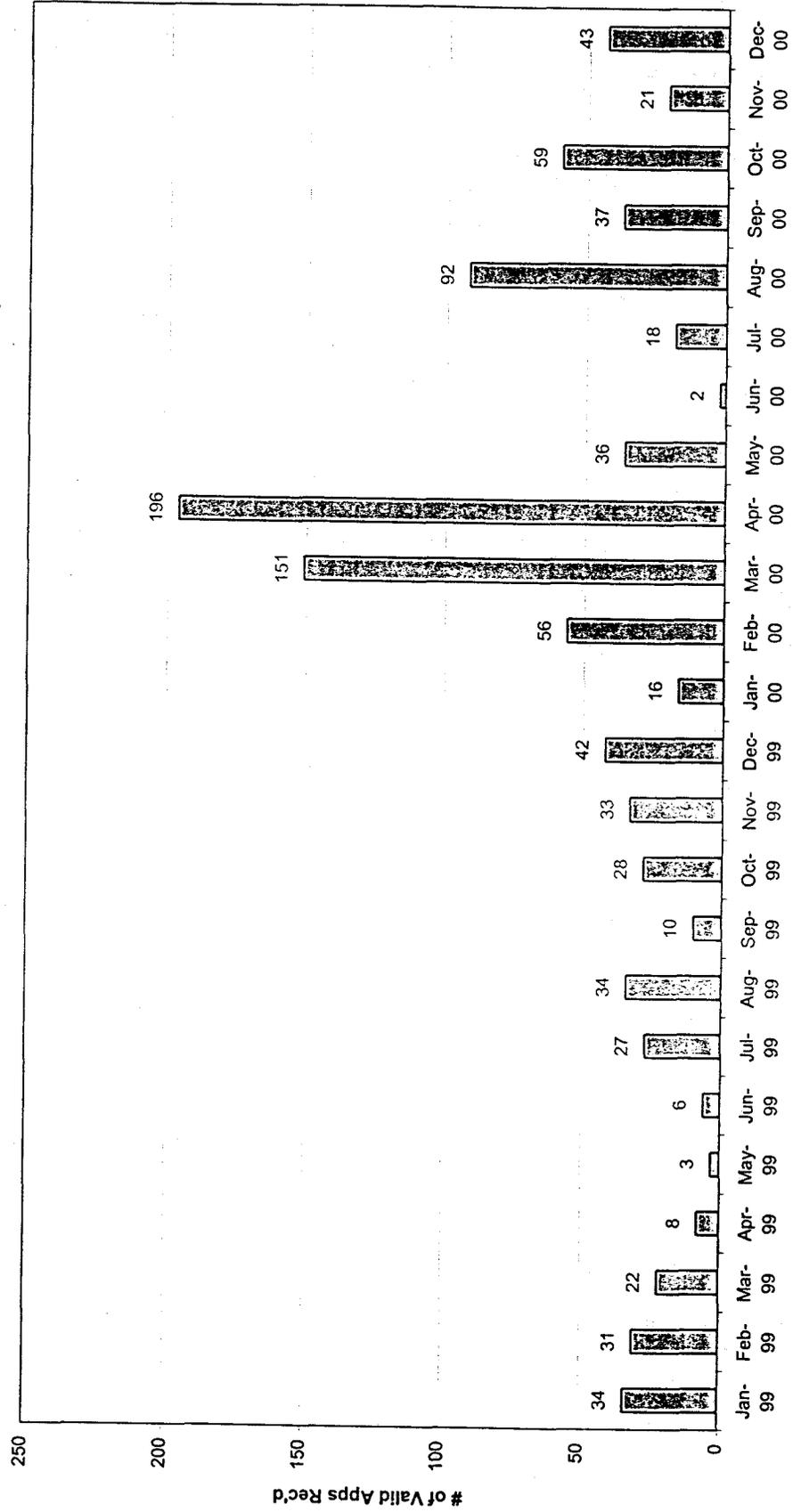
MSB-26

Regular Collocation Application Submit Volume

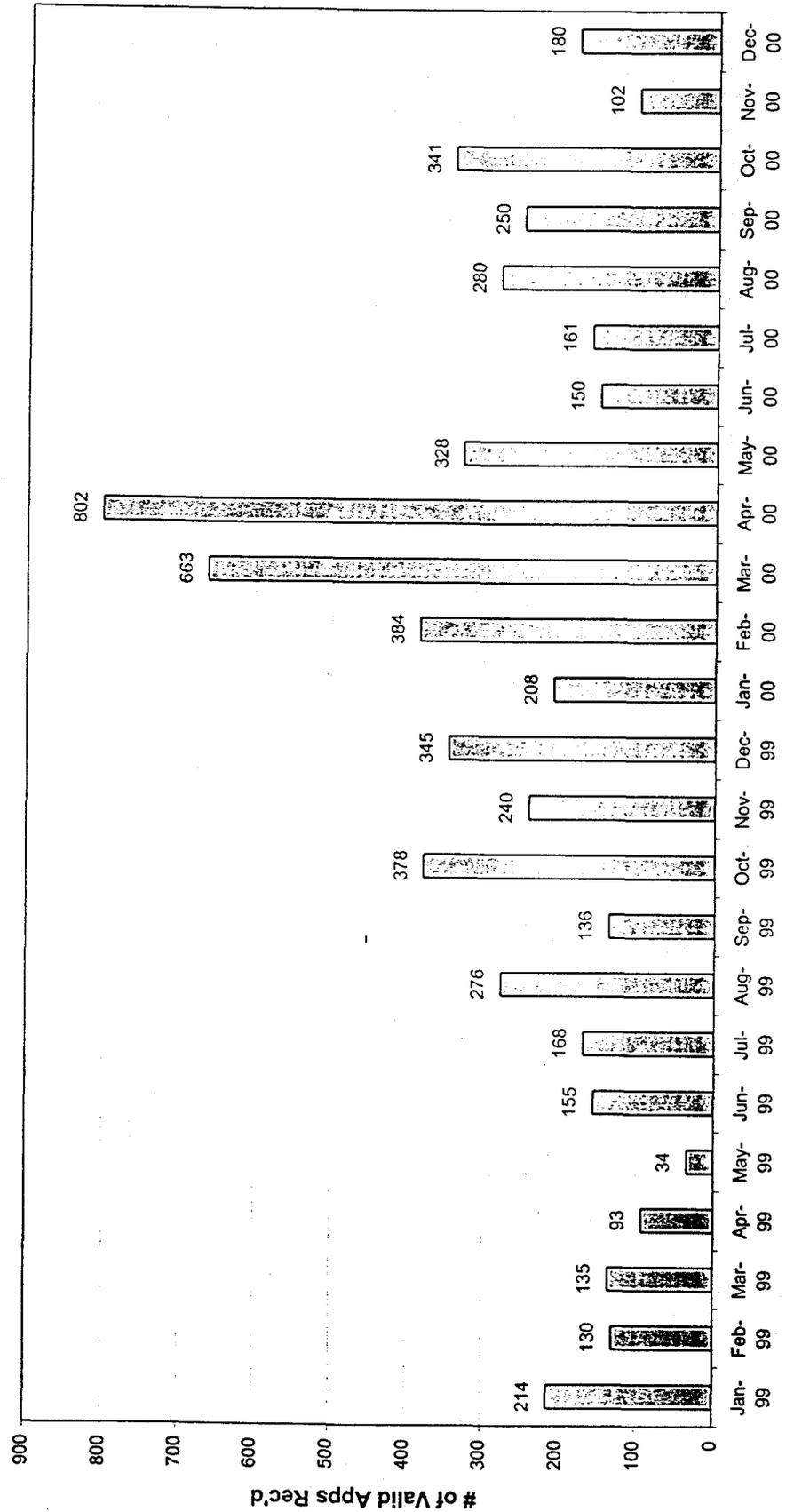
Arizona

January 1, 1999 - December 31, 2000

Total Volume: 1005 Jobs



Regular Collocation Application Submit Volume
 14 State Region
 January 1, 1999 - December 31, 2000
 Total Volume: 6153 Jobs



BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST
CORPORATION'S COMPLIANCE WITH
SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF
1996

)
)
) DOCKET NO. T-00000B-97-0238
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)
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SUPPLEMENTAL AFFIDAVIT OF

THOMAS R. FREEBERG

RE: CHECKLIST ITEM 1

QWEST CORPORATION

APRIL 4, 2001

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1

Identification of Affiant

2 My name is Thomas R. Freeberg. I am employed by Qwest
3 Communications ("Qwest") as a Director in the Wholesale Local Markets
4 division. My business address is 301 W. 65th St, Suite 100, Richfield,
5 Minnesota 55423. I filed direct and rebuttal affidavits in this proceeding during
6 the summer of 2000.

7

Purpose of Affidavit

8 The purpose of this supplemental affidavit is to address issues
9 surrounding forecasting by CLECs for interconnection trunking and associated
10 requirements. Specifically, I will review the SGAT language that requires the
11 parties to participate in joint forecasting, the frequency of the forecasts, and
12 how Qwest uses such forecasts.

13

Executive Summary

14 Interconnection forecasting, as described in this affidavit, gives each
15 carrier a comprehensive picture of future needs. This allows the parties to
16 arrange for the necessary equipment and staff to meet commitments for
17 provisioning Access Service Requests in a timely manner. In Arizona during

1 the most recent 12 months, the volume of interconnection increased an
2 average of 13,378 trunks each month. The extent of interconnection continues
3 to steadily expand in Arizona as reflected in exhibit TRF-16 to this affidavit.

4 Forecasts are used to time and size capacity additions to interconnected
5 networks and to develop budgets. It is critical that accurate forecast
