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BEFORE THE ARIZONA CORPORATION COMMISSION

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8 IN THE MATTER OF THE FORMAL
9 COMPLAINT OF PAC-WEST TELECOMM
10 SEEKING ENFORCEMENT OF THE
11 INTERCONNECTION AGREEMENT
12 BETWEEN PAC-WEST TELECOMM AND
13 QWEST CORPORATION
14

DOCKET NO. T-01051B-05-0495
T-03693A-05-0495

**QWEST CORPORATION'S
ANSWER TO PAC-WEST
TELECOMM'S COMPLAINT TO
ENFORCE ITS
INTERCONNECTION
AGREEMENT, AND
COUNTERCLAIMS**

15
16 Respondent Qwest Corporation ("Qwest") hereby responds to and answers the
17 complaint to enforce its interconnection agreement that Complainant Pac-West
18 Telecomm ("Pac-West") filed on or about July 13, 2005, and further, files its
19 counterclaims against Pac-West.

20 **INTRODUCTION**

21 **Intercarrier Compensation**

22 1. Pac-West's Complaint involves the complex question of intercarrier
23 compensation. There are two general traffic types to which intercarrier compensation
24 applies. Interexchange (toll) traffic is compensated through switched access charges,
25 while local traffic may be compensated either through a "bill and keep" or reciprocal
26 compensation arrangement between local carriers.

27 2. Local traffic is telecommunications traffic that originates and terminates in
28 a geographically-defined area that is approved by the Arizona Corporation Commission

1 (the "Commission"). These areas are called "local calling areas" or "extended area
2 service" ("EAS") areas. *See e.g.*, A.A.C. R14-2-1102(8); A.A.C. R14-2-1302(9); A.A.C.
3 R14-2-1305; A.A.C. R14-2-1302(19). These geographically-defined areas allow for an
4 end-user customer's unlimited calling within these areas for a Commission-approved flat
5 rate.

6 3. With the introduction of competitive local services, the Federal
7 Communications Commission ("FCC") allowed for intercarrier compensation for the
8 exchange of this local traffic. This provided both incumbent local exchange carriers
9 ("ILECs") and competitive local exchange carriers ("CLECs") the opportunity to recover
10 the costs associated with interconnection for the exchange of local traffic through a per-
11 minute charge. "Bill and keep," on the other hand, allows for each carrier to bill their
12 end-user customer and keep the revenue, therefore eliminating the need for recording
13 traffic and billing for reciprocal compensation. The concept behind bill and keep is to
14 recover interconnection costs from the end-user customers of the telecommunications
15 network to which those end-user customers are connected. When the traffic that is
16 exchanged between local carriers is in balance, there is a presumption that each network
17 will incur similar costs.

18 4. Interexchange (toll) traffic is traffic that originates and terminates between
19 exchanges located in *different local calling areas*/EAS areas. Toll traffic is measured in
20 minutes of use, and is charged to the end-user customer by the end-user customer's
21 selected interexchange carrier ("IXC"). The IXC must pay originating access charges to
22 the originating carrier for the use of its network, and terminating access charges to the
23 terminating carrier for the use of its network to complete the call.

24 5. As described above, the type of traffic, either local or toll, is determined by
25 the geographic location of the end points of the calls. Based on these physical end points,
26 the telecommunications industry has developed a method of determining the general
27 location (*i.e.*, local calling area/EAS area) for intercarrier compensation purposes based
28 on the telephone numbers of the originating and terminating end users. Telephone

1 numbers are displayed in the NPA/NXX format (in which the NPA is the area code and
2 the NXX is the central office code). The central office code is then followed by a
3 four-digit number which together constitutes the telephone number of the end-user
4 customer's telephone line. Based on this format and the known geographic local calling
5 area/EAS boundaries, a call may be determined to be either local or long distance.

6 **The Pac-West Complaint**

7 6. Pac-West's Complaint presents an important issue to this Commission.
8 Has the FCC changed the definition of a long distance call? In other words, when a
9 person places a long distance call to a computer, or Internet Service Provider ("ISP")
10 server ("ISP Server"), may the carrier connecting the call to the computer treat the call as
11 a local call according to the FCC's *ISP Remand Order*¹ for compensation and access
12 charge purposes? The answer is clearly no. However, Pac-West claims that a call to an
13 ISP Server, at least when the ISP Server is used to connect to the Internet, is, according to
14 the *ISP Remand Order*, to be treated as a local call under the process described in that
15 order, *no matter where the ISP Server is physically located*.

16 7. Pac-West's position is that for a call originating from Tucson, the called
17 ISP Server could be physically located in Phoenix, Los Angeles, or Albuquerque, and all
18 calls to the ISP Server (and through the ISP Server to the Internet) would be treated for
19 compensation purposes as a local call whereby both the caller and the ISP Server would
20 appear to be physically located in Tucson. This is also referred to as VNXX.² This is

21 _____
22 ¹ See *In the Matter of Implementation of the Local Competition Provisions in the*
23 *Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic,*
24 *Order on Remand and Report and Order*, 16 FCC Rcd 9151, 9163-9181, ¶¶ 23-65, 9186-
25 9190, ¶¶ 77-84 (2001), *remanded sub nom, WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C.
Cir. 2002), *reh'g en banc denied* (D.C. Cir., Sept. 24, 2002), *cert. denied*, 538 U.S. 1012
(May 5, 2003) ("*ISP Remand Order*").

26 ² "Virtual NXX" or "VNXX," the subject of this case, is a vehicle by which a carrier
27 obtains a telephone number for one local calling area and uses that telephone number in
28 another geographic area. Using a VNXX scheme thereby makes it appear, based on the
telephone number, that a call is a local call when, in fact, it is an interexchange or toll
(long distance) call (often being transported very long distances).

1 clearly not the law, and the FCC for more than 20 years has made it clear that a call to a
2 computer (including a call to an ISP Server used to provide information or enhanced
3 services) is to be rated based on the *physical location* of the ISP Server itself, and not the
4 location of any further end point with which the ISP Server may communicate, or to
5 which the computer may direct the call. Pac-West's argument is that the FCC somehow
6 accidentally reversed this consistent precedent, and thus that the FCC has ruled that *all*
7 calls to an ISP Server are to be treated according to the scheme in the *ISP Remand Order*,
8 no matter where the ISP Server is physically located.

9 8. This issue is important to Pac-West because if its position were to be
10 accepted, Pac-West would be able to reap significant financial advantages at the expense
11 of Qwest and the public. Not only would customers calling Pac-West's ISP customers
12 avoid paying toll charges for such calls, but also Qwest would be required (after an
13 amendment to the parties' interconnection agreement) to compensate Pac-West for
14 "terminating" the calls at the intercarrier compensation rate set forth in the FCC's *ISP*
15 *Remand Order* (\$0.0007 per minute) for "ISP-bound traffic."

16 9. Pac-West's position is directly contrary to FCC precedent, which requires
17 that a computer (such as an ISP Server) be treated exactly the same as other end-user
18 customers in determining whether a call to the computer is treated as a toll call or a local
19 call. In other words, a call originating from one local calling area to an ISP Server
20 physically located in another local calling area is treated as a toll call. This is the basis
21 for the so-called "ESP Exemption," which requires exactly that.

22 10. The federal ESP Exemption prevents a local exchange carrier from
23 charging switched access charges for a call made to a local computer on the basis that the
24 computer ultimately directs the call to an end point (*e.g.*, another computer) or to another
25 station located in another state. This is part of the same rule that held that calls to or from
26 local Private Branch Exchanges ("PBXs") would not be required to pay switched access
27 charges, even if the calls were connected to another line and ultimately transferred to a
28 distant location. The ESP Exemption never said, explicitly or implicitly, that calls to or

1 from computers (or PBXs) were “local calls” no matter where the computers (or PBXs)
2 were physically located. Pac-West, however, argues that the FCC, without analysis or
3 even intent, has accidentally changed the entire landscape of access charges, and thus
4 issued a blanket exemption for all calls to and from all computers, no matter where
5 physically located (as long as they ultimately send the call to the Internet). Pac-West’s
6 position that the FCC has made such a major policy shift is completely unsupported.
7 Further, any suggestion that based on the *ISP Remand Order*, the FCC intended for
8 VNXX calls to ISPs to be “local” is tantamount to claiming that the FCC has claimed
9 regulatory authority over that part of intrastate long distance, and thus intended that 1+
10 calls to ISPs be deemed “local,” which would be completely without merit. This
11 Commission retains regulatory authority over intrastate calling; the FCC’s *ISP Remand*
12 *Order* did nothing to change that.

13 11. Pac-West also ignores applicable Arizona administrative rules and
14 definitions and this Commission’s recent ruling in the AT&T/Qwest arbitration
15 proceeding (Docket Nos. T-02428A-03-0553 and T-01051B-03-0553) dealing with the
16 definition of a “local” call. In that arbitration, the Commission ruled that the definition of
17 local exchange service would remain as traffic that originates and terminates within the
18 *same* Commission-determined local calling area.³ Thus, the Commission rejected
19 AT&T’s request for a definition “based upon the NPA-NXX of the calling and called
20 parties” instead of the physical location of the parties, *i.e.*, Virtual NXX (or VNXX).
21 Therefore, a CLEC’s VNXX offerings that do not provide for toll payments, or an
22

23 ³ Pac-West’s interconnection agreement has a similar definition of “Exchange Service” to
24 that in the AT&T agreement. Specifically, the definition in the AT&T agreement (§ 4.0)
25 is as follows: “‘Exchange Service’ or ‘Extended Area Service (EAS)/Local Traffic’ means
26 traffic that is *originated and terminated within the same Local Calling Area as determined*
27 *for Qwest by the Commission.*” (Emphasis added.) The definition in Pac-West’s
28 agreement (Part A, Definitions, p. 5) is as follows: “‘Extended Area Service’ (‘EAS’) is
intraLATA traffic treated as ‘local’ traffic between exchanges (rather than as ‘toll’ traffic)
as established by the Commission and as reflected in the effective US WEST tariffs.” See
Exhibit A to this Answer and Counterclaims (emphasis added).

1 appropriate substitute, or that seek reciprocal compensation or any other intercarrier
2 compensation, are improper.

3 12. Pac-West also ignores the plain language of the parties' interconnection
4 agreement ("ICA") regarding the types of traffic that the parties have agreed to exchange.
5 A true and correct copy of relevant portions of the Pac-West/Qwest ICA is attached
6 hereto as Exhibit A to this Answer and Counterclaims. The traffic types that the parties
7 have agreed to exchange over the local interconnection trunks and through the ICA
8 Single Point of Presence ("SPOP") amendment are very specifically delineated in the
9 ICA. As discussed below, the traffic for which Qwest disputes payment does not match
10 the traffic types the parties agreed to exchange under the ICA. Due to Pac-West's
11 purposeful misuse and improper assignment of telephone numbers, the traffic Pac-West
12 expects Qwest to exchange does not match any of the specifically defined traffic types,
13 and therefore is not traffic that the parties have agreed to exchange under the ICA. The
14 solution to this dispute is quite simple: if Pac-West assigns telephone numbers based on
15 the actual physical location of the ISP Server, then the traffic will be properly routed
16 consistent with the definitions in the ICA.

17 13. Indeed, Pac-West's misassignment of telephone numbers is not consistent
18 with the telecommunications industry's numbering resource guidelines. For example, the
19 Alliance for Telecommunications Industry Solutions ("ATIS") Central Office Code
20 (NXX) Assignment Guidelines ("COCAG") (Section 2.14) assumes "from a wireline
21 perspective that CO [central office] codes/blocks allocated to a wireline service provider
22 are to be utilized to provide service to a customer's premise *physically located* in the
23 same rate center that the CO codes/blocks are assigned." (Emphasis added.) Although
24 exceptions exist, such as for tariffed services like foreign exchange services, VNXX is
25 not such an exception. In addition, Section 4.2.2(6) of the COCAG provides that "[t]he
26 numbers assigned to the facilities identified must serve subscribers in the *geographic*
27 *area corresponding with the rate center requested.*" (Emphasis added.) Finally,
28 "geographic NPAs" are the "NPAs which correspond to discrete geographic areas within

1 the NANP [North American Numbering Plan],” while “non-geographic NPAs” are
2 “NPAs that do not correspond to discrete geographic areas, but which are instead
3 assigned for services with attributes, functionalities, or requirements that transcend
4 specific geographic boundaries,” “the common examples [of which] are NPAs in the N00
5 format, e.g., 800.” COCAG, § 13.0 (definition of “NPA,” p. 48). A true and correct
6 copy of relevant portions of the COCAG is attached hereto as Exhibit B to this Answer
7 and Counterclaims.

8 14. The solution to this dispute is quite simple. If Pac-West assigns telephone
9 numbers based on the actual physical location of the ISP Server, the traffic will be
10 properly routed consistent with the definitions in the ICA.

11 15. This case raises an important issue from a policy and financial perspective.
12 Ultimately, this Commission should rule in favor of Qwest and thus determine that
13 Pac-West is not entitled to unilaterally change the ICA. The Commission should further
14 rule (as a matter of federal law, state law and sound public policy) that Pac-West is not
15 entitled to shift the fundamental toll compensation structure in this state.

16 STATEMENT OF PERTINENT FACTS

17 Background of Dispute

18 16. This dispute arises because Pac-West has engaged in the practice of
19 providing a service to its ISP customers that enables the ISP’s customers who are
20 physically located in a particular local calling area to dial a “local” telephone number to
21 reach the ISP, even though the ISP is physically located in a different local calling area or
22 possibly even a different state. Pac-West does this by assigning telephone numbers to
23 Pac-West’s ISP customers based on where the call originates, thus allowing the calls to
24 terminate in a different local calling area. Pac-West then knowingly misuses Qwest’s
25 Local Interconnection Service (“LIS”) so that Qwest will believe it is obligated to route
26 and transport calls to Pac-West disguised as “local” calls (or, as Pac-West would try to
27 define them, “ISP-Bound” calls) when, in fact, the calls should be treated as *toll* calls.
28 While Pac-West seeks this treatment of ISP calls, other carriers seek the same treatment

1 of intercity calls not destined for the Internet. For example, some carriers' VNXX calls
2 might be destined for an inbound telemarketing center, a "help desk," or a voice
3 messaging system.

4 17. This practice has widespread and significant implications for the entire
5 access compensation system established in Arizona and elsewhere. Pac-West seeks to
6 benefit not once, but twice. Pac-West not only wants to allow its ISP customer and the
7 ISP's customers to avoid paying toll charges for long distance calls, but also seeks to
8 force ILECs like Qwest to pay Pac-West for the privilege of routing and transporting toll
9 calls for Pac-West. Such an approach would lead to severe financial repercussions for
10 the industry, would erode the financial support that originating access provides to local
11 rates, and would further distort the compensation scheme (including universal service
12 funding) underlying the public switched telephone network.

13 18. Pac-West's practices raise a wide variety of policy issues. Those issues are
14 being addressed and litigated before the FCC and the courts. Nonetheless, while those
15 proceedings are pending, Pac-West seeks to sidestep them by charging Qwest without
16 satisfying the change of law process provided for in the ICA. Pac-West's effort is not
17 supported by state law, federal law or the parties' ICA; and thus the Commission should
18 order that Pac-West cease such practices while the issues are sorted out. Because of the
19 status of the law, Qwest has refused to pay Pac-West's improper and inaccurate
20 intercarrier compensation bills for VNXX traffic.

21 19. Thus, the primary issue raised here is whether or not a call destined for the
22 ISP Server should be subject to the FCC's *ISP Remand Order* rate of \$0.0007 per minute,
23 regardless of the physical location of the person placing the call compared to the physical
24 location of the ISP Server. The FCC has addressed this issue. This Commission has also
25 recently issued a decision regarding the definition of a local call. All of this precedent
26 dictates that Pac-West is wrong.

27
28

1 **Treatment of Calls Destined for ISPs**

2 **Federal Authority**

3 20. The FCC has a long history of determining the appropriate compensation
4 treatment of traffic destined for “enhanced service providers” or “ESPs” (*i.e.*, providers
5 of communications that modify content). In 1983, the FCC issued an order creating the
6 so-called “ESP Exemption.”⁴ The ESP Exemption was not really an exemption, but
7 rather a decision, based on a number of policy considerations, that enhanced service
8 providers were entitled to connect their points of presence through tariffed local retail
9 services (rather than through tariffed feature group access services that interexchange
10 carriers were required to purchase), even though the facilities were really being used for
11 services classified as interstate.⁵ The FCC assigned the same status to private
12 telecommunications networks or systems (*e.g.*, PBX systems) that accessed local
13 exchange systems for connecting interstate calls.⁶ In other words, the FCC treated the
14 point of presence of an enhanced service provider as if that point of presence were the
15 location of a retail customer.

16 21. The FCC applied the same approach under the 1996 Telecommunications
17 Act (the “Act”) when it addressed traffic routed to the Internet. The FCC determined that
18 ISPs, the heirs to the old “enhanced service provider” designation, were entitled to the

19 _____
20 ⁴ See *In the Matter of MTS and WATS Market Structure*, Third Report and Order, 93 FCC
21 2d 241, 254-255, ¶ 9 and fn. 15, 320, ¶ 269 (1983); *modified on recon.*, 97 FCC 2d 682
22 (1984) (“*First Order on Reconsideration*”), *further modified on recon.*, 97 FCC 2d 834
23 (1984) (“*Order on Further Reconsideration*”), *aff’d in principal part and remanded in*
part sub nom., *NARUC v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 469 U.S.
1227 (1985).

24 ⁵ See, *e.g.*, *In the Matter of Access Charge Reform, Price Cap Performance Review for*
Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line
25 *Charges*, First Report and Order, 12 FCC Rcd 15982, 16131-34, ¶¶ 341-48 (1997); *see*
26 *also, generally, In the Matter of Amendments of Part 69 of the Commission’s Rules*
Relating to Enhanced Service Providers, Order, 3 FCC Rcd 2631 (1988).

27 ⁶ See *In the Matter of WATS-Related and Other Amendments of Part 69 of the*
28 *Commission’s Rules*, Memorandum Opinion and Order, 2 FCC Rcd 7424, 7425, ¶¶ 13-15
(1987).

1 same treatment for compensation purposes. Thus, when an ISP is served by a CLEC, the
2 same analysis applies under Section 251(g) of the Act. The ISP Server is treated as an
3 end-user location for purposes of compensation, but the call does not terminate at this
4 location. The ISP may purchase services from its telecommunications provider for the
5 purpose of getting its incoming calls to the ISP Server. Compensation between the ISP's
6 provider (Pac-West) and the LEC (Qwest) that serves the customer that originated the
7 call is based on the geographic location of the two ends of the call.⁷

8 22. In March of this year, the FCC issued its Notice of Further Proposed
9 Rulemaking in its *Intercarrier Compensation* docket to consider these issues as a part of
10 an overall examination of intercarrier compensation.⁸ Nevertheless, as of today, the
11 applicable law has not changed. The ISP Server should be considered a retail location for
12 the purposes of appropriate number assignment and determining intercarrier
13 compensation.⁹

14 23. Pac-West ignores this regulatory history by attempting to charge Qwest at
15 the *ISP Remand Order* \$0.0007 per minute rate for terminating such VNXX traffic.
16 Pac-West has argued in other jurisdictions that the FCC's *ISP Remand Order* and a recent
17 FCC decision related to a forbearance petition by Core Communications fundamentally
18
19

20 ⁷ See *In the Matter of Implementation of the Local Competition Provisions in the*
21 *Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic,*
22 *Order on Remand and Report and Order*, 16 FCC Rcd 9151, 9163-81 ¶¶ 23-5, 9186-90,
23 ¶¶ 77-4 (2001), *remanded sub nom. WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir.
2002), *reh'g, en banc, denied* (D.C. Cir. Sept. 24, 2002), *cert. denied*, 538 U.S. 1012
(May 5, 2003).

24 ⁸ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, Further
25 Notice of Proposed Rulemaking, 20 FCC Rcd 4685 (rel. Mar. 3, 2005) ("Further
Notice").

26 ⁹ For a more detailed analysis of these legal issues, see the *Ex Parte Comments* that
27 Qwest filed with the FCC on March 11, 2005 in response to a forbearance petition
28 brought by Level 3 regarding these issues, which is attached as Exhibit C to this Answer
and Counterclaim.

1 change this analysis.¹⁰ Pac-West argues that *all* traffic destined for the Internet must be
2 treated as subject to the FCC *ISP Remand Order* \$0.0007 per minute rate, regardless of
3 whether such traffic originated from next door, across the state, or even across the
4 country. Its position is simply wrong, and is in violation of the FCC's rules (*i.e.*, the FCC
5 ESP Exemption rule), and essentially has the effect of asserting that the FCC somehow
6 intended to preempt states on the regulation of intrastate traffic.

7 24. In fact, if Pac-West delivered traffic to its ISP customer's server physically
8 located in the *same local calling area* as where the call originated, Pac-West would be
9 correct that under existing rules, the call would be treated as subject to the *ISP Remand*
10 *Order* \$0.0007 per minute rate.¹¹ However, Pac-West's ISP customer's equipment is *not*
11 physically located in the same local calling area as the individual and business customers
12 that call Pac-West's ISP customers. Thus, Pac-West seeks to collect compensation to
13 which it is not entitled.

14 25. Pac-West's approach ignores long-standing FCC precedent, as well as the
15 guidance of a recent Commission decision on these issues. In describing ISP-bound
16 traffic in the background section of the order, the FCC states that "*an ISP's end-user*
17 *customers typically access the Internet through an ISP Server located in the same local*
18 *calling area,*" and that the end-user customers pay the local exchange carrier for
19 connections to the "local ISP." *ISP Remand Order*, ¶ 10. The FCC defines ISPs as "one
20 set of enhanced service providers." *Id.*, ¶ 11 (emphasis added). The FCC specifically
21 identified the issue that it was addressing as "whether reciprocal compensation
22 obligations apply to the delivery of calls from *one LEC's end-user customer to an ISP in*
23 *the same local calling area* that is served by a competing LEC." *Id.*, ¶ 13 (emphasis
24 added). Thus, in examining ISP traffic, the *ISP Remand Order* did not address the
25

26 ¹⁰ See *Petition of Core Communications for Forbearance under 47 USC § 160(c) from*
27 *the Application of the ISP Remand Order*, Order FCC 04-241, WC Docket No. 03-171
(rel. October 18, 2004) ("*Core Forbearance Order*").

28 ¹¹ Such a change would still require an ICA amendment.

1 situation where a CLEC customer's ISP server is physically located *outside* of the local
2 calling area of both its assigned telephone number(s) and the originating caller. In fact,
3 asserting that the *ISP Remand Order* somehow intended to address this scenario is an
4 implicit claim of FCC preemption of a portion of the intrastate market, an argument for
5 which there is no basis.

6 26. Similarly, the *Core Forbearance Order* addressed the application of the
7 *ISP Remand Order*. It addressed whether certain provisions in the *ISP Remand Order*
8 should continue to apply to CLECs serving ISPs. Because the *ISP Remand Order* did not
9 address the treatment of calls from one local calling area to an ISP with equipment in
10 *another* local calling area, the *Core Forbearance Order* did not address the issue either.