6 information be supplied because anticipated traffic volume is the primary factor
7 in augmenting the network. Network augments for trunking involve both
8 switching and transport. Qwest's suppliers of transport and switching material
9 can not respond to Qwest's orders that dictate short intervals. For Qwest to be
10 responsive to CLEC orders for transport and termination of local
11 interconnection traffic, it is imperative that parties develop reliable forecasts so
12 that new transport and switching capacity can be reflected as idle and
13 assignable Qwest inventory at the time of receipt of CLEC orders for
14 interconnection.

15 When a CLEC overestimates future demand, Qwest is placed in the
16 position of building unnecessary facilities -- where there is no demand. This
17 results in stranded facilities and gross inefficiencies. This renders useless a
18 substantial investment.

19 When a CLEC underestimates its eventual demand, the demand can
20 exceed the capability of a trunk group in service. Further, the availability of

1 additional facilities is likely to be delayed. In the interim, service quality across
2 existing trunk groups is adversely affected as traffic loads increase.

3 Since a forecast is a prediction on the future, precision is not expected
4 or required. This is not to say that forecasting accuracy is not important.

5 Qwest will use the forecasts:

6 1) to secure the necessary personnel to process Access Service
7 Requests, including designing and engineering,

8 2) to ensure that the network has sufficient capacity to fill future orders
9 and carry calls without undue blockage and,

10 3) to form budgets and arrange financing.

11 Forecasting allows the carriers to be prepared to fill future orders, to
12 meet commitments and to predictably send calls between networks.

13 **Forecasting Requirements of the SGAT**

14 The SGAT requires the parties to participate in quarterly joint
15 forecasting. Two weeks before a forecasting meeting, Qwest provides a CLEC
16 the following information.

17 1. Information on major network projects anticipated for the
18 following year that may impact the forecast.

- 1 2. A report reflecting tandem-routed interconnection trunking
2 that has exceeded 512 Busy Hour CCS.
- 3 3. Reports comparing trunks-in-service to trunks-required
4 (utilization).
- 5 4. A report reflecting current spare capacity at each Qwest
6 switch that may impact the interconnection traffic.
- 7 5. A report reflecting recent blocking rates of local direct and
8 alternate final trunk groups, interconnection and non-
9 interconnection alike. A CLEC is provided interconnection
10 trunk group data on its own trunks.
- 11 6. Through the Telcordia Local Exchange Routing Guide
12 (LERG) or the Qwest Interconnection Database (ICONN...a
13 web site located at [http://www.uswest.com/cgi-](http://www.uswest.com/cgi-bin/iconn/iconn.pl)
14 bin/iconn/iconn.pl):
- 15 a) Geographic locations of Qwest tandem and end office
16 switches
- 17 b) Common Language Location Identifier codes
- 18 c) Business and Residence retail working line counts
- 19 d) Switch manufacturer and model, and
- 20 e) Current and planned switch software versions.
- 21 5. Deployment information for specific technical capabilities
22 (e.g., ISDN and 64 Clear Channel Capability.) is provided
23 on Qwest's Network Disclosure web site,
24 <http://www.uswest.com/disclosures>.

25 Forecasting information is proprietary, provided under non-disclosure
26 and to be used for interconnection network planning. Forecasts are
27 Confidential Information and forecasts are shared with a limited set of Qwest
28 employees. Qwest does not distribute or reveal, in any form, CLEC forecasts
29 to its retail marketing, sales, or strategic planning personnel. Qwest reveals

1 CLEC forecasts to network planning and legal personnel on a need-to-know
2 basis only. These personnel are informed of the confidentiality of CLEC
3 forecasts and they are further informed that they, upon threat of termination,
4 may not reveal or use such information beyond that necessary to plan network
5 growth.¹

6 For each trunk group, the forecast must include trunk type, CLLI codes,
7 trunk group serial number, number of trunks in service, number of trunks
8 pending on submitted firm orders, and number of trunks projected to be added
9 in order to carry offered load in each quarter of the subsequent two years.
10 Specific SGAT language on interconnection forecasting is contained in Section
11 7.2.2.8 of the SGAT. Forecasts can be submitted electronically and a Qwest-
12 provided mechanized system will soon pre-populate the forecast form with
13 counts of existing trunks and pending trunks ordered. The CLEC's Qwest
14 Account Team is available to help a new CLEC develop its forecast. The
15 forecast form and instructions are exhibits to this affidavit and can be found on
16 Qwest's wholesale web site. Qwest expects that a CLEC will produce the first
17 view of the forecast. Qwest provides a CLEC its view of the forecast within
18 three weeks of forecast cycle close.

¹ SGAT 7.2.2.8.12

1

Forecast Timing and Use

2 On an Access Service Request, a CLEC may choose to arrange one-
3 way or two-way trunking. Most carriers agree that two-way trunking is
4 preferred. A trunk forecast is an estimate of the future number of members
5 needed in a trunk group to carry anticipated traffic without undue blockage. A
6 two-way trunk group is sized for traffic flowing in both directions. Because this
7 is true, trunk forecasting should be a joint process between Qwest and each
8 CLEC. Trunk forecasts are developed and reviewed quarterly. Forecasts
9 identify requirements for a two-year rolling period. During joint planning
10 sessions, the parties discuss future ordering and network impacts (i.e.,
11 transport, switch and routing/translations). From the forecast close date, Qwest
12 has one month to aggregate various network needs and place orders with its
13 manufacturer-suppliers. Switch manufacturers generally require a six-month
14 interval to deliver network capacity augments. Cable and electronics
15 placement can require a similar interval. Therefore, obtaining forecasts is
16 necessary to ensure that carriers adequately pre-provision necessary
17 equipment and staff. For this reason, Qwest asks that a trunk forecast be
18 submitted two quarters prior to submission of an order. In order to measure
19 forecast accuracy, the parties should compare this projection to trunks
20 subsequently ordered and trunks subsequently required. Qwest does invite a

1 CLEC to identify changes in near-term demand. This is accomplished via the
2 Unforecast Demand Notification Form, which is discussed later in this affidavit.

3 **Forecasting Accuracy**

4 In aggregate, regionwide, CLECs forecast that over 64,000 DS1s of
5 additional interconnection trunking would be added during 2001. This much
6 additional capacity would require a \$550,000,000 investment on Qwest's part.
7 During 2001 Qwest, arguably the dominant carrier, forecasted that it would
8 need to grow its local trunking network 15,000 DS1s. This much additional
9 capacity is estimated to cost \$100,000,000. The CLEC forecast is clearly
10 overstated.

11 CLEC's estimated that, this year, they would need approximately five
12 times as much new capacity as Qwest would need. Historically speaking,
13 CLECs seldom ordered as much capacity as they anticipated six months
14 previous. Qwest expects that (1) measurement and (2) incentive is necessary
15 to improve forecasting accuracy. Despite the trend toward overestimates,
16 Qwest recognizes that it must build toward a CLEC forecast if a CLEC has
17 certainty about a higher forecast than Qwest anticipates. This is assured in the
18 SGAT at section 7.2.2.8.6.1 and it is discussed later in this testimony.

1

First Come

2 Although Qwest's SGAT requires a CLEC to participate in joint
3 forecasting, a CLEC can place an order for an interconnection trunk at any
4 time. The order may or may not be associated with a forecast. Qwest does not
5 reject orders that are not tied to a forecast. When facilities are available, Qwest
6 will provision trunks associated with orders. When facilities are unavailable,
7 Qwest constructs new facilities.

8

Forecast Disputes

9 Qwest, as the incumbent carrier, assumes the obligation to provision
10 trunks at the request of any CLEC in a nondiscriminatory manner. If Qwest had
11 constructed to Arizona CLEC's forecasts without dispute, the result would be
12 current idle trunk capacity estimated at over \$50,000,000. Inefficient use of
13 resources cannot be ignored in the forecasting process. Qwest must do what it
14 can to ensure its network is utilized efficiently. Qwest does *not* reject orders
15 where a CLEC has not utilized existing trunks well. Intervenors prescribe that
16 Qwest's SGAT can *not* allow Qwest to reduce the size of trunk groups that
17 have been underutilized for some duration of time.

18 In the event of a dispute regarding forecast levels, Qwest makes
19 capacity available in accordance with a lower level, while attempting to resolve

1 the matter informally. This is Qwest's obligation in the SGAT at section
2 7.2.2.8.6. If the parties fail to reach resolution informally, formal Dispute
3 Resolution proceedings can be initiated. Qwest's SGAT contains language
4 which would avoid disputes by allowing for refundable deposits.