11 27. Qwest's position of the FCC's actions gains support from the appeal of the
12 *ISP Remand Order*. *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), *reh'g en*
13 *banc denied* (D.C. Cir., Sept. 24, 2002), *cert. denied*, 538 U.S. 1012 (May 5, 2003). In
14 *WorldCom*, the court unequivocally stated that the FCC's *ISP Remand Order* addressed
15 calls made to ISPs physically located *within* the *same* local calling area as the originating
16 caller. *WorldCom*, 288 F.3d at 430. Thus, there is a lack of support for the interpretation
17 that Pac-West advocates that the FCC, in the *ISP Remand Order*, somehow summarily
18 changed the long history of determining the appropriate treatment of traffic destined for
19 enhanced service providers. In fact, in a similar proceeding before the Public Utility
20 Commission of Oregon, an Administrative Law Judge agreed with Qwest ruling that
21 ISP-Bound traffic as used in the *ISP Remand Order* does not include VNXX traffic.¹²

22 State Authority

23 28. The Commission has provided strong guidance on this issue in that it
24 recently addressed a dispute about how to define a "local call." Specifically, in the
25 AT&T/Qwest arbitration, Qwest and AT&T disputed the appropriate definition of a local
26

27 ¹² See *In the Matter of Qwest Corporation vs. Level 3 Communications, LLC*, Docket IC
28 12, Ruling (issued Aug. 16., 2005), which is attached as Exhibit D to this Answer and
Counterclaim.

1 call under Arizona law. The Commission agreed with Qwest's position that a "local call"
2 is one "that is originated and terminated within the same local calling area as determined
3 for Qwest by the Commission." The Commission rejected AT&T's proposal to define a
4 local call by reference to "the calling and called NPA/NXXs" (*i.e.*, VNXX). *See* Opinion
5 and Order, Decision No. 66888, Docket Nos. T-02428A-03-0553 and T-01051B-03-0553
6 (April 6, 2004), p. 13.

7 29. In that arbitration, the Commission found that Qwest's proposed definition
8 of "Exchange Service" comported with existing Arizona law and rules and thus should be
9 adopted, while AT&T's proposed definition "represent[ed] a *departure from the*
10 *establishment of local calling areas* and may have an *unintended affect* beyond the issues
11 discussed and be *subject to abuse*." Decision No. 66888, p. 13 (emphasis added). Said
12 the Commission: "We do not believe that it would be good public policy to alter long-
13 standing rules or practice without broader industry and public participation. *Id.*¹³

14 30. Moreover, the pertinent rules and definitions in the Arizona Administrative
15 Code that are at issue here are as follows:

16 'Central Office Code' means the first three digits of a seven-
17 digit telephone number. Central office codes are assigned to
18 telecommunications providers by the central office code
19 administrator in accordance with the industry's central office
20 assignment guidelines.

21 A.A.C. R14-2-1302(4).¹⁴

22 'Extended Area Service' or 'EAS' means local (toll-free)
23 calling provided between local exchange carrier exchanges
24 (service areas).

25 A.A.C. R14-2-1302(9).

26 ¹³ As stated *infra* (fn. 4), Pac-West's interconnection agreement has a similar definition
27 of "Exchange Service" or "EAS" as that which is in the AT&T agreement.

28 ¹⁴ *See* Paragraph 13 for a discussion of the telecommunications industry's central office
assignment guidelines.

1 ‘Local Exchange Service.’ Telecommunications service that
2 provides a local dial tone, access line, and local usage *within*
3 *an exchange or local calling area.*

4 A.A.C. R14-2-1102(8).

5 ‘Local and Toll Rating Centers.’

6 The incumbent LEC’s local calling areas and existing EAS
7 boundaries will be utilized for the purpose of classifying
8 traffic as local, EAS, or toll for purposes of intercompany
9 compensation.

10 All LECs will use central office codes with rate centers
11 matching the incumbent LEC’s rate centers.

12 A.A.C. R14-2-1305.

13 ‘Rate Center’ means specific *geographic locations* from
14 which airline mileage measurements are determined for the
15 purposes of *rating local, Extended Area Service (EAS), and*
16 *toll traffic.*

17 A.A.C. R14-2-1302(19).

18 ‘Reciprocal Compensation’ means the arrangement by which
19 local exchange carriers compensate each other for *like*
20 *services* used in the *termination of local calls* between the
21 customers of the two carriers.

22 A.A.C. R14-2-1302(20).

23 ‘Toll service.’ Service between stations in *different exchange*
24 *areas* for which a long distance charge is applicable.

25 A.A.C. R14-2-501(23). (Emphasis added throughout.)

26 The same analysis applies in this case. For example, the Pac-West ICA provides:
27 “Extended Area Service” (“EAS”) is intraLATA traffic *treated as “local” traffic between*
28 *exchanges (rather than as “toll” traffic)* as established by the Commission and as
29 reflected in the effective U S WEST tariffs. Ex. A, Part A, Definitions, p. 5 (emphasis
30 added).

31 31. Although Pac-West will undoubtedly attempt to distinguish this precedent
32 (such as, for example, by arguing that the traffic at issue is bound for the Internet, and
33 thus that it is somehow exempt from these Arizona definitions), the fact is that Arizona
34 law makes no such distinction. Nor has the FCC made such a distinction. If VNXX

1 traffic is allowed to flow between carriers, it should not be treated as “local” traffic under
2 the parties’ ICA.

3 **Treatment of ISP Traffic under the ICA**

4 32. Further still, Pac-West’s conduct violates the parties’ ICA. The ISP
5 Amendment that Pac-West and Qwest executed and that Pac-West refers to in its
6 complaint describes “ISP-Bound traffic” “as that term is used in the FCC ISP Order” [the
7 FCC’s “Order on Remand and Report and Order in CC Docket 99-68 (Intercarrier
8 Compensation for ISP-Bound Traffic)”] (*i.e.*, *the ISP Remand Order*). A true and correct
9 copy of the ISP Amendment to the Pac-West/Qwest ICA is attached hereto as Exhibit E
10 to this Answer and Counterclaims. (*See* Ex. E, § 3, and second Recital.)¹⁵ As discussed
11 above, the *ISP Remand Order* did not accidentally include traffic destined for an ISP
12 Server physically located in a different local calling area than the originating caller as
13 part of the “ISP-Bound traffic” addressed in the order. Thus, the traffic is not “ISP-
14 Bound” as discussed or defined in the ISP Amendment.

15 33. Pac-West, however, seeks to sweep aside these definitions by assuming that
16 traffic destined for the Internet automatically falls within the definition of “ISP-bound
17 traffic,” regardless of where the traffic physically originates and terminates. Indeed,
18 Pac-West ignores the FCC history of defining traffic destined for an ISP as traffic that
19 travels solely *within* a local calling area prior to being delivered to the ISP Server.
20 Pac-West also ignores long-standing industry practice of treating calls dialed as 1+ calls
21 to the Internet as being toll calls. Pac-West then hides this practice by improperly
22 assigning local numbers (through its VNXX schemes).

23 **VNXX Traffic over LIS Trunks**

24 34. Pac-West has argued that the parties have agreed to exchange VNXX traffic
25 over LIS trunks. Qwest disagrees. Section 17.3 of the parties’ ICA and the parties’

26 _____
27 ¹⁵ The parties’ ISP Amendment was filed with the Commission on or about February 18,
28 2003. The amendment became effective by operation of law on May 19, 2003. Decision
No. 66052, Docket No. T-01051B-03-0107, T-03693A-03-0107.

1 SPOP amendment specifically delineate the types of traffic that are to be exchanged
2 under the ICA. (See Ex. A, § 17.3; SPOP Amendment, Attachment 1, § 1.) With respect
3 to the traffic and disputes at issue in this matter, there are three relevant types of traffic
4 which are appropriately exchanged under the agreement and under the parties' SPOP
5 amendment to the ICA: (1) Exchange Service EAS/Local traffic, (2) Exchange Access
6 (IntraLATA Toll Non-IXC) traffic and (3) Jointly Provided Switched Access (InterLATA
7 and InterLATA IXC) traffic. A true and correct copy of the SPOP Amendment to the
8 Pac-West/Qwest ICA is attached hereto as Exhibit F to this Answer and Counterclaims.
9 (See, e.g., Ex. F, Attachment 1, § 1)¹⁶

10 35. The ICA (Ex. A) defines those categories of traffic as follows:

11 "Extended Area Service" ("EAS") is intraLATA traffic
12 treated as "local" traffic between exchanges (rather than as
13 "toll" traffic) *as established by the Commission and as
reflected in the effective U S WEST tariffs.*

14 Ex. A, Part A, Definitions, p. 5.

15 "Toll Traffic" is traffic that *originates in one Rate Center and*
16 *terminates in another Rate Center* with the exception of traffic
that is rated as EAS.

17 *Id.*, p. 11.

18 "Access Services" refers to interstate and intrastate switched
19 access and private line transport services.

20 *Id.*, p. 2.

21 "Meet-Point Billing" or "MPB" refers to an arrangement
22 whereby two LECs (including a LEC and Pac-West) jointly
23 provide Switched Access Service to an Interexchange Carrier,
with each LEC (or Pac-West) receiving an appropriate share of
the access element revenues.

24 *Id.*, p. 7.

25
26 ¹⁶ The parties entered into the SPOP Amendment in January 2001 and it was filed with
27 the Commission on or about April 27, 2001. The amendment became effective by order
28 of the Commission on June 6, 2005. See Decision No. 63736, Docket No.
T-01051B-01-0357, T-03693A-01-0357.

1 “Switched Access”, “Switched Access Service”, “Switched Exchange
2 Access Service” or “Switched Access Traffic” are *as defined in the Parties’*
3 *applicable tariffs.*

4 *Id.*, p. 10. (Emphasis added throughout.)

5 36. As stated, the term “ISP-Bound” is defined by the ISP Amendment (Ex. E,
6 § 1.4) “as described by the FCC in its Order on Remand and Report and Order
7 (Intercarrier Compensation for ISP-Bound traffic) CC Docket 96-98.” As already
8 discussed above, Pac-West’s contention that the traffic at issue is entitled to treatment
9 and compensation according to the *ISP Remand Order* is incorrect and not an appropriate
10 reading of that order, and conflicts with the Commission’s definition of local traffic in
11 Docket Nos. T-02428A-03-0553 and T-01051B-03-0553.

12 37. It is possible that Pac-West may claim, as some other carriers have
13 attempted to claim, that this traffic is “Extended Area Service” (“EAS”) traffic,
14 commonly referred to as “EAS/Local traffic.” This traffic is defined in Part A, p. 5 of the
15 ICA as “intraLATA traffic treated as “local” traffic between exchanges (rather than as
16 “toll” traffic) *as established by the Commission* and *as reflected in the effective*
17 *US WEST tariffs.*” (Ex. A, Part A, p. 5 (emphasis added).) Even a cursory examination
18 of the traffic at issue, however, shows that it does not meet this definition. Pac-West
19 does not deny that it forces Qwest to exchange traffic that is not terminated at the ISP
20 Server in the same local calling area as the originating caller (identical to VNXX traffic);
21 but Pac-West has nevertheless claimed that it is “ISP-bound” traffic. Thus, there should
22 be no contention as to whether the VNXX traffic at issue is “Exchange Service” traffic.

23 38. A traffic type that *may superficially appear* to functionally apply to the
24 VNXX traffic at issue is under the definition of “Switched Access”, “Switched Access
25 Service”, “Switched Exchange Access Service” or “Switched Access Traffic,” which are
26 all defined in Pac-West’s ICA “*as defined in the Parties’ applicable tariffs.*” (Ex. A, Part
27 A, p. 10 (emphasis added).) While this may appear functionally appropriate, upon closer
28 examination the traffic does not meet this definition either.

1 39. As a threshold matter, only Pac-West knows the exact location of the
2 end-user ISP Server or modem bank for this traffic. Thus, Qwest cannot completely
3 determine for any given call whether the call is destined for a location within the local
4 calling area or in a different local calling area. Qwest only knows how far it carried the
5 call before handoff to the interconnected carrier, where that carrier's serving switch is
6 located, and whether traffic is one-way or two-way. In addition, even for that traffic
7 which may functionally appear to match the definition, Pac-West's purposeful misuse
8 and misassignment of telephone numbers makes it difficult to track such traffic.
9 Pac-West clearly does not intend for the traffic to be treated as "Exchange Access" traffic
10 under the ICA, as evidenced by its misuse of telephone numbers. Thus, it is apparent this
11 definition does not match the traffic either.

12 40. Finally, the last possible traffic type, "Meet-Point Billing," does not match
13 up at all to the VNXX traffic at issue. (Ex. A, Part A, p. 7.) This is so because no IXC is
14 involved, as only Pac-West and Qwest are involved in the carriage of the traffic, which is
15 contrary to the definition of the traffic in Part A, p. 7 of the ICA.

16 41. Therefore, in reviewing the ICA's plain language and the VNXX traffic
17 that Pac-West causes Qwest to exchange, none of the traffic types that the parties
18 specifically agreed to exchange match this VNXX traffic. Since Pac-West can easily
19 remedy the situation by properly assigning telephone numbers based on the actual
20 location of its end-user customers, it is incumbent upon Pac-West to ensure that the
21 exchange of traffic under the ICA follows the terms and conditions of that agreement. In
22 the end, Pac-West is simply attempting to exchange traffic that the parties never agreed to
23 exchange under the terms of the ICA.

24 **RESPONSE TO ALLEGATIONS IN THE COMPLAINT**

25 42. Unless specifically admitted in this section, Qwest denies each and every
26 allegation in Pac-West's Complaint. Qwest's factual assertions and legal argument
27 contained in the preceding sections of this Answer are incorporated into and should be
28 considered a part of these responses to the individual allegations of the Complaint.

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PARTIES

43. Qwest neither admits nor denies the allegations in Paragraph 1 of the Complaint regarding Pac-West's business, its operations in Arizona or its corporate headquarters. For example, Qwest does not know the extent to which Pac-West has been authorized by the Commission to provide service in Arizona.

44. Qwest admits the allegations in Paragraph 2 regarding Qwest's business and its operations in Arizona.

JURISDICTION

45. Qwest admits the allegations in Paragraph 3 that this Commission has the authority to enforce Qwest's ICA with Pac-West. Qwest denies, however, that the Commission has jurisdiction to award equitable or monetary relief to the extent that Pac-West's Complaint seeks such relief. Qwest further denies that the ICA supports the relief that Pac-West is seeking.

**RESPONSE TO STATEMENT OF LAW AND FACTS
COMMON TO ALL COUNTS**

46. Qwest admits the allegations in Paragraph 4 of the Complaint regarding the ICA.

47. Qwest admits the allegations in Paragraph 5 of the Complaint regarding the ISP Amendment to the ICA.

48. Qwest states that the averments in Paragraph 6 of the Complaint constitute conclusions of law, and as such do not contain allegations which Qwest must admit or deny. To the extent that these averments constitute statements of fact, Qwest states that the FCC's *ISP Remand Order* and the ISP Amendment of the parties' ICA speak for themselves.

49. Qwest states that the averments in Paragraph 7 of the Complaint constitute conclusions of law, and as such do not contain allegations which Qwest must admit or deny. To the extent that these averments constitute statements of fact, Qwest states that the FCC's *ISP Remand Order* speaks for itself.

1 50. Qwest admits the allegations in Paragraph 8 of the Complaint that Pac-West
2 has billed Qwest, and Qwest has paid Pac-West, for the appropriate portions of the
3 appropriate terminating local and ISP-bound traffic since the ICA became effective, in
4 accordance with the parties' ICA and in compliance with the terms of the FCC's *ISP*
5 *Remand Order*. Qwest further admits that in early 2004, in compliance with the ICA and
6 terms of the FCC's *ISP Remand Order*, Qwest started withholding payment on
7 Pac-West's invoices for compensation on the grounds that Pac-West had exceeded the
8 minutes of use growth ceiling terms for ISP traffic described in Section 3.2.2 of the ISP
9 Amendment. Qwest further admits that after following the ICA's dispute resolution
10 provisions, Pac-West and Qwest agreed to a private arbitration to resolve this issue (AAA
11 Case #77Y181-00385-02 (JAG Case No. 221368)). Qwest further admits that during the
12 pendency of the arbitration, the FCC released the *Core Forbearance Order*, but otherwise
13 states that both the *Core Forbearance Order* and the December 2, 2004 Arbitrator's
14 decision speak for themselves. Finally, although Qwest did not agree with the
15 Arbitrator's December 2, 2004 decision, Qwest admits it did not choose to appeal the
16 Arbitrator's decision under the terms of appeal in the rules of arbitration governing that
17 decision, and further denies that the Arbitrator's order requires Qwest to pay Pac-West the
18 alleged "full amount it had withheld."

19 51. Qwest admits the allegations in Paragraph 9 of the Complaint that on
20 December 29, 2004, Qwest officially notified Pac-West that Qwest intended to withhold
21 compensation for VNXX traffic retroactive to the beginning of 2004, but denies
22 Pac-West's characterization of how Qwest defines VNXX or Virtual NXX, and further,
23 denies that VNXX, a commonly-used term in the telecom industry, is "Qwest's term for
24 traditional Foreign Exchange service when that service is provided by Pac-West," as there
25 are many key distinguishing differences. Qwest further denies that Qwest has "contrived
26 a new basis for withholding competition owed Pac-West pursuant to the arbitrator's order
27 for the exchange of local exchange traffic," especially because the Arbitrator's order did
28

1 not address VNXX, and VNXX is not “local exchange traffic.”¹⁷ Qwest further states that
2 on January 25, 2005, Qwest issued formal dispute letters to all CLECs across its region
3 that it suspected of engaging in the wrongful exchange of VNXX traffic, and that Qwest
4 requested the commencement of formal dispute resolution procedures under the respective
5 ICAs. Finally, Qwest denies Pac-West’s allegations about the compensation for traffic
6 that Pac-West has terminated. Qwest further denies the Pac-West claim that there is
7 approximately \$443,784.34 in compensation owed to Pac-West for local exchange traffic
8 terminated between January 1, 2004 and May 31, 2005. Rather, Qwest submits that the
9 maximum amount of the claim is approximately \$436,854.34, based on usage from
10 January 1, 2004 through May 31, 2005.

11 52. Qwest admits the allegations in Paragraph 10 of the Complaint that
12 Pac-West and Qwest have discussed these issues, but denies Pac-West’s characterizations
13 that Qwest attempted to evade enforcement of the Arbitrator’s order. Qwest further
14 admits that negotiations, while helpful in discussion, were unsuccessful. Qwest further
15 admits that it notified Pac-West in an April 27, 2005 letter that it would withhold 36.6%
16 of Pac-West’s billed ISP minutes in Arizona in the second quarter of 2005, which
17 represented the amount of suspected VNXX traffic that is in dispute.

18 53. Qwest states that the averments in Paragraph 11 of the Complaint constitute
19 conclusions of law, and as such do not contain allegations which Qwest must admit or
20 deny. To the extent that these averments constitute statements of fact, Qwest denies that it
21 has refused to compensate Pac-West for local exchange traffic pursuant to the cost-

22
23 ¹⁷ Qwest’s FX service is different from VNXX services. Qwest’s FX service provides a
24 subscriber the ability to purchase *separate dedicated switching and transport facilities*
25 from each local calling area that the subscriber wishes to obtain a local presence. The
26 end-user customer pays for such facilities. VNXX, on the other hand, is merely a carrier’s
27 misassignment of telephone numbering resources that were obtained under the auspices of
28 providing service within the local calling area for which they were obtained, but then
assigning these numbers to common switching and transport facilities that serve a
subscriber regardless of the physical location of the subscriber. VNXX services are
provided by carriers like Pac-West in attempts to arbitrage intercarrier compensation by
recovering compensation for calls that appear to be “local” but are in fact non-local.

1 recovery mechanism ordered by the FCC and agreed to by Pac-West and Qwest in the ISP
2 Amendment, or that Qwest has otherwise breached its agreement with Pac-West.

3 54. Qwest states that the averments in Paragraph 12 of the Complaint constitute
4 conclusions of law, and as such do not contain allegations which Qwest must admit or
5 deny. To the extent that these averments constitute statements of fact, Qwest admits that
6 Pac-West and Qwest have been exchanging traffic pursuant to the ICA since February
7 2001. Qwest denies, however, that it never contended that VNXX traffic is not subject to
8 compensation. Rather, Qwest states that from a compensation perspective, the impact of
9 VNXX traffic under the growth cap provisions of the FCC *ISP Remand Order* and the
10 parties' ICA was insignificant, and was effectively irrelevant to the billing by Pac-West to
11 Qwest. Qwest became more acutely aware that Pac-West was engaging in such VNXX
12 schemes by Pac-West's attempts to increase billing to Qwest for such schemes after the
13 removal of the cap provisions brought about by the December 2, 2004 Arbitrator's
14 decision and the FCC *Core Forbearance Order*. Qwest further denies that it is attempting
15 to "re-interpret" the ICA, or to preclude Pac-West from receiving compensation for
16 terminating "the very traffic for which Qwest has consistently compensated Pac-West for
17 years." To the contrary, Qwest avers that Pac-West is attempting to seek compensation
18 for the very traffic for which it had *not* received compensation in prior years. Finally,
19 Qwest denies that there has been any course of dealing or estoppel that would require
20 Qwest to compensate Pac-West for terminating "all locally-dialed" traffic, including
21 VNXX calls that happen to be bound for the Internet, or that the Commission should
22 require Qwest to compensate Pac-West for any traffic destined for an ISP that is VNXX
23 traffic.

24 55. Qwest states that the averments in Paragraph 13 of the Complaint constitute
25 conclusions of law, and as such do not contain allegations which Qwest must admit or
26 deny. To the extent that these averments constitute statements of fact, Qwest denies that it
27 has run afoul of its own practice, or that Qwest's FX services are similar to Pac-West's
28

1 VNXX services, or that it has discriminated or otherwise applied its inter-carrier
2 compensation position in a discriminatory manner.

3 56. Qwest states that the averments in Paragraph 14 of the Complaint constitute
4 conclusions of law, and as such do not contain allegations which Qwest must admit or
5 deny. To the extent that these averments constitute statements of fact, Qwest denies that
6 an arbitrator interpreted the ICA to require Qwest to compensate Pac-West for "all" traffic
7 that is destined for ISP equipment beginning January 1, 2004, and further states that the
8 Arbitrator's decision speaks for itself. Qwest further denies that less than one month after
9 the arbitrator rendered his decision, Qwest notified Pac-West of Qwest's intention to
10 withhold compensation for "the very same traffic in amounts comparable to the amounts
11 Qwest had previously withheld," and further states that the amounts that Qwest has
12 withheld are for traffic that was not the subject of the arbitration proceeding to which
13 Pac-West refers. Qwest further denies that Qwest is impermissibly attempting to evade
14 the Arbitrator's decision, or that it is manufacturing arguments that Qwest could have
15 made during the arbitration, or that it waited to raise these issues until just after the
16 conclusion of the arbitration. Qwest further states that the arbitration to which Pac-West
17 refers was clearly irrelevant to the issue here, and that the arbitration did not address the
18 VNXX-related issues in dispute in this proceeding. Finally, Qwest denies that it is
19 attempting to "hav[e] another bite at the same apple," or that the Commission should
20 require Qwest to compensate Pac-West for "all" traffic destined for ISP equipment, or any
21 ISP traffic that is VNXX traffic.