5 Deposits

6 The SGAT contains two alternatives when a dispute arises regarding
7 forecast quantities.

8 First, Qwest makes capacity available in accordance with a lower
9 forecast level when a dispute arises². Second, Qwest will construct facilities
10 according to a higher disputed forecast if the CLEC provides Qwest a
11 refundable deposit of up to one hundred percent (100%) of the estimated cost
12 to provision the new trunks³. The trigger event for such a deposit is the CLEC's
13 trunk use, over the prior eighteen (18) months, of less than fifty percent (50%)
14 of their forecast each month. Qwest returns the deposit if the CLEC's
15 statewide average trunk usage (utilization) ratio exceeds fifty percent (50%)
16 any month within six (6) months of the forecasting period to which the deposit
17 applies. If the CLEC does not achieve the fifty percent (50%) utilization within
18 six (6) months, Qwest retains a pro-rata portion of the deposit to cover the

² Qwest SGAT section 7.2.2.8.6

³ Qwest SGAT section 7.2.2.8.6.1

1 capital costs of provisioning more idle trunks. Ancillary trunks (e.g. mass
2 calling, E911 and directory assistance) are excluded from this calculation.

3 This position protects Qwest from stranded investment caused by
4 abandoned or underutilized trunk groups and it resolves forecast disputes. In
5 addition, this approach incents a CLEC to forecast accurately. This is arguably
6 a better approach than Qwest's forced downsizing of underutilized trunk groups
7 or Qwest's rejection of orders associated with historic underutilization.

8 **Trunk Utilization**

9 Utilization is the ratio of the number of trunks required to handle a recent
10 traffic load compared to the number of trunks in service or forecast for the
11 same time period. For example, if a trunk group is forecast to need 100
12 members to carry the average peak offered load in the fourth quarter of 2001
13 and, shortly after that quarter has passed, it is determined that 50 members
14 were required to handle the load of the group, the trunk group in this example is
15 fifty percent (50%) utilized. A second example illustrates another form of
16 utilization. For example, if a trunk group contained 100 members in service
17 during January and in February it is determined that 50 members were required
18 to handle the offered peak traffic load of the group, the trunk group in this
19 example could be described as fifty percent (50%) utilized. Utilization can be
20 an indicator of how well trunk groups are (1) sized or (2) were forecast. The

1 SGAT at sections 7.2.2.8.13 and 7.2.2.8.6.1 describe these two forms of
2 utilization.

3 Required trunk counts are calculated using industry-defined data
4 elements:

5 -**Usage:** the total time trunks are held in conversation.

6 -**Peg Count:** total number of attempted calls.

7 -**Overflow:** the peg count unsuccessful due to insufficient trunks.

8 -**Peakedness:** a measure of the call arrival rate within each hour.

9 -**Day-to-Day Variation:** a measure of how traffic varies around one or
10 two specific weekdays.

11 Qwest validates and accumulates the aforementioned data for twenty-
12 business-day study periods. Data is collected for each hour across the period.
13 The Busy Hour is defined as that hour, during the study period, in which the
14 greatest average number of trunks is required. The number of required trunks
15 is calculated from Erlang B or Neal-Wilkinson tables using historic offered load
16 during the Busy Hour as determined by this measurement system. Busy Hour
17 measuring is a time-tested industry practice.⁴

18

⁴ e.g. Telcordia SR-TAP-000191

1 **Does Qwest Construct Facilities in Response to a Forecast?**

2 When the aggregated forecasts from retail and wholesale sources are
3 projected to exceed available capacity on a switch or transport system, Qwest
4 arranges for the engineering and installation of new capacity. It would be rare
5 to find a one-to-one relationship between a single forecast and single
6 construction project. To avert a delay associated with the provisioning of a
7 future order, capacity must be reflected in Qwest inventory systems when an
8 order is received from a customer. Qwest incorporates all submitted forecasts
9 into the aggregate demand for a component of the network. Qwest uses its
10 best judgment to evaluate the reliability of the totality of forecasts for a given
11 switch or span before proceeding with construction. In some cases, only a
12 portion of a span may require augmentation. To be clear, Qwest will
13 consistently construct facilities in response to a forecast submitted with a
14 refundable deposit.

15 Since an Access Service Request (ASR) is more detailed and complete
16 than a forecast and since a party often changes its plans during the months
17 between the time that it submits a forecast and the time that it submits an ASR,
18 Qwest cannot fully provision an ASR in advance of receiving it.

1

Unforecasted Demand

2 If a CLEC recognizes that it needs to inform Qwest that a previously
3 submitted forecast was either lacking or overstated, Qwest accepts that
4 information on an Unforecast Demand Notification form. This simple form is
5 attached as an exhibit to this affidavit and Qwest invites a CLEC to submit this
6 form whenever it chooses. This form can be used in a quarterly joint planning
7 session, but it can also be submitted at other times. Qwest submits
8 unforecasted demand and quarterly forecast information to the same transport
9 and switch capacity management personnel.

10

Conclusion

11 Quarterly trunk forecasting, as described in this affidavit, gives Qwest
12 and a CLEC a comprehensive picture of local trunk groups. This approach
13 allows for a holistic and accurate comparison of actual traffic and projected
14 traffic. The SGAT positions a CLEC to develop accurate forecasts which result
15 in Qwest's preparedness for a CLEC's future ordering of trunking infrastructure.
16 This concludes my affidavit.

17

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8

DESCRIPTION

EXHIBIT

LIS Trunks in Service Monthly Growth
LIS Trunk Blank Forecast Form
LIS Trunk Forecasting Instructions
Unforecasted Demand Notification Form

TRF-16
TRF-17
TRF-18
TRF-19

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST)
CORPORATION'S COMPLIANCE WITH) DOCKET NO. T-00000B-97-0238
SECTION 271 OF THE)
TELECOMMUNICATIONS ACT OF)
1996)

SUPPLEMENTAL AFFIDAVIT OF

THOMAS R. FREEBERG

RE: CHECKLIST ITEM 1

QWEST CORPORATION

APRIL 4, 2001

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5 networks and to develop budgets. It is critical that accurate forecast
6 information be supplied because anticipated traffic volume is the primary factor
7 in augmenting the network. Network augments for trunking involve both
8 switching and transport. Qwest's suppliers of transport and switching material
9 can not respond to Qwest's orders that dictate short intervals. For Qwest to be
10 responsive to CLEC orders for transport and termination of local
11 interconnection traffic, it is imperative that parties develop reliable forecasts so
12 that new transport and switching capacity can be reflected as idle and
13 assignable Qwest inventory at the time of receipt of CLEC orders for
14 interconnection.