22 57. With respect to Pac-West's prayer for relief, Qwest states that the prayers do
23 not contain allegations to which Qwest must admit or deny. To the extent that these
24 prayers constitute statements of fact, Qwest denies them in their entirety. Qwest denies
25 that Pac-West is entitled to any relief whatsoever in connection with this proceeding, and
26 specifically denies the claims set forth in Paragraphs 15 through 18 of the Complaint.

27

28

1 **COUNTERCLAIMS**

2 58. Qwest brings these Counterclaims against Pac-West as a result of
3 Pac-West's violation of federal law, violations of state law, and breach of the terms and
4 conditions of the parties' interconnection agreement. These Counterclaims consist of four
5 counts, as follows:

6 **COUNT 1**

7 **(Violation of Federal Law)**

8 59. Qwest has set forth the applicable federal law regarding calls made to the
9 Internet.

10 60. Pac-West's knowing misassignment of local telephone numbers and
11 NPA/NXXs in local calling areas other than the local calling area where its customer's
12 ISP Server is physically located, its misuse of such telephone numbering resources, and its
13 subsequent attempts to bill Qwest the *ISP Remand Order* rate for such VNXX traffic, are
14 violations of federal law. The Commission should order Pac-West to cease assigning
15 NPA/NXXs in local calling areas other than the local calling area where its customer's
16 ISP Server is physically located, and cease charging Qwest for such traffic, and further,
17 should require that Pac-West properly assign telephone numbers based on the actual
18 physical location of its end-user or ISP customer.

19 **COUNT 2**

20 **(Violation of State Law)**

21 61. Qwest has set forth the applicable state law regarding the definition of a
22 local call and the proper compensation for calls made to the Internet using VNXX
23 schemes, including the Commission's recent order in Docket Nos. T-02428A-03-0553
24 and T-01051B-03-0553.

25 62. Pac-West's knowing misassignment of local telephone numbers and
26 NPA/NXXs in local calling areas other than the local calling area where its customer's
27 ISP Server is physically located, its misuse of such telephone numbering resources, and
28 its subsequent attempts to bill Qwest the *ISP Remand Order* rate for such VNXX traffic,

1 are violations of Arizona law. The Commission should order Pac-West to cease
2 assigning NPA/NXXs in local calling areas other than the local calling area where its
3 customer's ISP Server is physically located, and cease charging Qwest for such traffic,
4 and further, should require that Pac-West properly assign telephone numbers based on the
5 actual physical location of its end-user or ISP customer.

6 63. Qwest has set forth the applicable state law regarding the definition of a
7 local call and the proper compensation for calls made to the Internet using VNXX
8 schemes, including the Commission's recent order in Docket No. UT-033035.

9 64. Pac-West's knowing misassignment of local telephone numbers and
10 NPA/NXXs in local calling areas other than the local calling area where its customer's
11 ISP Server is physically located, its misuse of such telephone numbering resources, and its
12 subsequent attempts to bill Qwest the *ISP Remand Order* rate for such VNXX traffic, are
13 violations of Arizona law. The Commission should order Pac-West to cease assigning
14 NPA/NXXs in local calling areas other than the local calling area where its customer's
15 ISP Server is physically located, and cease charging Qwest for such traffic, and further,
16 should require that Pac-West properly assign telephone numbers based on the actual
17 physical location of its end-user or ISP customer.

18 COUNT 3

19 (Violation of Section 2.1.4.6 of the ICA)

20 65. Pac-West is knowingly misassigning local telephone numbers to ISP
21 Servers which are physically located outside the local area to which the telephone number
22 is assigned.

23 66. Section 2.1.4.6.8 of Attachment 5 to the ICA provides that "[e]ach Party is
24 responsible for administering NXX codes assigned to it." Further, it requires that "Each
25 party shall use the LERG published by Bellcore or its successor for obtaining routing
26 information and shall provide all required information to Bellcore for maintaining the
27 LERG in a timely manner." Through its actions described above, Pac-West is violating
28 these obligations. This Commission should issue an order finding Pac-West in breach of

1 its contractual obligations and further, should invalidate Pac-West's bills.

2 **COUNT 4**

3 **(Improper Routing of Traffic over LIS Trunks)**

4 67. Section 1 of Attachment A of the SPOP Amendment authorizes the parties
5 to exchange the following categories of traffic over LIS Trunks: (1) Exchange Service
6 EAS/Local traffic, (2) Exchange Access (IntraLATA Toll Non-IXC) traffic and (3) Jointly
7 Provided Switched Access (InterLATA and InterLATA IXC) traffic.

8 68. The ICA defines those categories of traffic as follows:

9 "Extended Area Service" ("EAS") is intraLATA traffic
10 treated as "local" traffic between exchanges (rather than as
11 "toll" traffic) *as established by the Commission and as
reflected in the effective U S WEST tariffs.*

12 Ex. A, Part A, Definitions, p. 5.

13 "Toll Traffic" is traffic that *originates in one Rate Center and*
14 *terminates in another Rate Center* with the exception of traffic
15 that is rated as EAS. (Emphasis added.)

16 *Id.*, p. 11.

17 "Access Services" refers to interstate and intrastate switched
18 access and private line transport services.

19 *Id.*, p. 2.

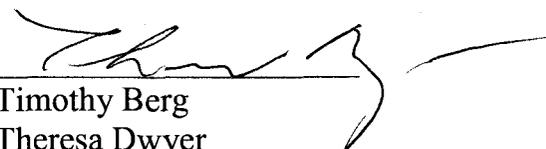
20 "Meet-Point Billing" or "MPB" refers to an arrangement
21 whereby two LECs (including a LEC and Pac-West) jointly
22 provide Switched Access Service to an Interexchange Carrier,
with each LEC (or Pac-West) receiving an appropriate share
of the access element revenues.

23 *Id.*, p. 7.

24 "Switched Access", "Switched Access Service", "Switched
25 Exchange Access Service" or "Switched Access Traffic" are *as
defined in the Parties' applicable tariffs.*

26 *Id.*, p. 10. (Emphasis added throughout.)
27
28

1 RESPECTFULLY SUBMITTED this 22nd day of August, 2005.

2
3 By 

4 Timothy Berg
5 Theresa Dwyer
6 FENNEMORE CRAIG, P.C.
7 3003 N. Central Ave, Suite 2600
8 Phoenix, Arizona 85012
9 (602) 916-5421

10 -and-

11 Norman G. Curtright
12 QWEST CORPORATION
13 4041 N. Central Ave., 11th Floor
14 Phoenix, AZ 85012
15 (602) 630-2187

16 *Attorneys for Qwest Corporation*

17 ORIGINAL +15 copies filed this 22nd day of August, 2005:

18 Docket Control
19 Arizona Corporation Commission
20 1200 West Washington
21 Phoenix, AZ 85007

22 COPY delivered this 2nd day of August, 2005:

23 Lyn Farmer, Chief Administrative Law Judge
24 Hearing Division
25 ARIZONA CORPORATION COMMISSION
26 1200 West Washington
27 Phoenix, AZ 85007

28 Christopher Kempely, Chief Counsel
29 Legal Division
30 ARIZONA CORPORATION COMMISSION
31 1200 West Washington
32 Phoenix, AZ 85007

33 Ernest Johnson, Director
34 Utilities Division
35 ARIZONA CORPORATION COMMISSION
36 1200 West Washington
37 Phoenix, AZ 85007

1 COPY mailed this 22nd day of August, 2005:

2 Joan S. Burke, Esq.
3 OSBORN MALEDON PA
4 2929 North Central, Suite 2100
5 Phoenix, Arizona 85012
6 Attorneys for Pac-West Telecomm

7 

8 PHX/1696845

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EXHIBIT

A

**AGREEMENT
FOR LOCAL WIRELINE NETWORK INTERCONNECTION
AND
SERVICE RESALE**

**Between
Pac-West Telecomm, Inc.
and
U S WEST Communications, Inc.**

**For the State of
Arizona**

**Agreement Number
CDS-990507-0126**

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This Interconnection Agreement (this "Agreement"), effective upon Commission approval (the "Effective Date"), is entered into by and between Pac-West Telecomm, Inc. ("Pac-West"), an Illinois corporation, and U S WEST Communications, Inc., ("U S WEST") a Colorado corporation, to establish the rates, terms and conditions for local interconnection, local resale, and the purchase of unbundled network elements (individually referred to as the "service" or collectively as the "services").

RECITALS

WHEREAS, pursuant to this Agreement, Pac-West and U S WEST will extend certain arrangements to one another within each LATA in which they both operate within Arizona. This Agreement is a combination of agreed terms and terms imposed by arbitration under Section 252 of the Communications Act of 1934, as modified by the Telecommunications Act of 1996, the rules and regulations of the Federal Communications Commission, and the orders, rules and regulations of the Arizona Corporation Commission; and as such does not necessarily represent the position of either Party on any given issue; and

WHEREAS, the Parties wish to interconnect their local exchange networks in a technically and economically efficient manner for the transmission and termination of calls, so that subscribers of each can seamlessly receive calls that originate on the other's network and place calls that terminate on the other's network, and for Pac-West's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, Pac-West wishes to purchase Telecommunications Services for resale to others, and U S WEST is willing to provide such services; and

WHEREAS, Pac-West wishes to purchase on an unbundled basis Network Elements, Ancillary Services and Functions and additional features separately or in any Combination, and to use such services for itself or for the provision of its Telecommunications Services to others, and U S WEST is willing to provide such services;

Now, therefore, in consideration of the terms and conditions contained herein, Pac-West and U S WEST hereby mutually agree as follows:

SCOPE OF AGREEMENT

A. This Agreement specifies the rights and obligations of each Party with respect to the purchase and sale of Local Interconnection, Local Resale and Network Elements in the LATAs in Arizona where U S WEST operates.

B. In the performance of their obligations under this Agreement, the Parties shall act in good faith and consistently with the intent of the Act. Where notice, approval or similar action by a Party is permitted or required by any provision of this Agreement (including, without limitation, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

C. U S WEST will provide Pac-West with at least the level of service quality or performance of obligations under this Agreement as U S WEST provides itself or any other Person with respect to all Telecommunications Services, Local Interconnection, Services for Resale, and Network Elements as applicable and shall provide such level of service quality or performance of service obligations in accordance with the specific requirements agreed to in Attachment 5.

D. U S WEST shall provide to Pac-West Services for Resale that are equal in quality, subject to the same conditions (including the conditions in U S WEST's effective tariffs which are not otherwise inconsistent with the terms and conditions contained herein), within the same provisioning time intervals that U S WEST provides these services to itself, its Affiliates and others, including end users, and in accordance

with any applicable Commission service quality standards, including standards the Commission may impose pursuant to Section 252 (e)(3) of the Act.

E. Each Network Element provided by U S WEST to Pac-West shall be at least equal in the quality of design, performance, features, functions, capabilities and other characteristics, including, but not limited to, levels and types of redundant equipment and facilities for power, diversity and security, that U S WEST provides to itself, U S WEST's own subscribers, to a U S WEST Affiliate or to any other entity.

F. 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.

G. If a Party makes a change in its network which it believes will materially affect the interoperability of its network with that of the other Party, the Party making the change shall provide advance notice of such change to the other Party in accordance with applicable FCC or Commission regulations.

H. In accordance with Section 251(c)(5) of the Act and the rules and regulations established by the FCC and the Commission, the Parties shall provide reasonable notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or network, as well as of any other changes that would affect the interoperability of those facilities and networks.

I. Except as otherwise provided for in Section 8 of Attachment 2, U S WEST shall not discontinue or refuse to provide any service required hereunder without Pac-West's prior written agreement in accordance with Section 17 of this Part A of this Agreement, nor shall U S WEST reconfigure, reengineer or otherwise redeploy its network in a manner which would materially impair Pac-West's ability to offer Telecommunications Services in the manner contemplated by this Agreement, the Act or the FCC's rules and regulations. U S WEST agrees that all obligations undertaken pursuant to this Agreement, including, without limitation, performance standards, intervals, and technical requirements are material obligations hereof and that time is of the essence.

DEFINITIONS

Certain terms used in this Agreement shall have the meanings set forth herein or as otherwise elsewhere defined throughout this Agreement. Other terms used but not defined herein will have the meanings ascribed to them in the Act and the FCC's rules and regulations.

"911 Service" means a universal telephone number which gives the public direct access to the Public Safety Answering Point (PSAP). Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.

"911 Site Administrator" is a person assigned by Pac-West to establish and maintain 911 service location information for its subscribers.

"Access Services" refers to interstate and intrastate switched access and private line transport services.

"Pac-West" means Pac-West Communications International, Inc. and any Affiliates, subsidiary companies or other entities performing any of the obligations of Pac-West set forth in this Agreement.

"Act" means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or by the Commission.

"ADSL" or "Asymmetrical Digital Subscriber Line" means a transmission technology which transmits an asymmetrical digital signal using one of several transmission methods (for example, carrier-less AM/PM discrete multi-tone, or discrete wavelet multi-tone).

"Affiliate" is an entity, as defined in the Act, that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity. For the purposes of this Agreement, "own" or "control" means to own an equity interest (or equivalent) of at least ten percent (10%), or the right to control the business decisions, management and policy of another entity performing any of the obligations set forth in this Agreement.

"AIN" ("Advanced Intelligent Network") is a network functionality that permits specific conditions to be programmed into a switch which, when met, directs the switch to suspend call processing and to receive special instructions for further call handling instructions in order to enable carriers to offer advanced features and services.

"AIN Services" means architecture and configuration of the AIN Triggers within the SCP as developed and/or offered by U S WEST to its customers.

"ALI" (Automatic Location Identification) is a database developed for E911 systems that provides for a visual display of the caller's telephone number and address, and the names of the emergency response agencies responsible for that address. The ALI also shows an Interim Number Portability (INP) number, if applicable.

"ALI/DMS" (Automatic Location Identification/Data Management System) means the emergency service (E911/911) database containing subscriber location information (including name, address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (PSAP) to route the call.

"AMA" means the Automated Message Accounting structure that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Bellcore as GR-1100-CORE, which defines the industry standard for message recording.

"Ancillary Services" or "Ancillary Functions" means, collectively, the following: (1) Collocation as described in Section 40; (2) access to poles, ducts, conduits and rights of way as described in Section 47; (3) unused transmission media as described in Section 51; (4) Directory Listings as described in Section 44; (5) E911 as described in Section 50.1; (6) Directory Assistance Service as described in Section 50.2; (7) Operator Services as described in Section 50.3; (8) Directory Assistance and Listings services requests as described in Section 50.4; and (9) directory assistance data as described in Section 50.5.

"ANI" (Automatic Number Identification) is a feature that identifies and displays the number of a telephone that originates a call.

"ARS" (Automatic Route Selection) is a service feature that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.

"ASR" (Access Service Request) means the industry standard forms and supporting documentation used for ordering Access Services. The ASR may be used to order trunking and facilities between Pac-West and U S WEST for Local Interconnection.

"BLV/BLI" (Busy Line Verify/Busy Line Interrupt) means an operator call in which the end user inquires as to the busy status of, or requests an interruption of, a telephone call.

"Business Day" means any day Monday through Friday except for mutually agreed to holidays.

"CABS" means the Carrier Access Billing System which is defined in a document prepared by the Billing Committee of the OBF. The Carrier Access Billing System document is published by Bellcore in Volumes 1, 1A, 2, 3, 3A, 4 and 5 as Special Reports SR-OPT-001868, SR-OPT-001869, SR-OPT-001871, SR-OPT-001872, SR-OPT-001873, SR-OPT-001874, and SR-OPT-001875, respectively, and contains the recommended guidelines for the billing of access and other connectivity services.

"Calling Party Number" or "CPN" is a CCS parameter which refers to the number transmitted through a network identifying the calling party.

"CCS" (Common Channel Signaling) means a method of digitally transmitting call set-up and network control data over a digital signaling network fully separate from the public switched telephone network that carries the actual call.

"Central Office Switch" means a switch used to provide Telecommunications Services, including, but not limited to:

- (a) "End Office Switches" which are used to terminate Customer station loops for the purpose of interconnecting to each other and to trunks;
- (b) "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches. Access tandems provide connections for exchange access and toll traffic while local tandems provide connections for local/EAS traffic; or
- (c) Combination End Office/Tandem Office Switches.

"Centrex", including Centrex Plus, means a Telecommunications Service that uses central office switching equipment for call routing to handle direct dialing of calls and to provide numerous private branch exchange-like features.

"Charge Number" is a CCS parameter which refers to the number transmitted through the network identifying the billing number of the calling party.

"CLASS" (Bellcore Service Mark) is a set of call-management service features that utilize the capability to forward a calling party's number between end offices as part of call setup. Features include Automatic Callback, Automatic Recall, Caller ID, Call Trace, and Distinctive Ringing.

"Combinations" means provision by U S WEST of two or more connected Network Elements ordered by Pac-West to provide its Telecommunication Services in a geographic area or to a specific subscriber and that are placed on the same or related order by Pac-West, subject to restrictions, if any, imposed by the Commission.

"Commission" means the Arizona Corporation Commission.

"Competitive Local Exchange Carrier" or "CLEC" means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent LEC.

"Conduit" means a tube or protected pathway that may be used to house communication or electrical cables. Conduit may be underground or above ground (for example, inside buildings) and may contain one or more innerducts.

"Confidential Information" has the meaning set forth in Section 28 of Part A of this Agreement.

"Contract Year" means a twelve (12) month period during the term of this Agreement commencing on the Effective Date and each anniversary thereof.

"Control Office" is an exchange carrier center or office designated as its company's single point of contact for the provisioning and maintenance of its portion of local interconnection arrangements.

"Custom Calling Features" is a set of call-management service features available to residential and business subscribers including call-waiting, call-forwarding and three-party calling.

"Customer" means a third-party (residence or business) that subscribes to Telecommunications Services provided by either of the Parties.

"DBMS" (Database Management System) is a computer system used to store, sort, manipulate and update the data required to provide, for example, selective routing and ALI.

"Databases" are the Network Elements that provide the functionality for storage of, access to, and manipulation of information required to offer a particular service and/or capability. Databases include, but are not limited to: Number Portability, LIDB, Toll Free Number Database, Automatic Location Identification/Data Management System, and AIN.

"Digital Signal Level" means one of several transmission rates in the time division multiplexing hierarchy, including, but not limited to:

"Digital Signal Level 0" or "DS-0" means the 56 or 64 Kbps zero-level signal in the time-division multiplex hierarchy.

"Digital Signal Level 1" or "DS-1" means the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS-1 is the initial level of multiplexing.

"Digital Signal Level 3" or "DS-3" means the 44.736 Mbps third-level in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS-3 is defined as the third level of multiplexing.

"Directory Assistance Database" refers to any set of subscriber records used by U S WEST in its provision of live or automated operator-assisted directory assistance including, but not limited to, 411, 555-1212, NPA-555-1212.

"Directory Assistance Service" provides Listings to callers. Directory Assistance Service may include the option to complete the call at the caller's direction.

"Directory Listings" or "Listings" refers to subscriber information, including, but not limited to, name, address and phone numbers, in Directory Assistance Service or directory products.

"Discloser" means that Party to this Agreement which has disclosed Confidential Information to the other Party.

"E911" (Enhanced 911 Service) means a telephone communication service which will automatically route a call dialed "911" to a designated Public Safety Answering Point (PSAP) attendant and will provide to the attendant the calling party's telephone number and, when possible, the address from which the call is being placed, and the emergency response agencies responsible for the location from which the call was dialed.

"E911 Message Trunk" is a dedicated line, trunk or channel between two central offices or switching devices which provides a voice and signaling path for E911 calls.

"Extended Area Service" ("EAS") is intraLATA traffic treated as "local" traffic between exchanges (rather than as "toll" traffic) as established by the Commission and as reflected in the effective U S WEST tariffs.

"Effective Date" is the date, indicated in the Preamble, on which this Agreement shall become effective.

"Emergency Response Agency" is a governmental entity authorized to respond to requests from the public to meet emergencies.

"EMR" means the Exchange Message Record System used among LECs for exchanging telecommunications message information for billable, non-billable, sample, settlement and study data. EMR format is contained in BR-010-200-010 CRIS Exchange Message Record, published by Bellcore, which defines the industry standard for exchange message records.

"ESN" (Emergency Service Number) is a number assigned to the ALI and selective routing databases for all subscriber telephone numbers. The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.

"FCC" means the Federal Communications Commission.

"FCC Interconnection Order" is the Federal Communications Commission's First Report and Order in CC Docket No. 96-98 released August 8, 1996, as effective.

"Fiber-Meet" means an interconnection architecture method whereby the Parties physically interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at a mutually agreed upon location.

"Gateway" (ALI Gateway) is a telephone company computer facility that interfaces with Pac-West's 911 administrative site to receive Automatic Location Identification (ALI) data from Pac-West. Access to the Gateway will be via a dial-up modem using a common protocol.

"HDSL" or "High-Bit Rate Digital Subscriber Line" means a two-wire or four-wire transmission technology which typically transmits a DS-1-level signal (or, higher level signals with certain technologies), using, for example, 2 Binary/1 Quaternary ("2B1Q").

"ILEC" means the incumbent local exchange carrier.

"Information Service Traffic" means traffic which originates on a local access line and which is addressed to an information service provider.

"INP" (Interim Number Portability) is a service arrangement whereby subscribers who change local service providers may retain existing telephone numbers with minimal impairment of quality, reliability, or convenience when remaining at their current location or changing their location within the geographic area served by the initial carrier's serving central office.

"Integrated Digital Loop Carrier" ("IDLC") means a digital subscriber loop carrier system which interfaces with the switch digitally at a DS-1 (1.544Mbps) or higher level.

"Integrated Services Digital Network" or "ISDN" means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel (2B+D). Primary Rate Interface-ISDN (PRI-ISDN) provides for a digital transmission of twenty-three (23) 64 Kbps bearer channels and one 64 Kbps data channel (23B+D).

"Interconnection" is as described in the Act and refers to the connection of separate pieces of equipment, facilities, or platforms between or within networks for the purpose of transmission and routing of telephone exchange service traffic and exchange access traffic.

"IXC" (Interexchange Carrier) means a provider of interexchange Telecommunications Services.

"LATA" means Local Access Transport Area.

"LEC" means local exchange carrier.

"LIDB" (Line Information Data Base(s)) is a SCP database that provides for such functions as calling card validation for telephone line number cards issued by LECs and other entities and validation for collect and billed-to-third services.

"Local Interconnection" shall have the meaning set forth in the Recitals to this Agreement.

"Local Resale," "Services for Resale" or "Resale Services" means, collectively, Telecommunications Services and service functions provided by U S WEST to Pac-West pursuant to Attachment 2 of this Agreement.

"Local Traffic" is intraLATA traffic within an exchange that is treated as toll free traffic as established by the Commission and as reflected in the effective tariffs of U S WEST.

"Loop" is a transmission facility between a distribution frame, or its equivalent, in a U S WEST central office or wire center, and the Network Interface Device (as defined herein) or network interface at a subscriber's premises, to which Pac-West is granted exclusive use. This includes, but is not limited to, two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide ISDN, ADSL, HDSL, and DS-1 level signals. A Loop may be composed of the following components:

- Loop Concentrator/Multiplexer
- Loop Feeder
- Network Interface Device (NID)
- Distribution

"Main Distribution Frame" or "MDF" means the distribution frame of the Party providing the Loop used to interconnect cable pairs and line and trunk equipment terminals on a switching system or transmission facility.

"MECAB" refers to the Multiple Exchange Carrier Access Billing (MECAB) document prepared by the Billing Committee of the Ordering and Billing Forum, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Bellcore as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an Access Service provided by two or more LECs (including a LEC and a CLEC), or by one LEC in two or more states within a single LATA.

"MECOD" refers to the Multiple Exchange Carriers Ordering and Design (MECOD) Guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Bellcore as Special Report SR STS-002643, establishes recommended guidelines for processing orders for Access Service which is to be provided by two or more LECs (including a LEC and a CLEC). It is published by Bellcore as SRBDS 00983.

"Meet-Point Billing" or "MPB" refers to an arrangement whereby two LECs (including a LEC and Pac-West) jointly provide Switched Access Service to an Interexchange Carrier, with each LEC (or Pac-West) receiving an appropriate share of the access element revenues.

"Mid-Span Meet" is a point of interconnection between two networks, designated by two Telecommunications Carriers, at which one carrier's responsibility for service begins and the other carrier's responsibility ends.

"MSAG" (Master Street Address Guide) is a database defining the geographic area of an E911 service. It includes an alphabetical list of the street names, high-low house number ranges, community names, and emergency service numbers provided by the counties or their agents to U S WEST.

"North American Numbering Plan" or "NANP" means the numbering plan used in the United States that also serves Canada, Bermuda, Puerto Rico and certain Caribbean Islands. The NANP format is a 10-digit

number that consists of a 3-digit NPA code (commonly referred to as the area code), followed by a 3-digit NXX code and 4-digit line number.

"NENA" (National Emergency Number Association) is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.

"Network Element" means a facility or equipment used in the provision of a Telecommunications Service including all features, functions and capabilities embedded in such facility or equipment.¹

"NP" (Number Portability) means the use of the Location Routing Number (LRN) database solution to provide fully transparent NP for all subscribers and all providers without limitation.

"NPA" (Numbering Plan Area) (sometimes referred to as an area code) is the three digit indicator which is designated by the first three digits of each 10-digit telephone number within the NANP. Each NPA contains 792 possible NXX Codes. There are two general categories of NPA, "geographic NPAs" and "Non-Geographic NPAs." A "Geographic NPA" is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A "Non-Geographic NPA," also known as a "Service Access Code (SAC Code)" is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.

"NXX" means the fourth, fifth and sixth digits of a ten-digit telephone number within the North American Numbering Plan.

"OBF" means the Ordering and Billing Forum, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS).

"Operator Services" includes, but is not limited to, (1) operator handling for call completion (e.g., collect calls); (2) operator or automated assistance for billing after the subscriber has dialed the called number (e.g., credit card calls); and (3) special services (e.g., BLV/BLI, emergency agency call).

"Operator Systems" is the Network Element that provides operator and automated call handling with billing, special services, subscriber telephone listings, and optional call completion services.

"P.01 Transmission Grade of Service (GOS)" means a trunk facility provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.

"PLU" (Percent Local Usage) is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes between exchange carriers sent over Local Interconnection trunks. Directory assistance, BLV/BLI, 900, 976, transiting calls from other exchange carriers and switched access calls are not included in the calculation of PLU.

"Party" means either U S WEST or Pac-West and "Parties" means U S WEST and Pac-West.

"Person" means, collectively, an Affiliate, subsidiary, Customer, end user and subscriber of U S WEST.

"Point of Interconnection" or "POI" means the physical point that establishes the technical interface, the test point, where applicable, and the operational responsibility hand-off between Pac-West and U S WEST for the local interconnection of their networks for the mutual exchange of traffic.

"Point of Interface" is the physical point where Pac-West hands off transmission media to the U S WEST provided entrance facility associated with a collocation arrangement for the purpose of connecting the entrance facility to some point located within U S WEST's premises.

¹ AT&T Order, page 11, Issue 18 and MCI Order at p. 24.

"Pole Attachment" means the connection of a facility to a utility pole. Some examples of facilities are mechanical hardware, grounding and transmission cable, and equipment boxes.

"POP" means an IXC's point of presence.

"Port" means a termination on a Central Office Switch that permits Customers to send or receive Telecommunications Services over the public switched network, including switch features or switching functionality.²

"Premium Listing", such as additional, foreign, cross reference, informational, non-listed, privacy, etc. are as described in the U S WEST general exchange Listing tariff.

"Primary Listing" (for example, main list, additional main, joint user, client main list or answering service list) shall mean the one appearance of an end user telephone subscriber's main telephone number and other content such as name and address, which each Pac-West residence or business subscriber is entitled to receive in the white pages directory published by U S WEST Dex at no charge from U S WEST Communications. Where U S WEST business end users are entitled to receive a courtesy Listing in the yellow pages section of any directory published on U S WEST's behalf, Pac-West's business customers will receive the same entitlement.

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

"PSAP" (Public Safety Answering Point) is the public safety communications center where 911 calls placed by the public for a specific geographic area will be answered.

"Rate Center" means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to U S WEST or Pac-West for its provision of basic exchange Telecommunications Services. The "Rate Center Point" is the finite geographic point identified by a specific V&H coordinate, which is used to measure distance-sensitive end user traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The "Rate Center Area" is the exclusive geographic area identified as the area within which U S WEST or Pac-West will provide basic exchange Telecommunications Services bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center Point must be located within the Rate Center Area.

"Rating Point" means the point at which transport mileage is calculated for the termination of calls. Each Party shall establish its own Rating Point(s) for its own services.

"Real Time" means the actual time in which an event takes place, with the reporting on or the recording of the event simultaneous with its occurrence.

"Recipient" means that Party to this Agreement (1) to which Confidential Information has been disclosed by the other Party, or (2) who has obtained Confidential Information in the course of providing services under this Agreement.

"Reseller" is a category of Telecommunications Services providers who obtain Telecommunications Services from another provider through the purchase of wholesale priced services for resale to their end user subscribers.

"Routing Point" means a location which U S WEST or Pac-West has designated on its own network as the homing (routing) point for traffic inbound to basic exchange Telecommunications Services provided by U S WEST or Pac-West which bear a certain NPA-NXX designation. The Routing Point is employed to

² AT&T Order, page 11, Issue 18 and MCI Order at p. 24.

calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Bellcore Practice BR 795-100-100, the Routing Point may be an "End Office" location, or a "LEC Consortium Point of Interconnection." Pursuant to that same Bellcore Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)KD in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. The Routing Point need not be the same as the Rate Center Point, nor must it be located within the Rate Center Area, but must be in the same LATA as the NPA-NXX.

"ROW" (Right of Way) means the right to use the land or other property owned, leased, or controlled by another party to place poles, conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property) and may include the right to use discrete space in buildings, building complexes or other locations.

"SAG" (Street Address Guide) is a database containing an alphabetical list of street names, high-low house number ranges, descriptive addresses, community names, tax codes, subscriber names, telephone numbers, NXXs, central office names, CLLI and other information maintained by U S WEST.

"SECAB" means the Small Exchange Carrier Access Billing document prepared by the Billing Committee of the OBF. The Small Exchange Carrier Access Billing document, published by Bellcore as Special Report SR OPT-001856, contains the recommended guidelines for the billing of access and other connectivity services.

"Selective Routing" is a service which automatically routes an E911 call to the PSAP that has jurisdictional responsibility for the service address of the telephone from which 911 is dialed, irrespective of telephone company exchange or wire center boundaries.

"Service Control Point" or "SCP" is a specific type of Database Network Element functionality deployed in a Signaling System 7 (SS7) network that executes service application logic in response to SS7 queries sent to it by a switching system also connected to the SS7 network. SCPs also provide operational interfaces to allow for provisioning, administration and maintenance of subscriber data and service application data (e.g., a toll free database stores subscriber record data that provides information necessary to route toll free calls).

"Signaling Transfer Points" or "STPs" provide functionality that enable the exchange of SS7 messages among and between switching elements, database elements and Signaling Transfer Points.

"Switch" – See Central Office Switch.

"Switched Access", "Switched Access Service", "Switched Exchange Access Service" or "Switched Access Traffic" are as defined in the Parties' applicable tariffs.

"Tandem Office Switches" are Class 4 switches which are used to connect and switch trunk circuits between and among End Office Switches and other tandems.

"Tariff Services" as used throughout this Agreement refers to the applicable Party's interstate tariffs and state tariffs, price lists, price schedules and catalogs.

"Technically Feasible" refers solely to technical or operational concerns, rather than economic, space, or site considerations, in accordance with the rules and regulations of the FCC and the Commission.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a common carrier under the Act only to the extent that it is

engaged in providing Telecommunications Services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

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

"Toll Traffic" is traffic that originates in one Rate Center and terminates in another Rate Center with the exception of traffic that is rated as EAS.

"Transit Service" provides the ability for a Telecommunications Carrier to use its connection to a local or access tandem for delivery of calls that originate with a Telecommunications Carrier and terminate to a company other than the tandem company, such as another Competitive Local Exchange Carrier, an existing LEC, or a wireless carrier. In these cases, neither the originating nor terminating end user is a customer of the tandem Telecommunications Carrier. The tandem Telecommunications Carrier will accept traffic originated by a Party and will terminate it at a Point of Interconnection with another local, intraLATA or interLATA network Telecommunications Carrier. This service is provided through local and access tandem switches.

"Transit Traffic" is any traffic, other than Switched Access Traffic, that originates from one Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network.

"TRCO" means Trouble Reporting Control Office.

"U S WEST" means U S WEST Communications, Inc. and any Affiliates, subsidiary companies or other entities performing any of the obligations of U S WEST set forth in this Agreement.

"Voluntary Federal Subscriber Financial Assistance Programs" are Telecommunications Services provided to low-income subscribers, pursuant to requirements established by the appropriate federal or state regulatory body.

"Wire Center" denotes, for the purposes of collocation, a building or space within a building, that serves as an aggregation point on a given carrier's network, where transmission facilities and circuits are connected or switched. Wire Center can also denote a building where one or more central offices, used for the provision of Telecommunications Services and Access Services, are located. Wire Center shall mean those points eligible for such connections as specified in the FCC Docket No. 91-141, and rules adopted pursuant thereto.

TERMS AND CONDITIONS

1. General Provisions

- 1.1 Each Party is individually responsible to provide facilities within its network which are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with Pac-West's network and to terminate the traffic it receives in that standard format or the proper address on its network. 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.
- 1.2 Neither Party shall impair the quality of service to other carriers or to either Party's Customers, and 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.
- 1.3 Each Party is solely responsible for the services it provides to its Customers and to other Telecommunications Carriers.

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1. General Business Requirements

1.1 Procedures

1.1.1 U S WEST Contact with Subscribers

- 1.1.1.1 Pac-West at all times shall be the primary contact and account control for all interactions with its subscribers, except as specified by Pac-West. Pac-West subscribers include active Customers as well as those for whom service orders are pending.
- 1.1.1.2 U S WEST shall ensure that any U S WEST personnel who may receive customer inquiries, or otherwise have opportunity for subscriber contact: (a) provide appropriate referrals and telephone numbers to subscribers who inquire about Pac-West services or products; (b) do not in any way disparage Pac-West or its products or services during such inquiry or subscriber contact; and (c) do not provide information about U S WEST products or services during that same inquiry or subscriber contact.
- 1.1.1.3 Pac-West shall ensure that any Pac-West personnel who may receive customer inquiries, or otherwise have opportunity for subscriber contact: (a) provide appropriate referrals and telephone numbers to subscribers who inquire about U S WEST services or products; (b) do not in any way disparage U S WEST or its products or services during such inquiry or subscriber contact; and (c) do not provide information about Pac-West products or services during that same inquiry or subscriber contact.
- 1.1.1.4 U S WEST shall not use Pac-West's request for subscriber information, order submission or any other aspect of Pac-West's processes or services to aid U S WEST's marketing or sales efforts.

1.1.2 Expedite, Escalation and Disaster Procedures

- 1.1.2.1 No later than sixty (60) days after the Effective Date of this Agreement, U S WEST and Pac-West shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the Service Ordering, Provisioning, Maintenance and Subscriber Usage Data transfer processes to facilitate rapid and timely resolution of disputes. Within the said sixty (60) day period, U S WEST and Pac-West will establish intercompany contact lists for purposes of handling subscriber and other matters which require attention/resolution outside of normal business procedures. To the extent possible, U S WEST shall notify Pac-West of any changes to its escalation contact list at least one (1) week before such changes are effective.
- 1.1.2.2 No later than sixty (60) days after the Effective Date of this Agreement, U S WEST and Pac-West shall jointly establish contingency and disaster recovery plans for those cases in which normal service ordering, provisioning, maintenance, billing and other procedures for U S WEST's unbundled Network Elements, features, functions and Resale Services are inoperable.

1.1.3 Operational and Technological Changes

1.1.3.1 U S WEST shall notify Pac-West of any material operational or technological (e.g., network, systems interfaces) changes related to any services, Interconnection methods, or Network Elements purchased by Pac-West. At the time U S WEST decides to make such a change, U S WEST will notify Pac-West in sufficient time to allow Pac-West to make necessary adjustments to accommodate the change, but in no case with less than thirty (30) days' notice, unless otherwise agreed to by the Parties. Objections to the proposed change must be given in writing to U S WEST in a reasonable time. For the purposes of this Section, material changes shall be defined as those changes which will likely impact current interactions between Pac-West (or its customers) and U S WEST.

1.1.3.2 U S WEST agrees to notify Pac-West whenever an Pac-West subscriber who is provided local service through Services for Resale, INP/NP, or unbundled Network Elements changes Pac-West PIC status.

1.1.4 Customer of Record

1.1.4.1 Providing Pac-West has obtained proper customer authorization, U S WEST shall recognize Pac-West as the Customer of Record for all Network Elements or Services for Resale ordered by Pac-West and shall send all notices, invoices, and information which pertain to such ordered services directly to Pac-West. Pac-West will provide U S WEST with addresses to which U S WEST shall send all such notices, invoices, and information.

1.1.5 Work Center Interface Procedures

1.1.5.1 U S WEST and Pac-West shall, within ninety (90) days of the Effective Date of this Agreement, develop and implement work center interface procedures for each function/ business process necessary for fulfilling the terms of this Agreement.

1.2 Service Offerings

1.2.1 Changes in Retail Service Offerings

1.2.1.1 Pursuant to Section 23.2 of Part A of this Agreement, U S WEST shall provide summaries to Pac-West describing the proposed change(s) of services which are available for resale pursuant to this Agreement.

1.2.1.2 [Intentionally left blank for numbering consistency]

1.2.1.3 U S WEST shall provide Pac-West with access to new services, features, and functions concurrent with U S WEST's notice to Pac-West of such changes, so that Pac-West may evaluate these services.

1.2.2 Essential Services

1.2.2.1 U S WEST shall designate trunks or lines as an Essential Service Line (ESL) or Telecommunications Service Priority (TSP), whichever is applicable, upon Pac-West's request, based on industry standards.

1.2.3 Blocking Services

1.2.3.1 Upon request from Pac-West, U S WEST shall provide blocking in accordance with U S WEST standard intervals for 700, 900, and 976 services, or other services of similar type as may now exist or may be developed in the future according to industry standards, and shall provide Billed Number Screening ("BNS"), including required LIDB updates, or equivalent service for blocking completion of bill-to-third party and collect calls, on a line, trunk, or individual service basis.

1.2.4 Training Support

1.2.4.1 U S WEST will train its employees who may communicate with Pac-West subscribers to treat Pac-West in a nondiscriminatory manner. U S WEST will solicit and may take into account input from Pac-West in the development of such training and will permit Pac-West to review, but not approve, such training. Such training will comply with the branding requirements of this Agreement.

1.2.4.2 U S WEST or its agent shall train Pac-West employees on U S WEST's systems and processes necessary to assure the accuracy of required information exchange between Pac-West. Information/materials provided to Pac-West should include, at a minimum, operational and procedural information, and U S WEST-specific system access/interface instruction for performing similar functions.

1.2.5 Carrier Identification Codes

U S WEST shall provide to Pac-West the active Carrier Identification Codes (CIC) for both Dial 1 and toll free (e.g., 800, 888) services for each of its access tandems pursuant to industry guidelines.

2. Pre-Ordering

2.1 General Business Requirements

2.1.1 Street Address Guide (SAG)

Within sixty (60) days after the Effective Date of this Agreement, U S WEST shall provide to Pac-West the SAG data, in an electronic format, when available, or otherwise as mutually agreed. All changes to the SAG shall be provided to Pac-West on a weekly basis.

2.1.2 CLASS and Custom Features

2.1.2.1 Pac-West may order the entire set of CLASS and Custom features and functions, or a subset of any one or any combination of such features. In addition, U S WEST shall provide Pac-West with a list of features and functions available on an end office by end office basis.

2.1.3 Customer Payment History

2.1.3.1 Pac-West and U S WEST agree to make available to a mutually agreed upon third-party credit reporting agency, on a timely basis, such of the following Customer payment history information available for each person or entity that applies for local service or intraLATA toll Telecommunications Service(s) from either Party.

- 2.1.3.1.1 Applicant's name;
- 2.1.3.1.2 Applicant's address;
- 2.1.3.1.3 Applicant's previous phone number, if any;
- 2.1.3.1.4 Amount, if any, of unpaid balance in applicant's name;
- 2.1.3.1.5 Whether applicant is delinquent on payments;
- 2.1.3.1.6 Length of service with prior local or intraLATA toll provider;
- 2.1.3.1.7 Whether applicant had local or intraLATA toll service terminated or suspended within the last six (6) months with an explanation of the reason therefor; and,
- 2.1.3.1.8 Whether applicant was required by prior local or intraLATA toll provider to pay a deposit or provide another form of security, including the amount of each.

2.1.3.2 Such information shall be provided on the condition that the credit reporting agency only make such information available to the carrier to which the person or entity in question has applied for Telecommunication Service(s).

2.1.4 Number Administration/Number Reservations

2.1.4.1 Until Number Administration functions are assumed by a neutral third party in accordance with FCC rules and regulations, U S WEST shall assign NXXs to Pac-West on a non-discriminatory and equivalent basis following NANP guidelines. In addition, U S WEST shall provide testing and loading of Pac-West's NXX on the same basis as U S WEST provides itself or its Affiliates. Further, in U S WEST's role as number administrator, it shall provide Pac-West with access to abbreviated dialing codes, access arrangements for 555 line numbers, and the ability to obtain telephone numbers, including vanity numbers, while a customer is on the phone with Pac-West. U S WEST shall provide the same range of number choices to Pac-West, including choice of exchange number, as U S WEST provides its own customers. Reservation and aging of numbers shall remain U S WEST's responsibility.

2.1.4.2 Pac-West may reserve blocks of U S WEST telephone numbers in accordance with U S WEST's tariffs, or in the same manner U S WEST reserves telephone numbers for its own use.

- 2.1.4.3 Where Pac-West has obtained its own NXX, but has purchased U S WEST Services for Resale or Network Elements, U S WEST agrees to recognize the Pac-West NXX in U S WEST's switch according to the local calling area defined by Pac-West and approved by the Commission.
- 2.1.4.4 For resale and the unbundled switching element, U S WEST shall accept Pac-West orders for vanity numbers and blocks of numbers for use with complex services including, but not limited to, DID, CENTREX, and hunting arrangements, as requested by Pac-West on a non-discriminatory, equivalent basis following NANP guidelines.
- 2.1.4.5 For simple services, U S WEST shall provide real-time electronic interfaces to Pac-West to obtain telephone number confirmation while the customer is on the line. When real time electronic interfaces are not available for simple services number reservations, U S WEST shall provide alternative means for confirmation of the number reservation while the customer is on the line. For number reservations associated with complex services, U S WEST shall provide confirmation of the number reservation within forty-eight (48) hours of Pac-West's request or within such time as U S WEST may provide to itself or Affiliates, whichever is less.
- 2.1.4.6 Number Resources Arrangements
- 2.1.4.6.1 Nothing in this Agreement shall be construed in any manner to limit or otherwise adversely impact either Party's right to the request and assignment of any NANP number resources including, but not limited to, central office (NXX) codes pursuant to the Central Office Code Assignment Guidelines (last published by the Industry Numbering Committee ("INC") as INC 95-0407-008, Revision 4/19/96, formerly ICCF 93-0729-010).
- 2.1.4.6.2 To the extent U S WEST serves as Central Office Code Administrator for a given region, U S WEST will support all Pac-West requests related to central office code (NXX) administration and assignments in the manner required and consistent with the Central Office Code Assignment Guidelines.
- 2.1.4.6.3 [Intentionally left blank for numbering consistency]
- 2.1.4.6.4 The Parties will comply with (NXX) administration requirements as prescribed by the FCC, the Commission, and accepted industry guidelines.
- 2.1.4.6.5 It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the Local Exchange Routing Guide ("LERG") guidelines to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.
- 2.1.4.6.6 Each Party shall be responsible for notifying its customers of any changes in numbering or dialing arrangements to include changes such as the introduction of new NPAs or new NXX codes.

2.1.4.6.7 Until an impartial entity is appointed to administer telecommunications numbering, U S WEST will assign NXX codes to Pac-West in accordance with national guidelines at no charge and on a nondiscriminatory basis.

2.1.4.6.8 Each Party is responsible for administering NXX codes assigned to it. Each Party is responsible for obtaining LERG listings of CLLI codes assigned to its switches. Each Party shall use the LERG published by Bellcore or its successor for obtaining routing information and shall provide all required information to Bellcore for maintaining the LERG in a timely manner.

2.1.4.7 U S WEST shall provide provisioning support outside of scheduled work hours on a nondiscriminatory exception basis as requested by Pac-West. Such support may be subject to a minimum labor charge.

2.1.4.8 Service Assurance Warranties and Incentives: U S WEST shall provide to Pac-West service assurance warranties and incentives as U S WEST provides such service warranties and incentives to its own end users or any other Person except as otherwise provided by the Commission.

2.1.4.9 Availability of Network Capacity: Consistent with Pac-West's forecasts, U S WEST shall deploy and keep deployed network facilities for Pac-West services in a non-discriminatory manner and in the same manner as U S WEST makes such facilities available to itself for its services.

2.1.4.10 Workcenter Interface Methods and Procedures: U S WEST and Pac-West shall finalize interface methods and procedures between their respective work centers detailing systems and processes for ordering and provisioning. Such methods and procedures shall be completed within one hundred twenty (120) days after a written request by either Party. The lack of workcenter interface methods and procedures shall not inhibit the provision of services under this Agreement.