15 When a CLEC overestimates future demand, Qwest is placed in the
16 position of building unnecessary facilities -- where there is no demand. This
17 results in stranded facilities and gross inefficiencies. This renders useless a
18 substantial investment.

19 When a CLEC underestimates its eventual demand, the demand can
20 exceed the capability of a trunk group in service. Further, the availability of

1 additional facilities is likely to be delayed. In the interim, service quality across
2 existing trunk groups is adversely affected as traffic loads increase.

3 Since a forecast is a prediction on the future, precision is not expected
4 or required. This is not to say that forecasting accuracy is not important.

5 Qwest will use the forecasts:

- 6 1) to secure the necessary personnel to process Access Service
7 Requests, including designing and engineering,
- 8 2) to ensure that the network has sufficient capacity to fill future orders
9 and carry calls without undue blockage and,
- 10 3) to form budgets and arrange financing.

11 Forecasting allows the carriers to be prepared to fill future orders, to
12 meet commitments and to predictably send calls between networks.

13 **Forecasting Requirements of the SGAT**

14 The SGAT requires the parties to participate in quarterly joint
15 forecasting. Two weeks before a forecasting meeting, Qwest provides a CLEC
16 the following information.

- 17 1. Information on major network projects anticipated for the
18 following year that may impact the forecast.

- 1 2. A report reflecting tandem-routed interconnection trunking
2 that has exceeded 512 Busy Hour CCS.
- 3 3. Reports comparing trunks-in-service to trunks-required
4 (utilization).
- 5 4. A report reflecting current spare capacity at each Qwest
6 switch that may impact the interconnection traffic.
- 7 5. A report reflecting recent blocking rates of local direct and
8 alternate final trunk groups, interconnection and non-
9 interconnection alike. A CLEC is provided interconnection
10 trunk group data on its own trunks.
- 11 6. Through the Telcordia Local Exchange Routing Guide
12 (LERG) or the Qwest Interconnection Database (ICONN...a
13 web site located at [http://www.uswest.com/cgi-](http://www.uswest.com/cgi-bin/iconn/iconn.pl)
14 bin/iconn/iconn.pl):
 - 15 a) Geographic locations of Qwest tandem and end office
16 switches
 - 17 b) Common Language Location Identifier codes
 - 18 c) Business and Residence retail working line counts
 - 19 d) Switch manufacturer and model, and
 - 20 e) Current and planned switch software versions.
- 21 5. Deployment information for specific technical capabilities
22 (e.g., ISDN and 64 Clear Channel Capability.) is provided
23 on Qwest's Network Disclosure web site,
24 <http://www.uswest.com/disclosures>.

25 Forecasting information is proprietary, provided under non-disclosure
26 and to be used for interconnection network planning. Forecasts are
27 Confidential Information and forecasts are shared with a limited set of Qwest
28 employees. Qwest does not distribute or reveal, in any form, CLEC forecasts
29 to its retail marketing, sales, or strategic planning personnel. Qwest reveals

1 CLEC forecasts to network planning and legal personnel on a need-to-know
2 basis only. These personnel are informed of the confidentiality of CLEC
3 forecasts and they are further informed that they, upon threat of termination,
4 may not reveal or use such information beyond that necessary to plan network
5 growth.¹

6 For each trunk group, the forecast must include trunk type, CLLI codes,
7 trunk group serial number, number of trunks in service, number of trunks
8 pending on submitted firm orders, and number of trunks projected to be added
9 in order to carry offered load in each quarter of the subsequent two years.
10 Specific SGAT language on interconnection forecasting is contained in Section
11 7.2.2.8 of the SGAT. Forecasts can be submitted electronically and a Qwest-
12 provided mechanized system will soon pre-populate the forecast form with
13 counts of existing trunks and pending trunks ordered. The CLEC's Qwest
14 Account Team is available to help a new CLEC develop its forecast. The
15 forecast form and instructions are exhibits to this affidavit and can be found on
16 Qwest's wholesale web site. Qwest expects that a CLEC will produce the first
17 view of the forecast. Qwest provides a CLEC its view of the forecast within
18 three weeks of forecast cycle close.

¹ SGAT 7.2.2.8.12

1

Forecast Timing and Use

2 On an Access Service Request, a CLEC may choose to arrange one-
3 way or two-way trunking. Most carriers agree that two-way trunking is
4 preferred. A trunk forecast is an estimate of the future number of members
5 needed in a trunk group to carry anticipated traffic without undue blockage. A
6 two-way trunk group is sized for traffic flowing in both directions. Because this
7 is true, trunk forecasting should be a joint process between Qwest and each
8 CLEC. Trunk forecasts are developed and reviewed quarterly. Forecasts
9 identify requirements for a two-year rolling period. During joint planning
10 sessions, the parties discuss future ordering and network impacts (i.e.,
11 transport, switch and routing/translations). From the forecast close date, Qwest
12 has one month to aggregate various network needs and place orders with its
13 manufacturer-suppliers. Switch manufacturers generally require a six-month
14 interval to deliver network capacity augments. Cable and electronics
15 placement can require a similar interval. Therefore, obtaining forecasts is
16 necessary to ensure that carriers adequately pre-provision necessary
17 equipment and staff. For this reason, Qwest asks that a trunk forecast be
18 submitted two quarters prior to submission of an order. In order to measure
19 forecast accuracy, the parties should compare this projection to trunks
20 subsequently ordered and trunks subsequently required. Qwest does invite a

1 CLEC to identify changes in near-term demand. This is accomplished via the
2 Unforecast Demand Notification Form, which is discussed later in this affidavit.