2.2 Service Order Process Requirements

2.2.1 [Intentionally left blank for numbering consistency]

2.2.2 Specific Unbundling Requirements

2.2.2.1 When ordering a Combination, Pac-West shall have the option of ordering all features, functions and capabilities of each Network Element.

2.2.2.2 When Pac-West orders Network Elements, U S WEST shall provision all features, functions, and capabilities appropriate to the Network Elements which may include, but are not limited to:

2.2.2.2.1 the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, as well as the same basic

capabilities made available to U S WEST's Customers, such as telephone number, white page listing, and dial tone; and

2.2.2.2.2 all other features the switch has activated, including, but not limited to, custom calling, custom local area signaling service features and Centrex, as well as any technically feasible customized routing functions provided by the switch.

2.3 Systems Interfaces and Information Exchanges

2.3.1 General Requirements

[Intentionally left blank for numbering consistency]

2.3.2 Pre-Ordering and Provisioning for Resale Services and Unbundled Network Elements

2.3.2.1 U S WEST shall provide to Pac-West a list of all intraLATA and interLATA carriers available for Customer selection on a central office level.

2.3.2.2 [Intentionally left blank for numbering consistency].

2.3.2.3 U S WEST shall provide Pac-West with access to Customer Profile Information ("CPI") without requiring Pac-West to produce a signed Letter of Authorization ("LOA") subject to proof of authorization requirements described elsewhere in this Agreement, based on Pac-West's blanket representation that the Customer has authorized Pac-West to obtain such CPI.

2.3.2.3.1 CPI shall be in a mutually agreed to format at the line and/or trunk level. U S WEST shall provide to Pac-West a real-time, electronic interface to U S WEST Customer information systems which will allow Pac-West to obtain the Customer profile, which may include, but not be limited to, Customer name, service addresses, billed telephone number(s), and identification of features and services provided by U S WEST on the Customer accounts, and to obtain information on all features and services available in the end office where Customer's services are currently provisioned. The preceding information may not include services deemed not to be Telecommunications Services by the Commission.

2.3.2.3.1.1 Until access is available via a real-time, electronic interface for CPI, U S WEST agrees that Pac-West can obtain CPI in an interim mutually agreed to manner and in accordance with Section 3.2 of this Attachment to facilitate the service order process.

2.3.2.5 U S WEST shall provide to Pac-West, upon request, a list of all current features and functions technically available from each switch, by switch CLLI. **Planned services shall be provided to Pac-West at least thirty (30) days in advance of their availability.**

2.3.2.6 [Intentionally left blank for numbering consistency]

2.3.2.7 Pending or Held Orders: U S WEST shall provide, when available, the Pac-West information regarding a subscriber's previous pending or held orders. If the subscriber has a pending or held order, the status of the order shall not be negatively impacted as a result of the subscriber changing local service providers (i.e., due date for pending service changed to later date).

2.3.2.8 Special Construction: When U S WEST determines that special construction is required, U S WEST shall notify Pac-West on a timely basis of special construction requirements and charges, and obtain Pac-West authorization before beginning such construction.

2.3.3 Pre-Ordering and Provisioning for Unbundling

2.3.3.1 U S WEST shall provide to Pac-West, upon reasonable request, sufficient engineering design and layout information for Network Elements for specific applications.

2.3.3.2 U S WEST shall provide to Pac-West, upon request, advance information of the details and requirements for planning and implementing NPA splits in accordance with NANP Guidelines.

2.3.3.3 U S WEST shall make engineering support available to Pac-West as is *normal and customary* in the provision of Telecommunications Services, Network Elements, Combinations or Ancillary Functions as described in this Agreement. Pac-West may request additional engineering support.

2.4 Pre-ordering Functions¹

“Pre-Ordering” and “Ordering” encompass the preliminary set of activities whereby a service representative interacts with the customer in order to obtain the information required to write a service order and consist of the following functions: verify an address, check service availability, reserve a telephone number, check for appointment availability, reserve an appointment and return customer service information. These functions are described as follows:

2.4.1 Address Verification - Provides Pac-West with the ability to query for and receive the customer service location, serving central office, and facility indicators. The facilities indicator will indicate the availability of facilities for one (1) access line at the address, if the cable pair is available or working. If the cable pair is working, an indication of a pending disconnect order and the due date will be provided. This function does not reserve cable pairs.

2.4.2 Telephone Number Reservation - Provides Pac-West with the capability to identify if one or more telephone numbers are available and reserve them if available. This includes the ability to reserve one or more specific numbers (vanity numbers), a block of sequential or random block of numbers by serving central office and/or NXX. If a work order is not received within a negotiated amount of time, the reservation will automatically expire.

¹ MCI Order, pp. 15-16 at Issue 24 and AT&T Order at Issue 41.

- 2.4.3 **Appointment Availability and Reservation - Provides Pac-West with the capability to determine the next available due date, the availability of a specific date, an indication if the date is available or a selection of the next available date, any closed dates beyond that date, and reservation of an available appointment.**
- 2.4.4 **Service Availability - Allows Pac-West to determine the availability of services and facilities to a specific end-users' location(s). This capability indicates that the service is available, that tariff rates apply, the amounts of any additional recurring and non-recurring costs, and the interval to be used when ordering the service.**
- 2.4.5 **Customer Service Information Request - Gives Pac-West the ability to request a listing of existing services, features, directory listing and equipment for a customer account.**
- 2.4.6 **Circuit Identification Request - Provides Pac-West with the capability to identify and obtain circuit identifications. If a work order for a Circuit Identification Request is not received within a negotiated amount of time, the request will automatically expire.**

3. Ordering and Provisioning

3.1 General Business Requirements

3.1.1 Ordering and Provisioning Parity

U S WEST shall provide Pac-West with the same level of ordering and provisioning support as U S WEST provides itself in accordance with standards and performance measurements that U S WEST uses and/or which are required by law, regulatory agency, or by U S WEST's own internal procedures, whichever are the most rigorous. These standards shall apply to the quality of the technology, equipment, facilities, processes, and techniques (including, but not limited to, such new architecture, equipment, facilities, and interfaces as U S WEST may deploy) that U S WEST provides to Pac-West under this Agreement.

3.1.2 Interconnection Service Center (ISC)/Single Point of Contact

3.1.2.1 U S WEST shall provide a Systems Interface Help Desk or equivalent which shall serve for all activities involved in the electronic interface for ordering and provisioning of U S WEST's unbundled Network Elements, features, functions, and Resale Services. The Systems Interface Help Desk or equivalent shall be available twenty-four (24) hours a day, seven (7) days a week.

3.1.2.2 U S WEST shall provide a Single Point of Contact ("SPOC") and shall provide to Pac-West toll-free nationwide telephone numbers (available during U S WEST's scheduled work hours) answered by competent, knowledgeable personnel, trained to answer questions and resolve problems in connection with the ordering and provisioning of unbundled Network Elements, features, functions, capabilities, and Resale Services. U S WEST will provide sufficient

resources to provide equivalent, or as otherwise agreed to by the Parties, service to Pac-West.

- 3.1.2.3 In addition to the electronic interfaces provided for elsewhere in this Agreement, U S WEST shall provide, as requested by Pac-West through the SPOC, provisioning and dispatch in the form of coordinated scheduling, status, and dispatch capabilities equivalent to that which U S WEST provides itself or as otherwise agreed to by the Parties.

3.1.3 Carrier Selection

- 3.1.3.1 For Services for Resale or unbundled Network Elements, U S WEST shall provide to Pac-West, on a date to be mutually agreed to by Pac-West and U S WEST, the capability to order local service, intraLATA and interLATA toll services by entering Pac-West subscriber's choice of carrier on a single order. U S WEST will offer other carrier selection choices as they become available. U S WEST shall provide Pac-West with the capability to order separate interLATA and intraLATA carriers on a line or trunk basis where 1+ presubscription is available.

- 3.1.3.2 Where intraLATA 1+ presubscription is not available, or if the subscriber does not select an intraLATA toll carrier, U S WEST agrees to provide intraLATA toll services for resale to Pac-West and to recognize the end user as the customer of Pac-West for intraLATA toll. Pac-West shall designate the default carrier for all other toll calls if the subscriber does not select a carrier. In all cases, U S WEST will route toll calls to the appropriate carrier as designated by Pac-West.

3.1.4 Notification to Long Distance Carrier

- 3.1.4.1 U S WEST will not accept PIC change requests through the CARE process for Pac-West local service customers. Pac-West's long distance operations may obtain such CARE transactions for Pac-West long distance customers from the customer's local service provider. U S WEST agrees to notify IXCs using OBF approved CARE transactions, whenever an IXC Customer who is provided local service through Services for Resale, INP/NP, or unbundled Network Elements changes PIC status.

- 3.1.4.2 U S WEST shall implement new Transaction Code Status Indicators (TCSIs) 2033, 2233, 3147, and 3148. The new local service provider identification ("LSPID") will be included on these transactions if the new local service provider agrees U S WEST should provide the information to a long distance provider as defined by the OBF in support of Local Resale.

- 3.1.4.3 U S WEST shall implement TCSIs used in conjunction with the new local service provider ("LSP") identification code for handling account maintenance, customer service, and trouble administration issues. These TCSIs include 4001/02/05, 4201-4205, 4301, 2033, 2233, 3147, 3148, 3149, and others as the OBF may define.

- 3.1.4.3.1 In addition, U S WEST shall implement TCSIs, when available, used in conjunction with the new Ported Telephone Number field to link "shadow"

and ported telephone numbers in support of Interim Number Portability. These TCSIs include 2231, 3150, 3151, and others as the OBF may define.

3.1.5 Ordering Interconnection

The Parties agree to utilize the OBF-ASR process for ordering interconnection trunks, which is the same process used to order Access Services. When the ordering Party requests facilities, routing, or optional features different than those determined to be available, the Parties will work cooperatively in determining an acceptable configuration based on available facilities, equipment and routing plans.

3.2 Service Order Process Requirements

3.2.1 OBF Compliance

3.2.1.1 U S WEST and Pac-West shall generally follow the OBF-developed ordering and provisioning process guidelines. These processes include, but are not limited to, pre-order service inquiry, pre-order service inquiry response, firm order, acknowledgment/rejection, firm order confirmation, delay notification, and completion notification. U S WEST agrees to work cooperatively to generally comply with future OBF developed guidelines.

3.2.2 Service Migrations and New Customer Additions

3.2.2.1 For Resale Services, U S WEST shall not require a disconnect order from a Customer, another local service provider, or any other entity, to process an Pac-West order to establish Pac-West Local Service and/or migrate a Customer to Pac-West Local Service.

3.2.2.2 For Resale Services, U S WEST shall not disconnect any Customer service or existing features available under this Agreement at any time during the migration of that Customer to Pac-West service without Pac-West's prior agreement.

3.2.2.3 For services provided through unbundled Network Elements, U S WEST shall recognize Pac-West as an agent for the Customer in coordinating the disconnection of services provided by another CLEC or U S WEST.

3.2.2.4 Unless otherwise directed by Pac-West, when Pac-West orders Resale Services or Network Elements, all trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability for those services or features which U S WEST controls and which are available under this Agreement.

3.2.2.5 For Customer conversions requiring coordinated cut-over activities, U S WEST and Pac-West will agree on a scheduled conversion time(s), which will be a designated two-hour time period within a designated date. Unless expedited, **U S WEST and Pac-West shall schedule the cut-over window at least forty-eight (48) hours in advance, and as part of the scheduling,**

U S WEST shall estimate for Pac-West the duration of any service interruption that the cut-over might cause.² The cut-over time will be defined as a thirty (30) minute window within which both the Pac-West and U S WEST personnel will make telephone contact to complete the cut-over.

3.2.2.5.1 U S WEST will coordinate activities of all U S WEST work groups involved with the conversion. This coordination will include, but not be limited to, work centers charged with manual cross-connects, electronic cross-connect mapping, and switch translations (including, but not limited to, implementation of Interim Number Portability translations).

3.2.2.5.2 As soon as possible, but in no event later than one (1) hour after completion, U S WEST will notify Pac-West when coordinated cut-over is complete.

3.2.2.5.3 End user service interruption shall not exceed twenty (20) minutes during any cut-over. The average interruption caused by the cut-over of Pac-West Customers shall not exceed ten (10) minutes. If any service interruption is to exceed twenty (20) minutes, however, U S WEST will immediately notify Pac-West of such delay.

3.2.2.5.4 Within the appointed thirty (30) minute cut-over time, the U S WEST personnel will call the Pac-West personnel designated to perform cross-connection work and when the U S WEST person is reached in that interval such work will be promptly performed. If the Pac-West person is not ready within the appointed interval, and if Pac-West had not called to reschedule the work at least two (2) hours prior to the start of the interval, U S WEST and Pac-West will reschedule the work order and Pac-West will pay the non-recurring installation charge for the unbundled loops scheduled for the missed appointment. In addition, non-recurring installation charges for the rescheduled appointment will apply. If the U S WEST person is not available or not ready at any time during the thirty (30) minute interval, Pac-West and U S WEST will reschedule and U S WEST will waive the non-recurring charge for the unbundled loops scheduled for that interval. If unusual or unexpected circumstances prolong or extend the time required to accomplish the coordinated cut-over, the Party responsible for such circumstances is responsible for the reasonable labor charges of the other Party. Delays caused by the customer are the responsibility of Pac-West. In addition, if Pac-West has ordered INP as a part of the unbundled loop installation, U S WEST will coordinate implementation of INP with the unbundled loop installation.

3.2.2.6 Service Order: U S WEST shall provide Pac-West the capability to issue a service order for unbundled Network Elements, Combinations, and Resale Services.

3.2.2.7 PLOC Changes: U S WEST shall provide Pac-West the capability to transfer a customer with no feature changes to Pac-West through a streamlined PLOC (Primary Local Carrier) transfer process.

² MCI Order, p. 10 at Issue 13.

- 3.2.2.8 Status: U S WEST shall provide the Pac-West status on a service order when the status of the order changes.
- 3.2.2.9 Modifies: U S WEST shall provide Pac-West the capability to modify the service order any time after it has been issued; however, U S WEST may require the issuance of a supplemental or change order.
- 3.2.2.10 Cancel: U S WEST shall provide Pac-West the capability to cancel the service order any time after it has been issued.
- 3.2.2.11 Coordinated Service Orders: U S WEST shall provide Pac-West the capability to relate coordinated services orders, and identify those service orders that require coordination with Pac-West, or the subscriber, or the subscriber's vendor. When so identified, U S WEST will follow any specific instructions indicated on the service order so that the subscriber's service is not negatively affected by the service turn-up activity.
- 3.2.2.12 Expedite Process: U S WEST and Pac-West shall mutually develop expedite procedures to be followed when Pac-West determines an expedite is required to meet subscriber service needs.
- 3.2.2.13 Expedites: U S WEST shall provide Pac-West the capability to expedite a service order. Within two (2) business hours after a request from Pac-West for an expedited order, U S WEST shall notify Pac-West of U S WEST's confirmation to complete, or not complete, the order within the expedited interval.

3.2.3 Intercept Treatment and Transfer of Service Announcements

- 3.2.3.1 U S WEST shall provide unbranded intercept treatment and transfer of service announcements to Pac-West Customers. U S WEST shall provide such treatment and transfer of service announcement for all service disconnects, suspensions, or transfers, in the same manner as that which U S WEST provides to its own end users. U S WEST's current standard time periods for providing such announcements is three (3) months for residential service and twelve (12) months for business service. Pac-West may request extensions at parity with that which U S WEST provides to its end-users.
- 3.2.3.2 Pursuant to this Agreement, Pac-West shall provide unbranded intercept treatment and transfer of service announcements to U S WEST Customers. Pac-West shall provide such treatment and transfer of service announcement for all service disconnects, suspensions, or transfers, at parity with that which Pac-West provides its own end users. Pac-West standard time periods for providing such announcements is three (3) months for residential service and twelve (12) months for business service. U S WEST may request extensions at parity with that which Pac-West provides to its end-users.

3.2.4 Due Date

- 3.2.4.1 U S WEST and Pac-West shall mutually agree on what services and circumstances are subject to the standard interval process to determine the due date or the requested/committed due date process.
- 3.2.4.2 For those services and circumstances that U S WEST and Pac-West agree shall be handled by the standard interval process, U S WEST shall supply Pac-West with standard due date intervals on a nondiscriminatory basis to be used by Pac-West personnel to determine service installation dates. Under those circumstances U S WEST shall complete the provisioning within the standard interval.
 - 3.2.4.2.1 If Pac-West requests a due date earlier than the standard due date interval, then expedite charges may apply.
- 3.2.4.3 For those services and circumstances that U S WEST and Pac-West agree shall be handled by the requested/committed due date process, Pac-West may request a due date on each order. U S WEST will provide an offered due date on a nondiscriminatory basis. If Pac-West accepts the offered due date then such date shall become the committed due date. U S WEST will complete the order on the committed due date unless otherwise authorized by Pac-West.
 - 3.2.4.3.1 If Pac-West requires a due date earlier than the U S WEST offered due date and U S WEST agrees to meet the Pac-West required due date, then that required due date becomes the committed due date and expedite charges may apply.
- 3.2.4.4 Subsequent to an initial order submission, Pac-West may request a new/revised due date that is earlier than the committed due date. If U S WEST agrees to meet that new/revised due date, then that new/revised due date becomes the committed due date and expedite charges may apply.
- 3.2.4.5 Any special or preferred scheduling options available, internally or externally, to U S WEST for ordering and provisioning services shall also be available to Pac-West.

3.2.5 Customer Premises Inspections and Installations

- 3.2.5.1 Pac-West shall perform or contract for all needs assessments, including equipment and installation requirements, at the Customer premises.
- 3.2.5.2 U S WEST shall provide Pac-West with the ability to schedule dispatches for work under this Agreement.
- 3.2.5.3 U S WEST shall provide, at Pac-West's request, extended demarcation beyond the NID using intrabuilding riser and lateral beyond the NID. This provision shall not require U S WEST to provide inside wire.

3.2.6 Firm Order Confirmation (FOC)

- 3.2.6.1 U S WEST shall provide to Pac-West, via an electronic interface, a Firm Order Confirmation ("FOC") for each Pac-West order. The FOC shall contain, on a per line and/or trunk basis, an enumeration of Pac-West ordered unbundled Network Elements (and the specific U S WEST naming convention applied to that Network Element or Combination), features, functions, Resale Services, options, physical interconnection, quantity, and U S WEST committed due date for order completion.
- 3.2.6.2 For a revised FOC, U S WEST shall provide order detail on a per line or per trunk level basis, as well as the order detail from the prior FOC.

3.2.7 Order Rejections

- 3.2.7.1 U S WEST shall reject and return to Pac-West any order that U S WEST cannot provision, due to technical reasons, missing information, or jeopardy conditions in accordance with Performance Measurements as defined herein. When an order is rejected, U S WEST shall, in its rejection notification, specifically describe all of the reasons for which the order was rejected. U S WEST shall not reject any orders on account of the requested due date.
- 3.2.7.2 On an exception basis, to the extent that errors cannot be corrected pursuant to electronic interface processes, U S WEST agrees to accept verbal order corrections from Pac-West. U S WEST shall timely inform Pac-West by telephone of any minor issues which can be handled over the phone. As required, Pac-West will provide a supplemental order reflecting changes to the original service order.

3.2.8 Service Order Changes

- 3.2.8.1 If an installation or other Pac-West-ordered work request requires a change from the original Pac-West service order in any manner, U S WEST shall call Pac-West in advance of performing the installation or other work to obtain authorization. U S WEST shall then provide Pac-West an estimate of additional labor hours and/or materials. After all installation or other work is completed, U S WEST shall notify Pac-West of actual labor hours and/or materials used in accordance with regular service order completion schedules.
 - 3.2.8.1.1 If additional work is completed on a service order, as approved by Pac-West, the cost of the additional work must be reported to Pac-West in accordance with regular service order completion schedules.
 - 3.2.8.1.2 If a service order is partially completed, notification must identify the work that was done and the work remaining to be completed.
- 3.2.8.2 If an Pac-West Customer requests a service change at the time of installation or other work being performed by U S WEST on behalf of Pac-West, U S WEST, while at the Customer premises, shall direct the Pac-

West Customer to contact Pac-West so as to avoid unnecessary delays in service activation should the U S WEST representative leave Customer premises prior to completing the installation.

3.2.9 Jeopardy Situations

3.2.9.1 To the extent jeopardy information is available, U S WEST shall provide to Pac-West notification of any jeopardy situations prior to the committed due date, missed appointments and any other delay or problem in completing work specified on Pac-West service order as detailed on the FOC, in accordance with the Performance Measurements as defined herein.

3.2.10 Cooperative Testing

3.2.10.1 Network Testing

3.2.10.1.1 To the extent that U S WEST provides testing for services offered to its end users and to the extent U S WEST provides testing for itself, U S WEST shall perform all pre-service testing prior to the completion of the Pac-West order, including testing on local service facilities and switch translations, including, but not limited to, verification of features, functions, and services ordered by Pac-West.

3.2.10.1.2 The Parties agree to cooperate in testing that is required to complete service orders.

3.2.10.2 Systems and Process Testing

3.2.10.2.1 Upon Pac-West's request, U S WEST shall cooperate with Pac-West to ensure that all operational interfaces and processes are in place and functioning properly and efficiently. Testing shall simulate actual operational procedures and systems interfaces to the greatest extent possible. Pac-West may request cooperative testing to ensure service performance, reliability, and Customer service ability.

3.2.11 Service Suspensions/Restorations

3.2.11.1 For services other than non-switched, upon Pac-West's request through a Suspend/Restore Order, U S WEST shall suspend or restore the functionality of any Network Element, feature, function, or Resale Service. U S WEST shall provide restoration priority on a per Network Element or Combination basis in a manner that conforms with Pac-West requested priorities and any applicable regulatory rules and regulations or government requirements.

3.2.12 Disconnects

3.2.12.1 U S WEST shall provide to Pac-West daily information, in a mutually agreed upon format, notifying Pac-West of any services disconnected from

Pac-West. This report will itemize a change in local service provider or outward line movement on service order activity.

3.2.13 Order Completion Notification

3.2.13.1 Upon completion of a service order by U S WEST in its system(s), U S WEST shall submit to Pac-West an order completion which details the work performed (including a list of features and functions installed), the date completed, charges associated with the order, and verification of accurate service completion. Notification shall be provided in accordance with mutually agreed upon intervals.

3.2.14 [Intentionally left blank for numbering consistency.]

3.2.15 Specific Unbundling Requirements

3.2.15.1 **Pac-West may order and U S WEST shall provision unbundled Network Elements either individually or in any combination on a single order. Pac-West may order and U S WEST shall provide Unbundled Network Elements without restriction as to how those elements may be rebundled.³**

3.2.15.2 Prior to providing service in a specific geographic area or when Pac-West requires a change of network configuration, Pac-West may elect to place an order with U S WEST requiring U S WEST to prepare Network Elements and switch translations in advance of orders for additional Network Elements from Pac-West.

3.2.15.3 When Pac-West orders combinations of currently connected Network Elements, U S WEST shall ensure that such Network Elements remain connected and functional without any disconnection or disruption.

3.2.15.4 Order combinations of contiguous Network Elements shall be available to be ordered (a) on a case-by-case basis for those Network Elements that are Customer-specific; or (b) on a common-use (non-end user specific) basis for those Network Elements that are shared by multiple Customers.

3.2.15.5 Individual Network Elements shall be identified and ordered by Pac-West so that they can be provisioned together.

3.2.15.6 U S WEST shall provide technical assistance to Pac-West with respect to unbundled Network Elements pursuant to Section 2.3.3.3 of this Attachment.

3.2.15.7 Each order for Network Elements will contain administration, bill, contact, and Customer information, as defined by the OBF.

³ MCI Order, p. 11 at Issue 14 and AT&T Order, p. 13 at Issue 25.

3.2.15.8 When ordering unbundled switch ports, Pac-West is requested to specify the desired signaling (e.g., loop start, ground start or loop reverse battery options).

3.2.15.8.1 To the extent Pac-West requires an unbundled loop to provide ISDN, HDSL, ADSL, DS1 service or other channel performance options, such requirements will be identified on the order for unbundled loop service.

3.2.15.8.2 The actual loop facilities provided may utilize various technologies or combinations of technologies. Basic unbundled loops provide an analog facility to Pac-West.

3.2.16 Interim Interfaces

3.2.16.1 U S WEST will offer interim interfaces via Interconnect Mediated Access as documented in Document Number T-12-99-116472-00-02, current as of the Effective Date of this Agreement, or as mutually agreed to by the Parties.

3.2.16.2 Until the electronic interface described in Section 3.2.16.1 is available for the required services, U S WEST agrees that the Interconnect Service Center (ISC) or similar function will accept Pac-West orders. Orders will be transmitted to the ISC via mutually agreed procedures.

3.2.16.3 Until industry standards are completed and implemented pursuant to Section 3.3.2 of this Attachment, U S WEST and Pac-West agree to use interim interfaces as described in Section 3.2.16.1 above.

3.2.17 Ordering and Maintenance

3.2.17.1 For the purpose of ordering unbundled Network Elements or Combinations, Pac-West shall provide a blanket letter of authorization to U S WEST indicating that it shall be duly authorized by its customer to process such service orders.

3.2.17.2 If there is a conflict between an end user (and/or its respective agent) and Pac-West regarding the disconnection or provision of unbundled Network Elements or Combinations, U S WEST will honor the latest dated proof of authorization designating an agent by the end user or its respective agent. Compensation for unauthorized disconnections or transfers shall be in accordance with § 258 of the Act or by Commission rule.

3.2.17.3 Pac-West has primary responsibility for its own end user base and will have the responsibility for resolution of any service trouble report(s) from its customers. U S WEST will work cooperatively with Pac-West to resolve trouble reports when the trouble condition has been isolated and found to be within a portion of U S WEST's network. Where available, Pac-West must provide to U S WEST switch-based test results when testing its customer's trouble prior to U S WEST performing any repair functions. The Parties will cooperate in developing mutually acceptable test reports.

- 3.2.17.4 In the event of a transfer of the end user's service for unbundled Network Elements from one provider to Pac-West, Pac-West shall issue a request for transfer of service to U S WEST and the provider from whom the service is being transferred. In the event of a transfer of the end user's service for unbundled Network Elements from Pac-West to another provider, Pac-West shall submit to U S WEST a disconnect order for such unbundled Network Elements or Combinations to facilitate the cessation of billing by U S WEST. The Parties agree to develop procedures to handle the transfer of an end user service from one provider to another.
- 3.2.17.5 [Intentionally left blank for numbering consistency.]
- 3.2.17.6 When ordering unbundled loops, Pac-West is responsible for obtaining or providing facilities and equipment that are compatible with the loop.
- 3.2.17.7 To the extent a U S WEST provided unbundled loop is provisioned without U S WEST provided unbundled switching, Pac-West will have responsibility for testing the unbundled loop. If, at Pac-West's request, U S WEST must dispatch to perform tests on an unbundled loop, and the fault is not in U S WEST facilities, a charge may apply.
- 3.2.17.8 To the extent a U S WEST provided unbundled loop is provisioned without unbundled U S WEST-provided unbundled switching, Pac-West will be responsible for providing the Pac-West switch interface, if applicable, on the U S WEST MDF interface to facilitate plant test.

3.3 Systems Interfaces and Information Exchanges

3.3.1⁴ Interim Requirements for Operational Support Systems

In accordance with Section 271 of the Act, U S WEST shall provide Pac-West with interfaces to access U S WEST's databases and associated signaling necessary for the routing and completion of Pac-West traffic. Except where otherwise specified, access to such databases, and the appropriate interfaces, shall be made available to Pac-West via a Bona Fide Request. The costs will be recovered through prices based on TELRIC or other method to be decided upon by the Commission.

3.3.1.1 Operational Systems Interfaces - Interface Implementation Timetable

3.3.1.1.1 U S WEST's initial operational systems interfaces deployment on a date to be mutually agreed upon by Pac-West and U S WEST, will support Pre-ordering, Ordering, Provisioning and Repair capabilities for POTS (non-design) services and billing capabilities for most U S WEST product offerings. Subsequent phases of the plan incorporate the capabilities to support designed services for Pre-ordering,

⁴ MCI Order, pp. 15-16 at Issues 24-27 and AT&T Order at Issue 41.

Ordering, Provisioning, and Maintenance and Repair. Time frames for delivery of the operational support systems for designed services are estimated to be sometime in the near future.

3.3.1.1.2 U S WEST will develop long term mediated access pursuant to the Joint Implementation Agreement.

3.3.1.1.3 U S WEST shall abide by the implementation schedule and the representation made within testimony presented in Commission Docket Nos. U-3175-96-479 and E-1051-96-479 in deploying its initial interfaces. U S WEST shall regularly inform Pac-West of its progress in implementing the interfaces, and shall allow Pac-West to test the interfaces and participate in their planning. If U S WEST does not fulfill the terms of its representations, it may be liable to Pac-West for compensation for damages and costs due to U S WEST's failure to comply with its representations.

3.3.1.2 OSS Interface Design

3.3.1.2.1 U S WEST will develop OSS interfaces using an electronic gateway solution consistent with the design prescribed by the FCC Interconnection Order at paragraph 527. These gateways will act as a mediation or control point between Pac-West and U S WEST's Operations Systems. Additionally, these gateways will provide security for the interface, protecting the integrity of the U S WEST network and its databases, and ensuring that information privacy is maintained.

3.3.1.2.2 Baseline gateway architecture will initially incorporate a "World Wide Web"- based, human-readable format for the transaction-type interfaces to meet the needs of Pac-West. Different batch-type interfaces will be proposed in selected areas based on existing standards for their application. U S WEST will offer a machine-to-machine based protocol interface (e.g., CMIP) pursuant to the Joint Implementation Agreement.

3.3.1.2.3 U S WEST proposes the use of the existing Electronic Data Interchange (EDI) standard for the transmission of monthly local billing information. EDI is an established standard under the auspices of the American National Standards Institute/Accredited Standards Committee (ANSI/ASC) X12 Committee. A proper subset of this specification has been adopted by the Telecommunications Industry Forum (TCIF) as the "811 Guidelines" specifically for the purposes of telecommunications billing.

3.3.1.2.4 For the exchange of daily usage data, including third party billed, collect, and card calls, U S WEST will use the Bellcore EMR format for the records, using the Connect Direct, otherwise also

known as the Connect:Direct method to transmit the information to carriers.

3.3.1.2.5 For the exchange of Centralized Message Distribution System ("CMDS") data, U S WEST will use the existing CMDS record format, and again will use the Connect Direct method to transmit the information to carriers.

3.3.1.3 Provisioning

When the "pre-ordering" and "ordering" steps are completed, the requisite information will have been obtained from the customer and the initiation of a work order can begin. Submitting a work order will result in the provisioning and installation, if necessary, of a customer's service. The functional set required to order service is: open a work order, cancel a work order, change a work order, send a firm order confirmation, send notification of order jeopardy, send notification of status change, and send notification of order completion.

3.3.1.3.1 Work Order Request & Receipt

Enables Pac-West to submit a work request indicating the actions required for the provisioning of products, services and features, acknowledges the receipt of the work order, and includes the date and time the transaction was received.

3.3.1.3.2 Work Order Change & Cancellation

Enables Pac-West to submit a change request or cancellation notice in order to modify a previously submitted work order.

3.3.1.3.3 Status Query

Gives Pac-West the ability to determine the current status of orders and will include the due date and remarks pertinent to the order status.

3.3.1.3.4 Jeopardy Notification & Response

Provides Pac-West with a notification that the requested due date cannot be met for a non-confirmed order or that there is a critical date in jeopardy for a confirmed order and will accept Pac-West response indicating the action to be taken on the jeopardy notification.

3.3.1.3.5 Firm Order Confirmation

Provides Pac-West with a confirmation that the work order has been accepted and is anticipated to be completed by the due date. If the due date cannot be met, Pac-West will receive a Jeopardy Notification, not a Firm Order Confirmation.

3.3.1.3.6 Work Order Completion

Provides Pac-West notification that the order has been completed, including a summary of the account containing directory information, services, associated features, and recurring and non-recurring charges.

3.3.2 Permanent Access to Systems Interfaces

3.3.2.1 U S WEST shall provide to Pac-West a real-time, electronic interface(s) for transferring and receiving information and executing service pre-ordering, ordering, provisioning, maintenance and repair transactions for unbundled Network Elements and Resale Services, and any other database access required by FCC rules and regulations. In addition, U S WEST shall also provide the electronic interfaces specified in this Agreement which support business processes or database access. The interface(s) shall be capable of supporting all of the steps in the OBF developed ordering and provisioning process. These steps include pre-order service inquiry, pre-order service inquiry response, firm order acknowledgment/rejection, firm order confirmation, and completion notification.

3.3.2.1.1 The Parties will jointly review each OBF standard upon completion. The review shall be completed within thirty (30) days, unless otherwise agreed to by the Parties. The review shall result in a mutual agreement on whether the new standard will be deployed. Within thirty (30) days of agreement to deploy the new standard, the Parties shall agree on a schedule for such deployment.

3.3.2.2 U S WEST shall provide Pac-West a common electronic interface that will permit the transmittal of business and residential transactions.

3.3.3 Ordering and Provisioning for Resale Services

U S WEST shall provide a real time electronic interface with at least the following specifications:

3.3.3.1 U S WEST shall provide to Pac-West a real-time, electronic interface to U S WEST information systems to allow Pac-West to assign telephone number(s) (if the Customer does not already have a telephone number or requests a change of telephone number).

3.3.3.2 For Resale Services not subject to standard intervals, U S WEST shall provide to Pac-West a real-time, electronic interface to schedule dispatch and installation appointments.

3.3.3.3 U S WEST shall provide to Pac-West a real-time, electronic interface to U S WEST Customer information systems which will allow Pac-West to determine if a service call is needed to install the line or service.

3.3.3.5 U S WEST shall provide to Pac-West a real-time, electronic interface which transmits status information on service orders.

3.3.4 Ordering and Provisioning for Unbundling

- 3.3.4.1 For unbundled Network Elements not subject to standard intervals, U S WEST shall provide to Pac-West, when available, a real-time, electronic interface which will allow Pac-West to schedule appointments, and adjust pending order due dates in real-time.
- 3.3.4.2 U S WEST shall provide Pac-West with results from mechanized loop tests.
- 3.3.4.3 U S WEST shall provide Pac-West with confirmation of circuit assignments.

3.4 Standards

3.4.1 General Requirements

- 3.4.1.1 Pac-West and U S WEST shall agree upon the appropriate ordering and provisioning codes to be used for each Network Element or Combinations thereof. These codes shall apply to all aspects of the unbundling of that Network Element or Combination of Network Elements and shall be known as data elements as defined by the Telecommunications Industry Forum Electronic Data Interchange Service Order Subcommittee (TCIF-EDI-SOSC), or as mutually agreed.

3.5 Performance Measurements and Reporting

[Intentionally left blank for numbering consistency]

3.5.2 Quality Measurements

[Intentionally left blank for numbering consistency]

3.5.3 Reporting

[Intentionally left blank for numbering consistency]

4. Connectivity Billing and Recording

This Section 4 describes the requirements for U S WEST to bill and record all charges Pac-West incurs for purchasing services under this Agreement.

4.1 Procedures

- 4.1.1 The Parties recognize that deviations and discrepancies may occur from the various industry standards and other standards referenced in this Agreement. Subject to such discrepancies and deviations, U S WEST shall comply with these various standards. Discrepancies and deviations will be documented and reviewed.

- 4.1.1.1 Within forty-five (45) days after the Effective Date of this Agreement, the Parties will develop processes by which U S WEST will inform Pac-West of deviations from standards for billing. The Parties agree that they will negotiate discrepancies and deviations in good faith. Further, the Parties agree that those documented deviations from such standards documented by U S WEST to Pac-West shall supersede sections of technical standards applicable to such deviations referenced in this Agreement.
- 4.1.2 U S WEST shall record and bill in accordance with this Agreement those charges Pac-West incurs as a result of Pac-West purchasing from U S WEST services, as set forth in this Agreement (hereinafter "Connectivity Charges").
- 4.1.3 U S WEST shall format each bill for Connectivity Charges (hereinafter "Connectivity Bill") in accordance with the CRIS, CABS or SECAB standard as appropriate to the services billed.⁵**
- 4.1.4 Each service purchased by Pac-West shall be assigned a separate and unique billing code or identifier in the form agreed to by the Parties and such code or identifier shall be provided to Pac-West on each Connectivity Bill in which charges for such services appear. Each such billing code or identifier shall enable Pac-West to identify the service as purchased by Pac-West.
- 4.1.5 Each Connectivity Bill shall set forth the quantity and description of each such service provided and billed to Pac-West. All Connectivity Charges billed to Pac-West shall indicate the state from which such charges were incurred.
- 4.1.6 U S WEST shall bill Pac-West for each service supplied by U S WEST to Pac-West pursuant to this Agreement at the rates set forth in Attachment 1 to this Agreement.
- 4.1.7 U S WEST shall bill Pac-West for the Connectivity Charges incurred; provided, however, that for those usage-based Connectivity Charges where actual charge information is not determinable by U S WEST because the jurisdiction (i.e., interstate, interstate/interLATA, intrastate, intrastate/ intraLATA, local) of the traffic is unidentifiable, or for any other reason, the Parties shall jointly develop a process to determine the appropriate charges.
- 4.1.8 Measurement of usage-based Connectivity Charges shall be in actual conversation seconds. For local interconnection traffic provided under Attachments 3 and 4 of this Agreement, the total conversation time per chargeable traffic types shall be totaled for the entire monthly bill cycle, rounded to the next whole minute and then billed at the contract rate. For Resale services provided under Attachment 2 of this Agreement, the total conversation time shall be measured in accordance with U S WEST's retail tariff and billed at the contract rate.
- 4.1.9 U S WEST shall provide to Pac-West, at no additional charge, a Single Point of Contact for handling any Connectivity Billing questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.

⁵ Procedural Order, July 14, 1997, pages 18-19.

- 4.1.10 U S WEST shall provide a Single Point of Contact for the handling of any data exchange questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.
- 4.1.11 As soon as possible after the Effective Date of this Agreement, each Party shall provide the other Party written notice of which form of the monthly Connectivity Bill is to be deemed the official bill to assist the Parties in resolving any conflicts that may arise between the official bill and another form of bill received via a different media which purportedly contains the same charges as are on the official bill.
- 4.1.12 If either Party requests an additional copy(ies) of a bill, such Party shall pay the other Party a reasonable fee per additional bill copy, unless such copy was requested due to errors, omissions, or corrections or the failure of the transmission to comply with the specifications set forth in this Agreement.
- 4.1.13 When sending Connectivity Bills via electronic transmission, to avoid transmission failures or the receipt of Connectivity Billing information that cannot be processed, Pac-West shall provide U S WEST process specifications. U S WEST shall comply with mutually agreed upon processing specifications when U S WEST transmits Connectivity Billing data to Pac-West. Pac-West shall provide to U S WEST notice if a Connectivity Billing transmission is received that does not meet mutually agreed upon Pac-West specifications. *Faulty or failed transmissions shall be corrected and resubmitted to Pac-West, at U S WEST's sole expense.*
- 4.1.14 U S WEST shall deliver to a location specified by Pac-West, billing information via Connect Direct, magnetic tape or paper, as agreed to by Pac-West and U S WEST. In the event of an emergency, system failure or other such condition which prevents U S WEST from transmitting via Connect Direct, U S WEST shall notify Pac-West of such difficulties within two (2) hours of detection. U S WEST shall deliver to, a location specified by Pac-West, billing information via magnetic tape or paper, as agreed to by Pac-West and U S WEST. *The Parties acknowledge that all tapes transmitted to the other Party via U.S. Mail or overnight delivery service and which contain Connectivity Billing data shall not be returned to the sending party.*
- 4.1.15 [Intentionally left blank for numbering consistency]
- 4.1.16 Billed amounts which are being reasonably disputed or reasonably queried or for which reasonable claims have been filed, are not due for payment until such disputes, claims or queries have been fully resolved by both Pac-West and U S WEST.
- 4.1.17 [Intentionally left blank for numbering consistency]
- 4.1.18 Bill Reconciliation**
 - 4.1.18.1 Each Party agrees to notify the other Party upon the discovery of a billing discrepancy ("Notice of Discrepancy").
 - 4.1.18.2 In the event of such Notice of Discrepancy, the Parties shall endeavor to resolve the discrepancy within sixty (60) calendar days after the Notice of Discrepancy is issued using normal business procedures. If the discrepancy is disputed, resolution of such dispute is expected to occur at

the first level of management resulting in a recommendation for settlement of the dispute and closure of a specific billing period.

- 4.1.18.3 Closure of a specific billing period shall occur by joint agreement of the Parties whereby the Parties agree that such billing period is closed to any further analysis and financial transactions, except those resulting from an Audit. Closure shall take place within nine (9) months of the Bill Date. The month being closed represents those Connectivity Charges that were billed or should have been billed by the applicable bill date.
- 4.1.18.4 If the dispute is not resolved within the allotted time frame, the following resolution procedure shall begin:
 - 4.1.18.4.1 If the dispute is not resolved within sixty (60) days of the Notice of Discrepancy, the dispute shall be escalated to the second level of management for resolution.
 - 4.1.18.4.2 If the dispute is not resolved within ninety (90) days of Notice of Discrepancy, the dispute shall be escalated to the third level of management for resolution.
 - 4.1.18.4.3 If the dispute is not resolved within one hundred and twenty (120) days of the Notice of Discrepancy, upon the written request of either Party within such one hundred and twenty (120) day period, the dispute may be resolved pursuant to the dispute resolution provision set forth in Part A of this Agreement.
- 4.1.19 U S WEST shall reimburse Pac-West for incorrect Connectivity Billing charges, including, without limitation, overcharges, services ordered or requested but not delivered, interrupted services, and services of poor quality and installation problems, if such problems are caused by U S WEST. Such reimbursements shall be set forth in the appropriate section of the Connectivity Bill pursuant to appropriate standards.
- 4.1.20 The Parties agree to record call information in accordance with this Section 4.1. To the extent technically feasible, each Party shall record all call detail information associated with every call that one Party bills to the other Party. Pac-West may request, through the Bona Fide Request process the recording of call records and/or call detail information that is not currently recorded by U S WEST. These records shall be provided and retained pursuant to Section 5 of this Attachment.
- 4.1.21 When Pac-West collocates with U S WEST in U S WEST's facility as described in this Agreement, capital expenditures (e.g., costs associated with building the "cage"), shall not be included in the Connectivity Bill provided to Pac-West pursuant to this Attachment 5. All such capital expenses shall be given a unique BAN and invoice number. All invoices for capital expenses shall be sent to the location specified by Pac-West for payment. All other non-capital recurring collocation expenses shall be billed to Pac-West in accordance with this Agreement. The CABS/SECABS Billing Output Specifications (BOS) documents provide the guidelines on how to bill the Connectivity Charges associated with collocation.

4.1.22 Local Number Portability

- 4.1.22.1 In accordance with the terms and conditions set forth in this Agreement, U S WEST shall record and provide to Pac-West all detail information associated with an alternately billed call to an Pac-West local exchange customer whose telephone number has been ported from U S WEST under INP as further described in this Agreement.

4.1.23 Meet Point Billing

- 4.1.23.1 Pac-West and U S WEST will establish meet-point billing ("MPB") arrangements in accordance with the Meet Point Billing guidelines adopted by and contained in the OBF's MECAB and MECOD documents, except as otherwise mutually agreed to by the Parties. Both Parties will use their best reasonable efforts, individually and collectively, to maintain provisions in their respective federal and state access tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff to reflect the MPB arrangements identified in this Agreement, in MECAB and in MECOD.
- 4.1.23.2 The Parties will agree on a meet point percentage to enable the joint provisioning and billing of Switched Access Services to third parties in conformance with the Meet Point Billing guidelines adopted by and contained in the OBF's MECAB and MECOD documents and referenced in U S WEST's Switched Access Tariffs. The Parties understand and agree that MPB arrangements are available and functional only to/from IXCs who directly connect with the tandem(s) that Pac-West sub-tends in each LATA.
- 4.1.23.3 The Parties will use reasonable efforts, individually and collectively, to maintain provisions in their respective federal and state access tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.
- 4.1.23.4 Pac-West and U S WEST will implement the "Multiple Bill/Single Tariff" option in order to bill any interexchange carrier (IXC) for that portion of the network elements provided by Pac-West and U S WEST. For all traffic carried over the MPB arrangement, Pac-West and U S WEST shall bill IXCs for all applicable elements at the rates specified in their respective tariffs.
- 4.1.23.5 U S WEST shall provide to Pac-West the billing name, billing address, and carrier identification code (CIC) of the IXCs that may utilize any portion of Pac-West network in an Pac-West/U S WEST MPB arrangement in order to comply with the MPB notification process as outlined in the MECAB document. Such information shall be provided to Pac-West in the format and via the medium that the Parties agree. If U S WEST does not have a CIC for any IXC that will utilize a portion of Pac-West network in an Pac-West/U S WEST MPB arrangement, and for whom U S WEST must supply to Pac-West MPB billing information, then until such carrier has obtained a CIC, U S WEST will submit the LEC's CIC on those MPB records provided

to Pac-West for MPB. U S WEST understands and agrees that it will be solely responsible for obtaining any reimbursements from such carriers who have utilized the jointly provided networks of U S WEST and Pac-West.