3 **Forecasting Accuracy**

4 In aggregate, regionwide, CLECs forecast that over 64,000 DS1s of
5 additional interconnection trunking would be added during 2001. This much
6 additional capacity would require a \$550,000,000 investment on Qwest's part.
7 During 2001 Qwest, arguably the dominant carrier, forecasted that it would
8 need to grow its local trunking network 15,000 DS1s. This much additional
9 capacity is estimated to cost \$100,000,000. The CLEC forecast is clearly
10 overstated.

11 CLEC's estimated that, this year, they would need approximately five
12 times as much new capacity as Qwest would need. Historically speaking,
13 CLECs seldom ordered as much capacity as they anticipated six months
14 previous. Qwest expects that (1) measurement and (2) incentive is necessary
15 to improve forecasting accuracy. Despite the trend toward overestimates,
16 Qwest recognizes that it must build toward a CLEC forecast if a CLEC has
17 certainty about a higher forecast than Qwest anticipates. This is assured in the
18 SGAT at section 7.2.2.8.6.1 and it is discussed later in this testimony.

1

First Come

2 Although Qwest's SGAT requires a CLEC to participate in joint
3 forecasting, a CLEC can place an order for an interconnection trunk at any
4 time. The order may or may not be associated with a forecast. Qwest does not
5 reject orders that are not tied to a forecast. When facilities are available, Qwest
6 will provision trunks associated with orders. When facilities are unavailable,
7 Qwest constructs new facilities.

8

Forecast Disputes

9 Qwest, as the incumbent carrier, assumes the obligation to provision
10 trunks at the request of any CLEC in a nondiscriminatory manner. If Qwest had
11 constructed to Arizona CLEC's forecasts without dispute, the result would be
12 current idle trunk capacity estimated at over \$50,000,000. Inefficient use of
13 resources cannot be ignored in the forecasting process. Qwest must do what it
14 can to ensure its network is utilized efficiently. Qwest does *not* reject orders
15 where a CLEC has not utilized existing trunks well. Intervenors prescribe that
16 Qwest's SGAT can *not* allow Qwest to reduce the size of trunk groups that
17 have been underutilized for some duration of time.

18 In the event of a dispute regarding forecast levels, Qwest makes
19 capacity available in accordance with a lower level, while attempting to resolve

1 the matter informally. This is Qwest's obligation in the SGAT at section
2 7.2.2.8.6. If the parties fail to reach resolution informally, formal Dispute
3 Resolution proceedings can be initiated. Qwest's SGAT contains language
4 which would avoid disputes by allowing for refundable deposits.

5 **Deposits**

6 The SGAT contains two alternatives when a dispute arises regarding
7 forecast quantities.

8 First, Qwest makes capacity available in accordance with a lower
9 forecast level when a dispute arises². Second, Qwest will construct facilities
10 according to a higher disputed forecast if the CLEC provides Qwest a
11 refundable deposit of up to one hundred percent (100%) of the estimated cost
12 to provision the new trunks³. The trigger event for such a deposit is the CLEC's
13 trunk use, over the prior eighteen (18) months, of less than fifty percent (50%)
14 of their forecast each month. Qwest returns the deposit if the CLEC's
15 statewide average trunk usage (utilization) ratio exceeds fifty percent (50%)
16 any month within six (6) months of the forecasting period to which the deposit
17 applies. If the CLEC does not achieve the fifty percent (50%) utilization within
18 six (6) months, Qwest retains a pro-rata portion of the deposit to cover the

² Qwest SGAT section 7.2.2.8.6

³ Qwest SGAT section 7.2.2.8.6.1

1 capital costs of provisioning more idle trunks. Ancillary trunks (e.g. mass
2 calling, E911 and directory assistance) are excluded from this calculation.

3 This position protects Qwest from stranded investment caused by
4 abandoned or underutilized trunk groups and it resolves forecast disputes. In
5 addition, this approach incents a CLEC to forecast accurately. This is arguably
6 a better approach than Qwest's forced downsizing of underutilized trunk groups
7 or Qwest's rejection of orders associated with historic underutilization.

8 Trunk Utilization

9 Utilization is the ratio of the number of trunks required to handle a recent
10 traffic load compared to the number of trunks in service or forecast for the
11 same time period. For example, if a trunk group is forecast to need 100
12 members to carry the average peak offered load in the fourth quarter of 2001
13 and, shortly after that quarter has passed, it is determined that 50 members
14 were required to handle the load of the group, the trunk group in this example is
15 fifty percent (50%) utilized. A second example illustrates another form of
16 utilization. For example, if a trunk group contained 100 members in service
17 during January and in February it is determined that 50 members were required
18 to handle the offered peak traffic load of the group, the trunk group in this
19 example could be described as fifty percent (50%) utilized. Utilization can be
20 an indicator of how well trunk groups are (1) sized or (2) were forecast. The

1 SGAT at sections 7.2.2.8.13 and 7.2.2.8.6.1 describe these two forms of
2 utilization.

3 Required trunk counts are calculated using industry-defined data
4 elements:

5 -*Usage*: the total time trunks are held in conversation.

6 -*Peg Count*: total number of attempted calls.

7 -*Overflow*: the peg count unsuccessful due to insufficient trunks.

8 -*Peakedness*: a measure of the call arrival rate within each hour.

9 -*Day-to-Day Variation*: a measure of how traffic varies around one or
10 two specific weekdays.