- 4.1.23.6 U S WEST and Pac-West agree that in an MPB arrangement where one Party provides local transport and the other Party provides the end office switching, the Party who provides the end office switching is entitled to bill any residual interconnection charges (RIC) and common carrier line (CCL) charges associated with the traffic. The Parties further agree that in those MPB situations where one Party sub-tends the other Party's access tandem, the Party providing the access tandem is only entitled to bill the access tandem fee and any associated local transport charges. The Parties also agree that the Party who provides the end office switching is entitled to bill end office switching fees, local transport charges, RIC and CCL charges, as appropriate, and such other applicable charges.
- 4.1.23.7 U S WEST and Pac-West will record and transmit MPB information in accordance with the standards and in the format set forth in this Attachment. U S WEST and Pac-West will coordinate and exchange the billing account reference ("BAR") and billing account cross reference (BACR) numbers for the MPB arrangements described in this Agreement. Each Party will notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number.
- 4.1.23.8 If MPB data is not processed and delivered by either U S WEST or Pac-West and sent to the other Party within ten (10) calendar days of the relevant recording period and in turn such Party is unable to bill the IXC for the appropriate charges, the Party who failed to deliver the data will be held liable for the amount of the unbillable charges.
- 4.1.23.9 If MPB data is not submitted within ten (10) calendar days of the relevant recording period or is not in the proper format as set forth in this Agreement, and if as a result the other Party is delayed in billing the IXC for the appropriate charges it incurs, the delaying Party shall pay the other Party a late MPB data delivery charge which will be the total amount of the delayed charges times a monthly rate that shall not exceed 1.5% which may be levied by law for commercial transactions, compounded daily for the number of days from the date the MPB charges should have been received to and including the date the MPB charge information is actually received.
- 4.1.23.10 Errors in MPB data exchange by the Parties may be discovered by Pac-West, U S WEST or the billable IXC. Both Pac-West and U S WEST agree to provide the other Party with notification of any discovered errors within two (2) Business Days of the discovery. The other Party shall correct the error within eight (8) Business Days of notification and resubmit the data. In the event the errors cannot be corrected within the time period specified above, the erroneous data shall be considered lost. If MPB data is lost due to uncorrectable errors or otherwise, the Parties shall follow the procedures set forth in Section 5 of this Attachment and compensate the other for the lost MPB billing data.

- 4.1.23.11 In the event Pac-West purchases from U S WEST Network Elements, or Combination thereof, in a LATA other than the LATA to or from which the MPB services are homed and in which U S WEST operates an access tandem, U S WEST shall, except in instances of capacity limitations, permit and enable Pac-West to sub-tend the U S WEST access tandem switch(es) nearest to the Pac-West rating point(s) associated with the NPA-NXX(s) to/from which the MPB services are homed. In such event, Pac-West shall be responsible for the transport facilities crossing LATA boundaries. In instances of capacity limitation at a given access tandem switch, Pac-West shall be allowed to subtend to the next nearest U S WEST access tandem switch in which sufficient capacity is available. The MPB percentages for each new rating point/access tandem pair shall be calculated in accordance with MECAB and MECOD.

4.2 Information Exchange and Interfaces

- 4.2.1 U S WEST shall provide Pac-West a monthly Connectivity Bill that includes all Connectivity Charges incurred by and credits and/or adjustments due to Pac-West for those services ordered, established, utilized, discontinued or performed pursuant to this Agreement. For each account, U S WEST shall issue one (1) bill per month and the billing cycle shall be on a calendar basis. Each Connectivity Bill provided by U S WEST to Pac-West shall include:
- 4.2.1.1 all non-usage sensitive charges incurred for the current bill period.
 - 4.2.1.2 any known unbilled non-usage sensitive charges for prior periods;
 - 4.2.1.3 usage sensitive charges for the current relevant bill period (from the last bill date and extending up to, and including, the current bill date);
 - 4.2.1.4 any known unbilled usage sensitive charges for prior periods; and
 - 4.2.1.5 any known unbilled adjustments.
- 4.2.3 The bill date must be present on each bill transmitted by U S WEST to Pac-West, must be a valid calendar date, and not more than ninety (90) days old. Connectivity Bills shall not be rendered for any Connectivity Charges which are incurred under this Agreement on or before two hundred and seventy (270) days preceding the bill date, except as otherwise permitted by law.
- 4.2.4 On each bill where "Jurisdiction" is identified, local and local toll charges shall be identified as "Local" and not as interstate, interstate/interLATA, intrastate, or intrastate/intraLATA. U S WEST shall provide from and through dates for charges rendered on all Connectivity Bills.
- 4.2.5 U S WEST shall separately identify business charges from residence charges, as appropriate, and shall assign a specific adjustment or reference number provided by Pac-West to each adjustment and credit included on the Connectivity Bill.

- 4.2.6 U S WEST and Pac-West shall issue all Connectivity Bills in accordance with the terms and conditions set forth in this Section 4. On Connectivity Bills U S WEST renders to Pac-West, Billing Account Numbers (BANs) shall be thirteen (13) character alpha/numeric and there shall only be one (1) BAN per State unless otherwise agreed to by the Parties. The Bill Date shall be the same day month to month. Each Party shall provide the other Party at least thirty (30) calendar days written notice prior to changing, adding or deleting a BAN. The Parties shall provide one (1) Connectivity Billing invoice associated with each BAN. Each invoice must contain an invoice number, which will vary from month to month. On each bill associated with a BAN, the appropriate invoice number and the charges contained on such invoice must be reflected. All Connectivity Bills must be received by the other Party no later than ten (10) calendar days from the bill date and at least thirty-five (35) calendar days prior to the payment due date (as described in Part A of this Agreement), whichever is earlier. Any Connectivity Bill received on a Saturday, Sunday or a day designated as a bank holiday will be deemed received the next Business Day. If either Party fails to receive Connectivity Billing data and information within the time period specified above, then the payment due date will be extended by the number of days receipt has been delayed.
- 4.2.7 **U S WEST shall issue all Connectivity Bills containing such billing data and information in accordance with the most current version of CRIS or CABS/SECABS published by Bellcore, or its successor, or such later versions as are adopted by Bellcore, or its successor, as appropriate to the services being billed. To the extent there are no CRIS, CABS, or SECAB standards governing the formatting of certain data, such data shall be issued in the format mutually agreed to by U S WEST and Pac-West, and in accordance with Attachment 6 to this Agreement.⁶**
- 4.2.8 As detailed in the MECAB document, Pac-West and U S WEST will exchange all information necessary to bill third parties for switched access services traffic jointly handled by Pac-West and U S WEST via the meet point arrangement in a timely fashion. Information shall be exchanged in Exchange Message Record ("EMR") format (Bellcore Standard BR 010-200-010, as amended) on magnetic tape or via a mutually acceptable electronic file transfer protocol. The Parties will exchange records pursuant to this paragraph without additional compensation.
- 4.2.9 U S WEST and Pac-West agree that each Party shall transmit Connectivity Billing information and data in the appropriate format as provided herein, electronically via Connect Direct to the other Party at the location specified by such Party. Pac-West data centers will be responsible for originating the calls for data transmission. U S WEST shall transmit in accordance with the technical specifications mutually agreed upon by the Parties. Pac-West will supply to U S WEST its RACF ID and password before the first transmission of data via Connect Direct. Any changes to either Party's Connect Direct Node ID must be sent to the other Party no later than thirty (30) calendar days before the changes take effect.
- 4.2.10 In emergency situations when tape transmittal has been used, U S WEST shall adhere to the tape packaging requirements set forth in this Agreement. Where magnetic tape

⁶ Procedural Order, July 14, 1997, pages 18-19.

shipping containers are transported in freight compartments, adequate magnetic field protection shall be provided by keeping a 6-inch distance from any magnetic field generating device (except a magnetron-tape device). U S WEST shall only use those shipping containers that contain internal insulation to prevent damage. U S WEST shall clearly mark on the outside of each shipping container its name, contact and return address. U S WEST shall not ship any Connectivity Billing tapes in unprotected tape canisters.

- 4.2.11 All emergency billing data transmitted via tape must be provided on a cartridge (cassette) tape and must be of high quality, conform to the Parties' record and label standards, 9-track, odd parity, 6250 BPI group coded recording mode and extended binary-coded decimal interchange code (EBCDIC). Each reel of tape must be 100% tested at 20% or better "clipping" level with full width certification and permanent error free at final inspection. Pac-West reserves the right to destroy a tape that has been determined to have unrecoverable errors. Pac-West also reserves the right to replace a tape with one of equal or better quality.
- 4.2.12 The header record will be formatted in accordance with the appropriate IBM, CABS or EDI standards as mutually agreed upon by the Parties.
- 4.2.13 A single 6-digit serial number must appear on the external (flat) surface of the tape for visual identification. This number shall also appear in the "dataset serial number field" of the first header record of the IBM standard tape label. This serial number shall consist of the character "V" followed by the reporting location's four digit Originating Company Code and a numeric character chosen by the sending Party. The external and internal label shall be the same. The dataset name shall appear on the flat side of the reel and also in the "data set name field" on the first header record of the IBM standard tape label. U S WEST's name, address, and contact shall appear on the flat side of the cartridge or reel.
- 4.2.14 Tape labels shall conform to IBM OSVS Operating System Standards contained in the IBM Standard Labels Manual. IBM standard labels are 80-character records recorded in EBCDIC, odd parity.
- 4.2.15 U S WEST shall conform to the Standard Volume Label Format which will be mutually agreed upon by the Parties.
- 4.2.16 U S WEST shall use the IBM Standard Dataset Label Format which will be mutually agreed upon by the Parties.
- 4.2.17 U S WEST shall use test and production dataset format which will be mutually agreed upon for all Connectivity Bills.

4.2.18⁷ Interim Billing Interfaces Processes

U S WEST offers interfaces for the exchange of several types of billing data: Monthly Billing Information, Daily Usage Data, Local Account Maintenance Report, Centralized Message Distribution System (CMD5) messages, Routing of in-region intraLATA collect, calling card, and third number billed messages.

⁷ MCI Order, pp. 15-16 at Issue 27 and AT&T Order at Issue 41.

4.2.18.1 Monthly Billing Information

Includes all connectivity charges, credits, and adjustments related to Network Elements and U S WEST-provided local service.

4.2.18.2 Daily Usage Data

The accumulated set of call information for a given day as captured, or "recorded," by the network switches. U S WEST will provide this data to Pac-West with the same level of precision and accuracy it provides itself. Such precision cannot and will not exceed the current capabilities of the software in the switches as of the Effective Date of this Agreement.

4.2.18.3 Local Account Maintenance Report

A report, consisting of the list of phone numbers to which the carrier started providing service since the last report, and the list of phone numbers to which the carrier is no longer providing service since the last report.

4.2.18.4 Centralized Message Distribution System ("CMDS")

Distribution of CMDS messages for Pac-West customers

4.2.18.5 Routing of In-region intraLATA Collect, Calling Card, and Third Number Billed Messages

U S WEST will distribute in-region intraLATA collect, calling card, and third number billed messages to Pac-West and exchange with other CLECs operating in-region in a manner consistent with existing inter-company processing agreements. Whenever the daily usage information is transmitted to a carrier, it will contain the records for these types of calls as well.

4.3 Standards

- 4.3.1 At least thirty (30) calendar days prior to U S WEST sending Pac-West a mechanized bill for the first time via electronic transmission, U S WEST shall send to Pac-West Connectivity Bill data in the appropriate mechanized format (e.g., CABS or SECAB) for testing to ensure that bills can be processed and that bills comply with the requirements of this Attachment. After receipt of the test data from U S WEST, Pac-West will notify U S WEST if the connectivity billing transmission meets Pac-West testing specifications. If the transmission fails to meet the mutually agreed upon test and production dataset format, then, U S WEST shall make the necessary corrections within a mutually agreeable time frame. At least three (3) sets of testing data must meet Pac-West testing specifications prior to U S WEST sending Pac-West a mechanized production connectivity bill for the first time via electronic transmission or tape. Thereafter, U S WEST may begin sending Pac-West production connectivity bills via electronic transfer on the next bill date, or within ten (10) calendar days, whichever is later.

- 4.3.2 U S WEST shall also provide to Pac-West's designated point of contact, U S WEST's applicable operating company number ("OCN") at least thirty (30) days prior to testing and at least thirty (30) days prior to a change of OCN.
- 4.3.3 At least ninety (90) days prior to any change in existing formats or change to a different format, U S WEST shall send to Pac-West Connectivity Bill data in the appropriate mechanized format for testing to ensure that the bills can be processed and that the bills comply with the requirements of this Attachment. U S WEST agrees that it shall not send to Pac-West bill data in the new mechanized format until such bill data has met the testing specifications as set forth in this Section.
- 4.3.4 During the testing period, in addition to CONNECT DIRECT, U S WEST shall also transmit to Pac-West Connectivity Billing data and information via paper or tape as specified by Pac-West. Test tapes shall be sent to an Pac-West specified location.
- 4.3.5 For Connectivity Bills issued in CABS or SECAB format, U S WEST agrees that if it transmits data to Pac-West in a mechanized format, U S WEST shall also comply with the following specifications which are not contained in CABS or SECAB guidelines but which are necessary for Pac-West to process Connectivity Billing information and data:
 - 4.3.5.1 The bill date shall not contain spaces or non-numeric values.
 - 4.3.5.2 Each Connectivity Bill must contain at least one (1) detail record.
 - 4.3.5.3 Any "from" date should be less than or equal to the associated "thru" date and neither date can contain spaces.
 - 4.3.5.4 The invoice number must not have embedded spaces or low values.
- 4.3.6 U S WEST agrees that in order to ensure the proper performance and integrity of the entire Connectivity Billing process, U S WEST shall be responsible and accountable for transmitting to Pac-West an accurate and current bill. U S WEST agrees to implement control mechanisms and procedures to render a bill that accurately reflects the services ordered and used by Pac-West.

5. Provision Of Customer Usage Data

This Section 5 sets forth the terms and conditions for U S WEST's provision of Recorded Usage Data (as defined in this Attachment 5) to Pac-West and for information exchange regarding long distance billing.

5.1 Procedures

5.1.1 General

- 5.1.1.1 U S WEST shall comply with various industry, OBF, and other standards referred to throughout this Agreement. To satisfy these requirements, the Parties agree to a mutual interpretation of all standards referred to in this Section.

- 5.1.1.2 The Parties shall mutually agree to OBF standards and the additional standards outlined in this Agreement when recording and transmitting Usage Data.
- 5.1.1.3 As new standards are developed and adopted by industry, U S WEST and Pac-West will negotiate mutually agreeable implementation of those standards.
- 5.1.1.4 U S WEST shall record all usage to be billed to Pac-West originating from, terminating to or billed to Pac-West Customers using U S WEST services ordered by Pac-West. Recorded Usage Data includes, but is not limited to, the following categories of information:
- Call attempts
 - Completed calls
 - Use of CLASS/LASS/custom features
 - Calls to information providers reached via U S WEST facilities and contracted by U S WEST
 - Calls to Directory Assistance where U S WEST provides such service to an Pac-West customer
 - Calls completed via U S WEST-provided Operator Services where U S WEST provides such service to Pac-West local service Customer
 - For U S WEST-provided Centrex Service, station level detail records shall include complete call detail and complete timing information
- 5.1.1.5 Retention of Records: U S WEST shall maintain a machine readable back-up copy of the message detail provided to Pac-West for a minimum of forty-five (45) calendar days. U S WEST shall provide any data back-up to Pac-West upon the request of Pac-West.
- 5.1.1.6 U S WEST shall provide to Pac-West Recorded Usage Data for Pac-West Customers only. U S WEST shall not submit other carrier local usage data as part of the Pac-West recorded usage data.
- 5.1.1.7 U S WEST shall not bill to Pac-West Customers any recurring or non-recurring charges for service provided by U S WEST to Pac-West except where explicitly permitted to do so within a written agreement between U S WEST and Pac-West.
- 5.1.1.8 The Parties shall record and rate all calls to information service providers (e.g., 976 service calls) and shall bill such calls directly the calling party's local service provider. In the event a Party's end-user disputes such a call, that Party may recourse consistent with the recourse arrangement the billing Party has with its information service provider.
- 5.1.1.9 U S WEST shall provide Recorded Usage Data to Pac-West billing locations as designated by Pac-West.
- 5.1.1.10 U S WEST shall establish an Interconnect Service Center (ISC) or similar function to serve as Pac-West's single point of contact to respond to Pac-West call usage, data error, and record transmission inquiries.

5.1.1.10.1 U S WEST shall provide Pac-West with a single point of contact and remote identifiers for each sending location.

5.1.1.11 Pac-West shall provide a single point of contact responsible for receiving usage transmitted by U S WEST and receiving usage tapes from a courier service in the event of a facility outage.

5.1.1.12 U S WEST shall bill and Pac-West shall pay the charges for Recorded Usage Data. Billing and payment shall be in accordance with the applicable terms and conditions set forth in the Connectivity Billing and Recording Section of this Attachment 5.

5.1.1.13 Without waiver of, and in addition to the Audit and Examination rights set forth in Part A of this Agreement, upon reasonable notice and at reasonable times, a Party or its authorized representatives may examine the recording Party's AMA records which relate to perceived problems with the recordings of the usage data relating to the billed Party under this Attachment.

5.1.2 Charges

5.1.2.1 The Parties may charge fees for recording, rating or transmitting usage data. For the six (6) months following the initial recording, rating or transmitting of non-test usage data, the Parties shall not charge each other.

5.1.2.2 No charges shall be assessed for incomplete call attempts.

5.1.3 Central Clearinghouse & Settlement

5.1.3.1 U S WEST shall support and participate with Pac-West to develop an in and out-collect process developed for intra-region alternately billed messages.

5.1.3.2 U S WEST shall settle with Pac-West for both intra-region and inter-region billing exchanges of calling card, bill-to-third party, and collect calls, including settlement through the CMDS CATS system for inter-region billing.

5.1.4 Lost Data

5.1.4.1 Loss of Recorded Usage Data - Pac-West recorded usage data determined to have been lost, damaged or destroyed as a result of an error or omission by U S WEST in its performance of the recording function shall, upon Pac-West request, be recovered by U S WEST at no charge to Pac-West. In the event the data cannot be recovered by U S WEST, U S WEST shall estimate the messages and associated revenue, with assistance from Pac-West, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by U S WEST and Pac-West. This estimate shall be used to adjust amounts Pac-West owes U S WEST for services U S WEST provides in conjunction with the provision of recorded usage data.

- 5.1.4.2 Partial Loss - U S WEST shall review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes shall be reported, if possible. Where actual data are not available, a full day shall be estimated for the recording entity, as outlined in the following paragraphs. The amount of the partial loss is then determined by subtracting the data actually recorded for such day from the estimated total for such day.
- 5.1.4.3 Complete Loss - Estimated message and minute volumes for each loss consisting of an entire AMA tape or entire data volume due to its loss prior to or during processing, loss after receipt, degaussed before processing, receipt of a blank or unreadable tape, or lost for other causes, shall be reported.
- 5.1.4.4 Estimated Volumes - From message and minute volume reports for the entity experiencing the loss, U S WEST shall secure message/minute counts for the four (4) corresponding days of the weeks preceding that in which the loss occurred and compute an average of these volumes. U S WEST shall apply the appropriate average revenue per message ("ARPM") mutually agreed upon to the estimated message volume to arrive at the estimated lost revenue.
- 5.1.4.5 If the day of loss is not a holiday but one (1) (or more) of the preceding corresponding days is a holiday, U S WEST shall use additional preceding weeks in order to procure volumes for two (2) non-holidays in the previous two (2) weeks that correspond to the day of the week that is the day of the loss.
- 5.1.4.6 If the loss occurs on a weekday that is a holiday (except Christmas and Mother's Day), U S WEST shall use volumes from the two (2) preceding Sundays.
- 5.1.4.7 If the loss occurs on Mother's Day or Christmas, U S WEST shall use volumes from that day in the preceding year multiplied by a growth rate mutually agreed upon by the Parties.
- 5.1.4.8 Pac-West may also request data be provided that has previously been successfully provided by U S WEST to Pac-West. U S WEST shall re-provide such data, if available, at a charge mutually agreed to by the Parties.

5.1.5 Testing, Changes and Controls

- 5.1.5.1 The Recorded Usage Data, EMR format, content, and transmission process shall be tested as mutually agreed to by the Parties.
- 5.1.5.2 Interface Testing: The purpose of this test is to ensure that the usage records can be sent by U S WEST to Pac-West and can be accepted and processed by Pac-West. U S WEST shall provide a test file to Pac-West designated Regional Processing Center (RPC) in the format that shall be used for live day-to-day processing. The file's test content and volume

shall be mutually agreed to by the Parties. Pac-West shall review the file and verify that it conforms to its data center requirements. Pac-West shall notify U S WEST in writing whether the format is acceptable. Pac-West shall also provide U S WEST with the agreed-upon control reports as part of this test.

- 5.1.5.3 Operational Test: The purpose of this test is to ensure that volumes of usage in consecutive sequence can be extracted, distributed, and processed by U S WEST and Pac-West.
- 5.1.5.4 For testing purposes, U S WEST shall provide Pac-West with U S WEST recorded usage for a minimum of five (5) consecutive days. Pac-West shall provide U S WEST with the message validation reports associated with test usage.
- 5.1.5.5 Test File: Test data should be transported via CONNECT DIRECT whenever possible. In the event that courier service must be used to transport test media, the physical tape characteristics to be used are described in this Attachment.
- 5.1.5.6 Periodic Review: Control procedures for all usage transferred between U S WEST and Pac-West shall require periodic review. This review may be included as part of an annual audit of U S WEST by Pac-West or as part of the normal production interface management function. Breakdowns which impact the flow of usage between U S WEST and Pac-West must be identified and jointly resolved as they occur. The resolution may include changes to control procedures, as similar problems would be avoided in the future. Any changes to control procedures shall be mutually agreed upon by Pac-West and U S WEST.

5.1.5.7 U S WEST Software Changes

5.1.5.7.1 When U S WEST plans to introduce any software changes which impact the format or content structure of the usage data feed to Pac-West, designated U S WEST personnel shall notify Pac-West no less than one hundred twenty (120) calendar days before such changes are implemented.

5.1.5.7.2 U S WEST shall communicate the projected changes to the appropriate groups in Pac-West so that potential impacts on Pac-West processing can be determined.

5.1.5.7.3 Pac-West personnel shall review the impact of the change on the entire control structure and the post conversion test plan, herein. Pac-West shall negotiate any perceived problems with U S WEST and shall arrange to have the data tested utilizing the modified software.

5.1.5.7.4 If it is necessary for U S WEST to request changes in the schedule, content or format of usage data transmitted to Pac-West, U S WEST shall notify Pac-West.

5.1.5.8 Pac-West Requested Changes

5.1.5.8.1 Pac-West may request changes in the schedule, content, format of the usage data transmitted from U S WEST, as deemed necessary by Pac-West.

5.1.5.8.2 When the negotiated changes are to be implemented, Pac-West and/or U S WEST shall arrange for testing of the modified data in a Post Conversion Test Plan designed to encompass all types of changes to the usage data transferred by U S WEST to Pac-West and the methods of transmission for that data.

5.1.5.9 U S WEST System Change Description

5.1.5.9.1 For a U S WEST system change, U S WEST shall provide Pac-West with an overall description of the change, stating the objective and a brief explanation of the reasons for the change.

5.1.5.9.2 During the initial negotiations regarding the change, U S WEST shall provide a list of the specific records and/or systems impacted by the change to designated Pac-West personnel.