11 Qwest validates and accumulates the aforementioned data for twenty-
12 business-day study periods. Data is collected for each hour across the period.
13 The Busy Hour is defined as that hour, during the study period, in which the
14 greatest average number of trunks is required. The number of required trunks
15 is calculated from Erlang B or Neal-Wilkinson tables using historic offered load
16 during the Busy Hour as determined by this measurement system. Busy Hour
17 measuring is a time-tested industry practice.⁴

18

⁴ e.g. Telcordia SR-TAP-000191

1 **Does Qwest Construct Facilities in Response to a Forecast?**

2 When the aggregated forecasts from retail and wholesale sources are
3 projected to exceed available capacity on a switch or transport system, Qwest
4 arranges for the engineering and installation of new capacity. It would be rare
5 to find a one-to-one relationship between a single forecast and single
6 construction project. To avert a delay associated with the provisioning of a
7 future order, capacity must be reflected in Qwest inventory systems when an
8 order is received from a customer. Qwest incorporates all submitted forecasts
9 into the aggregate demand for a component of the network. Qwest uses its
10 best judgment to evaluate the reliability of the totality of forecasts for a given
11 switch or span before proceeding with construction. In some cases, only a
12 portion of a span may require augmentation. To be clear, Qwest will
13 consistently construct facilities in response to a forecast submitted with a
14 refundable deposit.

15 Since an Access Service Request (ASR) is more detailed and complete
16 than a forecast and since a party often changes its plans during the months
17 between the time that it submits a forecast and the time that it submits an ASR,
18 Qwest cannot fully provision an ASR in advance of receiving it.

1

Unforecasted Demand

2 If a CLEC recognizes that it needs to inform Qwest that a previously
3 submitted forecast was either lacking or overstated, Qwest accepts that
4 information on an Unforecast Demand Notification form. This simple form is
5 attached as an exhibit to this affidavit and Qwest invites a CLEC to submit this
6 form whenever it chooses. This form can be used in a quarterly joint planning
7 session, but it can also be submitted at other times. Qwest submits
8 unforecasted demand and quarterly forecast information to the same transport
9 and switch capacity management personnel.

10

Conclusion

11 Quarterly trunk forecasting, as described in this affidavit, gives Qwest
12 and a CLEC a comprehensive picture of local trunk groups. This approach
13 allows for a holistic and accurate comparison of actual traffic and projected
14 traffic. The SGAT positions a CLEC to develop accurate forecasts which result
15 in Qwest's preparedness for a CLEC's future ordering of trunking infrastructure.
16 This concludes my affidavit.

17

1 **Index of Exhibits**

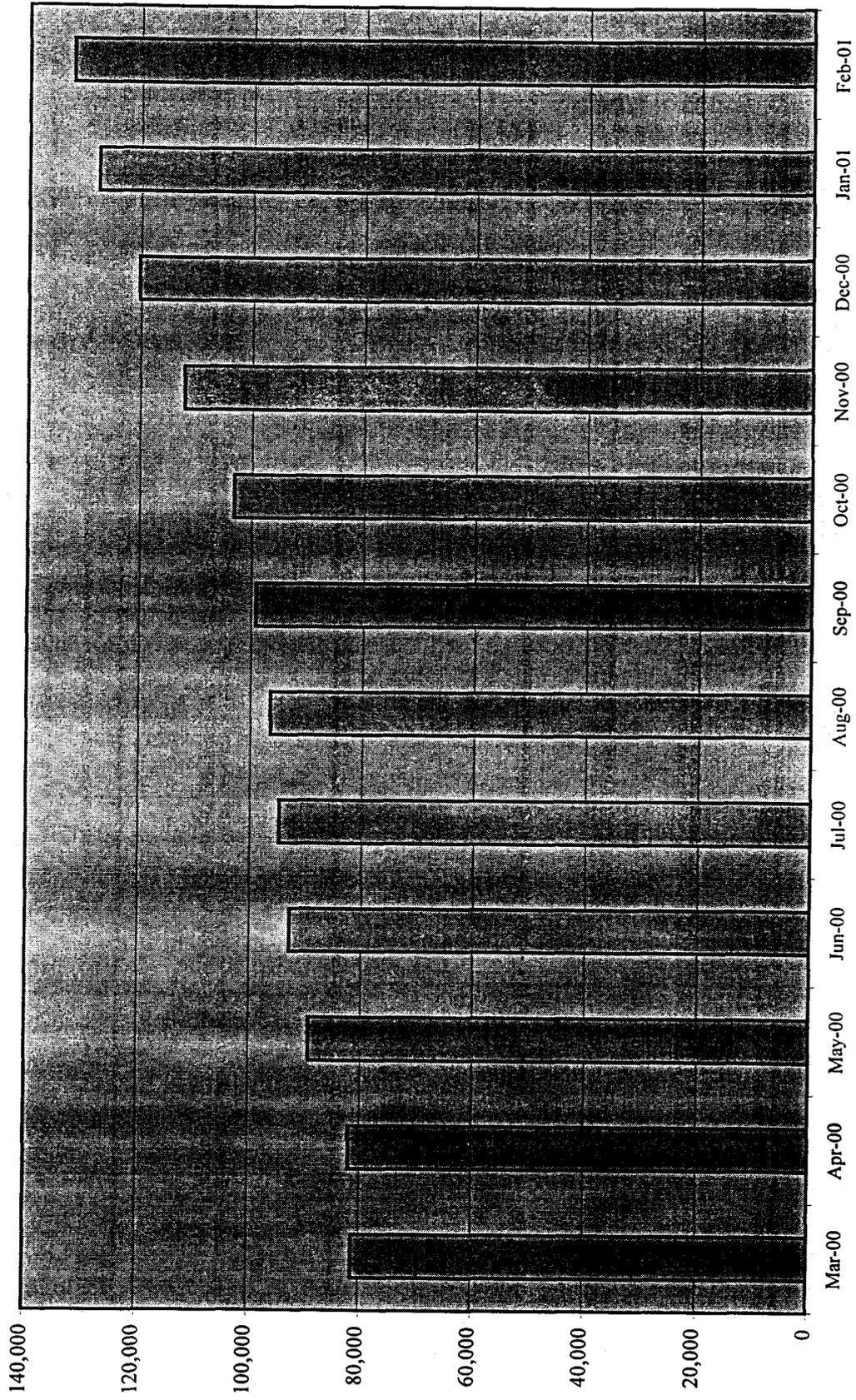
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DESCRIPTION

EXHIBIT

LIS Trunks in Service Monthly Growth	TRF-16
LIS Trunk Blank Forecast Form	TRF-17
LIS Trunk Forecasting Instructions	TRF-18
Unforecasted Demand Notification Form	TRF-19

Arizona LIS Trunks in Service
Month over Month Growth



DECEMBER 2000 REQUEST FOR LIS TRUNK FORECAST - FINAL VIEW OF 3RD QTR 2001

Arizona Corporation Commission
 Docket No. T-000008-97-0238
 Qwest Checklist Item 1, TRF-17
 Exhibit of Thomas R. Freeberg
 Page 1, April 4, 2001

Local Interconnection (LIS) DS0 Trunks

Qwest AM/SM name & tel #:

Forecast prepared by:

Date prepared:

Please show name, tel #

CLEC: STATE: One state per form

ACNA:

a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s
Type of Trunks *	Qwest	CLEC	Forecast Reference Points DS-0 level	Forecast Reference Points DS-0 level	Forecast Reference Points DS-0 level	2001 Quarterly Forecast DS-0 level	2002 Quarterly Forecast DS-0 level	2003 - 2004 Annual Forecast DS-0 level	Qwest 26 Codes									
* List Available By pressing Ctrl-Shift	CLLI	POI CLLI See file: POI CLLI.doc for details	Circuits in Service as of	# of Circuits on Firm Orders (DS-0)	Total of Circuits in Service & Firm Orders (d+c)	1st Qtr 2001	2nd Qtr 2001	3rd Qtr 2001	4th Qtr 2001	Total 2001	1st Qtr 2002	2nd Qtr 2002	3rd Qtr 2002	4th Qtr 2002	Total 2002	1st Qtr 2004	Total 2004	Reserved for CLEC use
Please input only in white areas and do not change formulas!																		
PLEASE SAVE FILE AS MICROSOFT EXCEL 6.0 '95 WORKBOOK.																		

Instructions for the CLEC LIS Trunking Forecast spreadsheet

***This version supersedes all previous versions of the Forecast Forms. Only this version will be accepted.
Please read the following instructions before completing the forecast:***

- The forecast should be done entirely at a DS-0 level.
- ***Use only the categories listed for Type of Trunks.***
- All quarters and years needing to be forecasted are on one page.
- A separate worksheet (tab) should be filled out for each state.
- Areas that need your input are highlighted in white.
- Please do not input in any shaded areas.
- ***Please do not change any forecasts in quarters already finalized.***
- Please do not change any formulas.

Instructions for the CLEC LIS Trunking Forecast spreadsheet

Field Column	Title	Entry	Format	Purpose
a	Type of Trunks	State the type of facilities needed for this interconnection. Use only the following categories: LIS/Local; Toll-Intra; IXC-Inter; 911; OPS; DA; or Busy Line Verify/Interrupt	Text	Identifies type of facilities needed.
b	Qwest CLLI	Enter the full Qwest Switch CLLI. Example: STLLWA0355T	Text	Identifies the Qwest office to connect to.
c	CLEC CLLI	Enter the full CLLI information that will be in the ACTL field on the ASR. See attached WORD DOC for details .	Text	Identifies IOF needs associated with the LIS trunk forecasts.
<i>Forecast Reference Points DS-0 level</i>				
d	Circuits in Service	Enter the number of DS-0 level trunks currently in service.	Numeric	Identifies number of Interconnection DS-0's existing as of the forecast date.
e	Firm Orders	Enter the number of DS-0's CLEC has placed orders for (i.e. there is an ASR), but not yet in service - pending and held orders. Include Tandem and End Office locations. These orders should have been included in previous quarters' forecasts. (See below)	Numeric	Identifies orders in process.
f	Total Circuits in Service and Firm Orders	DO NOT INPUT HERE. This is a formula.	NA	Totals Circuits in Service and Firm Orders
<i>2000 Best Estimate Quarterly DS-0 level</i>				
g-h	1st - 2nd Qtr 2001	Do not make any changes to 1st or 2nd quarter in 2001 they have already been finalized.	Numeric	Identifies the CLEC's best qtrly. estimate for 2001. (See below for more information)
i-j	3rd - 4th Qtr 2001	Enter the number of DS-0's required by CLEC for Local Interconnection for 3rd - 4th quarter in 2001. NON-CUMULATIVE	Numeric	Identifies the CLEC's best qtrly. estimate for 2001. (See below for more information)
k	Total 2001	DO NOT INPUT HERE. This is a formula.	NA	Totals the DS0's forecasted for 2001.
<i>2001 - 2003 Best Estimate DS-0 level</i>				

Instructions for the CLEC LIS Trunking Forecast spreadsheet

I-o	1st - 4th Qtr 2002	Enter the number of DS-0's required by CLEC for Local Interconnection for each quarter in 2002. NON-CUMULATIVE	Numeric	Identifies the CLEC's best qtrly. estimate for 2002. (See below for more information)
P	Total 2001	DO NOT INPUT HERE. This is a formula.	NA	Totals the DS0's forecasted for 2002.

Instructions for the CLEC LIS Trunking Forecast spreadsheet

q	Total 2003	Enter the number of DS-0's required by CLEC for Local Interconnection for total year 2003.	Numeric	Identifies the CLEC's best annual estimate for 2003. (See below for more information)
r	Total 2004	Enter the number of DS-0's required by CLEC for Local Interconnection for total year 2004.	Numeric	Identifies the CLEC's best annual estimate for 2004. (See below for more information)
Field Column	Title	Entry	Format	Purpose
	This column is reserved for CLEC use	CLEC may input any add'l information they need here. Example their own trunk group numbers etc.		
s	Qwest 2 6 Codes	Enter trunk identifier code - 2/6 code or the TGSN code Enter "NEW" if forecasting for a new trunk group.	Text	Identifies additions to trunk groups already in place.

This is a quarterly forecast used for future planning. Currently there is at least a 7 month timeframe to build new facilities. This is based on a one month time frame for compiling all the forecasts and six months to order and install the new equipment needed as projected in the forecast. Any jobs for additional facilities written as a result of this forecast will complete in 3rd Quarter, 2001.

(Please see tab entitled "Forecast cycle" for more information)

Please notify your Qwest Account Manager immediately via an Unforecasted Demand Notification Form when changes in near-term demand have been identified.