5.1.5.9.3 U S WEST shall also provide Pac-West a detailed description of the changes to be implemented. It shall include sufficient detail for designated Pac-West personnel to analyze and estimate the effects of the changes and to design tests to verify the accuracy of the implementation.

5.1.5.10 Change Negotiations

5.1.5.10.1 Pac-West shall be notified in writing of all proposed change negotiations initiated by U S WEST in writing. In turn, Pac-West shall notify U S WEST in writing of proposed change negotiations initiated by Pac-West.

5.1.5.10.2 After formal notification of planned changes, whether originated by U S WEST or Pac-West, designated Pac-West personnel shall schedule negotiation meetings as required with designated U S WEST personnel. The first meeting should produce the overall change description (if not previously furnished) and the list of records and/or systems affected.

5.1.5.10.3 In subsequent meetings, U S WEST shall provide the detailed description of changes to be implemented. After reviewing the described changes, designated Pac-West personnel shall negotiate a detailed test procedure with U S WEST.

5.1.5.11 Changes to controls: Pac-West may request changes to the control structure. The Parties shall mutually agree on the requested changes.

5.1.5.12 Verification Of Changes

5.1.5.12.1 Based on the detailed description of changes furnished by U S WEST, Pac-West and U S WEST personnel shall:

Determine the type of change(s) to be implemented;
Develop a comprehensive test plan;
Negotiate scheduling and transfer of modified data with U S WEST;
Negotiate testing of modified data with the appropriate Pac-West RPC;
Negotiate processing of verified data through the Pac-West billing system with the RPC;
Arrange for review and verification of testing with appropriate Pac-West groups; and
Arrange for review of modified controls, if applicable.

5.1.5.13 Introduction of Changes:

5.1.5.13.1 When all the testing requirements have been met and the results reviewed and accepted, designated Pac-West and U S WEST personnel shall:

Negotiate an implementation schedule;
Verify the existence of a contingency plan with the appropriate Pac-West personnel;
Arrange for the follow-up review of changes with appropriate Pac-West personnel;
Arrange for appropriate changes in control program, if applicable; and
Arrange for long-term functional review of impact of changes on the Pac-West billing system, i.e., accuracy, timeliness, and completeness.

5.2 Information Exchange and Interfaces

5.2.1 Core Billing Information

- 5.2.1.1 Recorded Usage Data includes all intraLATA toll and local usage. U S WEST shall provide Pac-West with unrated EMR records associated with all intraLATA toll and local usage which it records on Pac-West behalf. Any category, group and/or record types approved in the future for U S WEST shall be included if they fall within the definition of Local Resale. Pac-West shall be given notification thirty (30) days prior to implementation of a new type, category and/or record.
- 5.2.1.2 U S WEST shall provide rated EMR records only when explicit consent for sending such records has been obtained from Pac-West.
- 5.2.1.3 All messages recorded by a Party and billed to the other Party are to be transmitted to the billed Party. Recorded usage includes all usage billable to the other Party.
- 5.2.1.4 Data Delivery Schedules: Data shall be delivered to Pac-West by U S WEST daily (Monday through Friday, except holidays) unless

otherwise negotiated. Pac-West and/or U S WEST Data Center holidays are excluded. U S WEST and Pac-West shall exchange schedules of designated Data Center holidays.

5.2.2 Local Account Maintenance

- 5.2.2.1 When Pac-West purchases local service from U S WEST, and, as appropriate, when Pac-West purchases certain unbundled Network Elements, U S WEST shall provide Pac-West with local account maintenance as described herein.
- 5.2.2.2 When notified by a CLEC that an Pac-West customer has switched to CLEC's service, U S WEST shall provision the change and notify Pac-West via Connect:Direct within twenty-four (24) hours of the provisioning that the customer has changed to another service provider ("OutPLOC").
- 5.2.2.3 When notified by Pac-West that a customer has changed its PIC only from one interexchange carrier to another, U S WEST shall provision the PIC only change.
- 5.2.2.4 If notified by an IXC using a '01' PIC order record that a Pac-West Customer has changed its PIC only, U S WEST shall reject the order and notify that IXC using an industry standard '3148' record with the operating company number of Pac-West indicated, that a '01' care PIC record should be sent to Pac-West for processing.

5.2.3 Product/Service Specific

- 5.2.3.1 Subject to conditions specified in Section 5.1.1(c) of this Attachment 5, U S WEST shall provide a Specialized Service/Service Provider Charge record to support the Special Features Star Services if these features are part of U S WEST's offering. Such record shall be an EMR 10-01-18 record or industry standard record as may subsequently be mutually agreed to by the Parties. Such record shall be a 10-01-18 record or Bellcore assigned record as may be subsequently agreed to by the Parties.

5.2.4 Emergency Information

- 5.2.4.1 U S WEST shall provide the transport facility for transmitting usage and billing data between the U S WEST location and the Pac-West location. U S WEST shall transmit via CONNECT DIRECT whenever possible. In the event usage transfer cannot be accommodated by CONNECT DIRECT because of extended (one (1) Business Day or longer) facility outages, U S WEST shall contract for a courier service to transport the data via tape.

5.2.4.2 The Parties shall mutually agree to the following standards when emergency data is transported to Pac-West on tape or cartridge via a courier. The data shall be in fixed or variable block format as mutually agreed to by the Parties:

Tape: 9-track, 6250 (or 1600) BPI (Bytes per inch)
Cartridge: 38,000 BPI (Bytes per inch)
LRECL: 2,472 Bytes
Parity: Odd
Character Set: Extended Binary Coded Decimal Interchange Code (EBCDIC)
External labels: Exchange Carrier Name, Dataset Name (DSN) and volume serial number
Internal labels: IBM Industry OS labels shall be used. They consist of a single volume label and two (2) sets of header and trailer labels.

5.2.4.1 To the extent the above standards are changed or revised, the Parties may agree to negotiate the incorporation of such new standards.

5.2.5 Rejected Recorded Usage Data

5.2.5.1 At the discretion of Pac-West, any messages that cannot be rated and/or billed by Pac-West may be returned to U S WEST via CONNECT DIRECT. Returned messages shall be sent directly to U S WEST in EMR format. Standard EMR return codes shall be utilized.

5.2.6 Interfaces

5.2.6.1 The Parties shall transmit formatted Recorded Usage Data via Connect Direct.

5.2.6.2 Pac-West shall notify U S WEST of resend requirements if a pack or entire dataset must be replaced due to pack rejection, damage in transit, dataset name failure, etc.

5.2.6.3 Critical edit failure on the pack header or pack trailer records shall result in pack rejection (e.g., detail record count not equal to grand total included in the pack trailer). Notification of pack rejection shall be made by Pac-West within one (1) Business Day of processing. Rejected packs shall be corrected by U S WEST and retransmitted to Pac-West within twenty-four (24) hours or within an alternate time frame negotiated on a case by case basis.

5.2.6.4 A pack shall contain a minimum of one (1) message record or a maximum of 9,999 message records plus a pack header record and a pack trailer record. A file transmission contains a maximum of ninety-nine (99) packs. A dataset shall contain a minimum of one (1) pack. U S WEST shall provide Pac-West one (1) dataset per sending location, with the agreed upon RAO/OCN populated in the header and trailer records.

5.2.7 Formats & Characteristics

5.2.7.1 Rated in collect messages should be transmitted via the CONNECT DIRECT and can be intermingled with the unrated messages. No special packing is needed.

5.2.7.2 EMR: U S WEST shall provide Recorded Usage Data in the EMR format and by category, group and record type, and shall be transmitted, via a direct feed, to Pac-West. The types of EMR records that Pac-West can expect to receive from U S WEST, includes, but is not limited to, the following:

Header Record	20-21-01, 20-20-01 or 20-24-01
Trailer Record	20-21-02, 20-20-02 or 20-24-02
Detail Records *	01-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82, 10-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37
Credit Records	03-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,
Rated Credits	41-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,
Cancel Records	51-01-01, 06, 08, 09, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,
Correction Records	71-01-01, 06, 08, 14, 17, 18, 31, 32, 35, 37, 80, 81, 82,

* Category 01 is utilized for rated messages; Category 10 is utilized for unrated messages. Category 10 records are to have indicator 13 populated with a value of 5

5.2.7.2.1 To the extent the above standards are changed or revised, the Parties may agree to incorporate such new standards.

5.2.7.3 U S WEST shall comply with the most current version of Bellcore standard practice guidelines for formatting EMR records.

5.2.7.4 The Interfacing Bell RAO, OCN, and remote identifiers shall be used by Pac-West to control invoice sequencing and each shall have its own invoice controls. The OCN shall also be used to determine where the message returns file, containing any misdirected and unguidable usage, shall be sent.

5.2.7.5 The file's Record Format (RECFM) shall be Variable Block or fixed as negotiated, Size and the Logical Record Length (LRECL) shall be as mutually agreed to by the Parties.

5.2.7.6 Intentionally left blank for numbering consistency..

5.2.7.7 U S WEST shall transmit the usage to Pac-West using dataset naming conventions mutually agreed upon by the Parties.

5.2.8 Controls

5.2.8.1 Pac-West shall test and certify the CONNECT DIRECT interface to ensure the accurate receipt of Recorded Usage Data.

- 5.2.8.2 Header and trailer records shall be populated in positions 13-27 with the following information:

Position	
13-14	Invoice numbers (1-99)
15-16	Bell Co. ID number
17-19	Interfacing Bell RAO Code
20-23	Pac-West OCN - value 7229
24-27	Reseller OCN

The trailer grand total record count shall be populated with total records in pack (excluding header & trailer)

- 5.2.8.3 Control Reports: Pac-West accepts input data provided by U S WEST in EMR format in accordance with the requirements and specifications detailed in this Attachment 5. In order to ensure the overall integrity of the usage being transmitted from U S WEST to Pac-West, data transfer control reports shall be required. These reports shall be provided by Pac-West to U S WEST on a daily or otherwise negotiated basis and shall reflect the results of the processing for each pack transmitted by U S WEST.
- 5.2.8.4 Control Reports - Distribution: Since U S WEST is not receiving control reports, dataset names shall be established during detailed negotiations.
- 5.2.8.5 Message Validation Reports: Pac-West shall provide Message Validation reports to the designated U S WEST System Control Coordinator once a day (or as otherwise agreed to by the Parties). These reports shall be provided for all data received within U S WEST Local Resale feed and shall be transmitted Monday through Friday.
- 5.2.8.6 Incollect Pack Processing: This report provides vital statistics and control totals for packs rejected and accepted and dropped messages. The information is provided in the following report formats and control levels:
- U S WEST name; and
 - Reseller total messages processed in a pack;
 - Packs processed shall reflect the number of messages initially erred and accepted within a pack; and
 - Reseller total packs processed.

5.3 Standards

- 5.3.1 When requested for security purposes and on an exception basis when a reasonable need is demonstrated, a Party shall provide the other Party with Recorded Usage Data within two (2) hours of the call completion or within the same period that the recording Party would have that data for itself under similar circumstances. If not available in EMR format, the Recorded Usage Data may be provided in AMA format.
- 5.3.2 U S WEST shall include the Working Telephone Number (WTN) of the call originator on each EMR call record.

- 5.3.3 End user Customer usage records and station level detail records shall be in packs in accordance with EMR standards or applicable industry standards as defined in Section 5.3.1 of this Attachment.
- 5.3.4 U S WEST shall provide Recorded Usage Data once a day to Pac-West on a schedule to be determined by the Parties, Monday through Friday, excluding holidays. The Parties shall work together to reach agreement on an acceptable holiday schedule. U S WEST shall provide to Pac-West the Recorded Usage Data not more than one (1) Business Day after termination of the call for which usage data is to be provided.
- 5.3.5 U S WEST shall segregate and organize the Recorded Usage Data in accordance with Section 5.2.7 of this Attachment.

5.4 Standards for Transmitting and Recording Usage Data

- 5.4.1 Within thirty (30) days of the Effective Date of this Agreement, the Parties shall jointly develop standards for transmitting and recording usage data.
- 5.4.2 Timeliness:
- 5.4.3 Completeness
- 5.4.4 Accuracy:
- 5.4.5 [Intentionally left blank for numbering consistency]
- 5.4.6 Recorded Usage Data Accuracy
- 5.4.7 Usage Inquiry Responsiveness

5.5 Reporting

- 5.5.1 Within thirty (30) days of the Effective Date of this Agreement, the Parties shall jointly develop reporting procedures for the standards for transmitting and recording usage data described in Section 5.4 above.

6. Maintenance

6.1⁸ Interim Maintenance and Repair Processes

Repair capabilities allow Pac-West to report trouble with communications circuits and services provided by U S WEST. The functions, processes, and systems used in repair are based on a Trouble Report (TR), which is an electronic document maintained in one or more Operations Systems. A TR contains information about the customer, the trouble, the status of the work on the trouble and the results of the investigation and resolution efforts. These business capabilities will be made

⁸ Per MCI Order, pp. 15-16 at Issue 26 and MCI/AT&T Order at Issue 41.

available to Pac-West in the following functional set: open a trouble report, cancel a trouble report, send notification of status change, and close a trouble report.

6.1.1 Open Trouble Report

Gives Pac-West the capability to enter a trouble report ("TR") which initiates U S WEST repair activities.

6.1.2 Cancel Trouble Report

Gives Pac-West the capability to cancel a TR that it had previously opened.

6.1.3 Trouble Report Closure

Informs Pac-West as soon as a TR it opened) has been closed, indicating U S WEST has completed repair activities and considers the trouble resolved.

6.1.4 Get Current Trouble Report Status

Allows Pac-West to request the current status of a TR that the customer previously opened with U S WEST. It is only allowed on trouble reports which were entered by the customer requesting the status.

6.1.5 Modify Trouble Report

Allows Pac-West to change certain data in a TR that the customer previously opened with U S WEST, possibly affecting U S WEST repair activities (with some negotiable exceptions). It is only allowed on TRs which were entered by the customer making the modification, and does not necessarily protect the customer from charges associated with previous information in the TR.

6.1.6 Escalate Trouble Report

Allows Pac-West to bring a TR that the customer previously opened with U S WEST to the attention of a higher level of supervision within U S WEST, with the expectation that the TR will get more attention. It is only allowed on TRs which were entered by the customer requesting the escalation, and typically needs to be responded to by the person at the level escalated to within a negotiated time frame.

6.1.7 Verify Features

Allows Pac-West to verify line features on an existing line.

6.1.8 Text Messaging

Allows textual communication between U S WEST and Pac-West personnel for the purpose of resolving the trouble. The messages are logged in the TR, thus the function can only be performed for TRs which were entered by the customer involved in the messaging. Specific uses of this messaging include

allowing the customer to add descriptive information about the trouble, allowing U S WEST to request additional trouble information, and allowing U S WEST to implement the status window functionality through manual procedures.

6.1.9 Trouble History

Provides Pac-West with trouble history information currently retained on the circuit.

6.1.10 Testing

Notifies Pac-West of the results of initial or subsequent circuit tests for a TR previously opened by that customer.

6.2 General Requirements

- 6.2.1 U S WEST shall provide repair, maintenance, testing, and surveillance for all Telecommunications Services and unbundled Network Elements and Combinations in accordance with the terms and conditions of this Agreement.
 - 6.2.1.1 U S WEST shall provide Pac-West with the same level of maintenance support as U S WEST provides itself in accordance with standards and performance measurements that U S WEST uses and/or which are required by law, regulatory agency, or by U S WEST's own internal procedures, whichever are the most rigorous. These standards shall apply to the quality of the technology, equipment, facilities, processes, and techniques (including, but not limited to, such new architecture, equipment, facilities, and interfaces as U S WEST may deploy) that U S WEST provides to Pac-West under this Agreement.
 - 6.2.1.2 U S WEST shall provide a SPOC (Single Point of Contact) for Residence, and a SPOC for Business for Pac-West to report via a toll free telephone number maintenance issues and trouble reports twenty four (24) hours a day and seven (7) days a week. The SPOC Residence toll free number, and SPOC Business toll free number, will be the numbers for all of U S WEST's fourteen (14) states.
 - 6.2.1.3 U S WEST shall provide Pac-West maintenance dispatch personnel on the same schedule that it provides its own Customers.
- 6.2.2 Pac-West shall handle all interaction with Pac-West Customers including all calls regarding service problems, scheduling of technician visits, and notifying the Customer of trouble status and resolution. When a U S WEST technician is on site, the customer will be statused in accordance with standard U S WEST procedures.
- 6.2.3 Pac-West and U S WEST will provide their respective customers with the correct telephone numbers to call for access to their respective repair bureaus.
- 6.2.4 Customers of Pac-West shall be instructed to report all cases of trouble to Pac-West. Customers of U S WEST shall be instructed to report all cases of trouble to

U S WEST. Pac-West and U S WEST will provide their respective repair contact numbers to one another on a reciprocal basis.

- 6.2.5 U S WEST shall cooperate with Pac-West to meet maintenance standards for all Telecommunications Services, unbundled Network Elements and Combinations ordered under this Agreement. Such maintenance standards shall include, without limitation, standards for testing, network management, call gapping, and notification of upgrades as they become available.
- 6.2.6 All U S WEST employees or contractors who perform repair service for Pac-West Customers shall follow mutually agreed to procedures in all their communications with Pac-West Customers. At a minimum, these procedures, and protocols shall ensure that: (a) U S WEST employees or contractors shall perform repair service that is at least equal in quality to that provided to U S WEST Customers; and (b) trouble calls from Pac-West Customers shall receive response time priority that is at least equal to that of U S WEST Customers, regardless of whether the Customer is an Pac-West Customer or a U S WEST Customer.
- 6.2.7 In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use repair calls as the basis for internal referrals or to solicit customers to market services. Either Party may respond with accurate information in answering customer questions.
- 6.2.8 U S WEST shall perform scheduled maintenance, including, without limitation, required and recommended maintenance intervals and procedures, for all Telecommunications Services, Network Elements and Combinations provided to Pac-West under this Agreement equal in quality to that currently provided by U S WEST in the maintenance of its own network.
 - 6.2.8.1 U S WEST shall exercise its best efforts to provide the designated Pac-West SPOC at least sixty (60) days' advance notice of any scheduled activity which will likely impact Pac-West customers.
 - 6.2.8.2 Plans for significant service affecting activities shall include, at a minimum, the following information: location and type of facilities, specific work to be performed, date and time work is scheduled to commence, work schedule to be followed, date and time work is scheduled to be completed, and estimated number of work hours for completion. Examples of such activities include, but are not limited to, office conversions, cable facility rolls, and tandem re-homes.
- 6.2.9 U S WEST shall exercise its best efforts to notify Pac-West of all non-scheduled activities to be performed by U S WEST on any Network Element, including, without limitation, any hardware, equipment, software, or system, providing service functionality which will likely impact Pac-West Customers.
 - 6.2.9.1 U S WEST shall provide to the designated SPOC maximum advance notice of such non-scheduled activities in the same time and manner that it provides to its operation service centers.

- 6.2.9.2 U S WEST shall perform emergency maintenance as promptly as possible to maintain or restore service and shall promptly advise the Pac-West designated SPOC of any such actions it takes.
- 6.2.10 U S WEST shall provide Pac-West a detailed description of any and all emergency restoration plans and disaster recovery plans which are in place during the term of this Agreement. Such plans shall include, at a minimum, the following: (a) provisions for immediate notification to Pac-West of the existence, location, and source of any emergency network outage potentially affecting an Pac-West Customer; (b) establishment of a SPOC responsible for initiating and coordinating the restoration of all local services and Network Elements or Combinations; (c) methods and procedures to provide Pac-West with real-time access to information relating to the status of restoration efforts and problem resolution during the restoration process; (d) an inventory and description of mobile restoration equipment, by location; (e) methods and procedures for reprovisioning of all Telecommunications Services and Network Elements or Combinations after initial restoration, (f) equal priority, as between Pac-West Customers and U S WEST Customers, for restoration efforts, consistent with FCC Service Restoration guidelines, including, without limitation, deployment of repair personnel, and access to spare parts and components, and (g) a mutually agreeable process for escalation of maintenance problems, including a complete, up-to-date list of responsible contacts, each available twenty-four (24) hours per day, seven (7) days per week.
- 6.2.10.1 For purposes of this Section 6, an emergency network outage is defined as 5,000 or more blocked call attempts in a ten (10) minute period for all Customers in a single exchange.
- 6.2.10.2 Pac-West and U S WEST will work cooperatively to assess up chain (end office to tandem calls), down chain (tandem to end office calls), and overall customer impact. U S WEST categorizes, reports and reacts to network outages using FCC reporting criteria and U S WEST Abnormal Condition Report Criteria.
- 6.2.11 U S WEST and Pac-West shall establish mutually acceptable methods and procedures for the immediate handling of misdirected calls from Pac-West customers to U S WEST requesting repair. The Customer shall be informed that Pac-West is its local service provider (LSP), and the U S WEST representative will provide the Pac-West customer with the appropriate telephone number of the Pac-West repair center. If the LSP screen indicator is not available, the U S WEST representative will ask the Pac-West Customer if it knows the name of its LSP. The U S WEST representative will provide the Pac-West Customer with the appropriate number of the Pac-West repair center. These calls are limited to repair information only, and are not to be used for marketing purposes.
- 6.2.12 When electronic interface is available, U S WEST shall inform Pac-West of repair completion and trouble reason within ten (10) minutes upon completion. If no electronic interface is available, Pac-West will provide a SPOC for U S WEST to call as soon as possible after repair completion. U S WEST shall notify Pac-West that the trouble has been cleared. This is done on a real-time basis. Therefore the technician will notify Pac-West in a similar manner, for both dispatched-in and dispatched-out troubles. The report shall not be considered closed until such

notification is made. Pac-West will contact its Customer to determine if repairs were completed and confirm the trouble no longer exists.

- 6.2.13 U S WEST and Pac-West shall mutually develop escalation procedures to be followed if, in Pac-West judgment, any performance standard defined in this Agreement is not met for any individual trouble report. The escalation procedures to be provided shall include names and telephone numbers of U S WEST management personnel who are responsible for maintenance issues and who will be contacted when a trouble condition is escalated.
- 6.2.14 In the event U S WEST shall fail to conform to any specified performance and service quality standards, identified elsewhere in this Agreement, U S WEST shall perform and deliver to Pac-West, a standard root cause analysis of the reasons for U S WEST's failure to conform, and U S WEST shall correct said cause as soon as possible, at its own expense.
- 6.2.15 Dispatching of U S WEST technicians to Pac-West Customer premises shall be accomplished by U S WEST pursuant to a request received from Pac-West. Pac-West shall be able to schedule maintenance appointments in intervals at parity with U S WEST upon opening of trouble report.
- 6.2.16 [Intentionally left blank for numbering consistency]
- 6.2.17 U S WEST shall supply Pac-West with a unique number to identify each Pac-West initial trouble report opened.
 - 6.2.17.1 U S WEST and Pac-West agree to a trouble priority and severity coding format for all trouble reports handled between the two companies. Troubles are prioritized according to appointment schedules:
 - 6.2.17.1.1 Priority 1 = Out of Service
 - 6.2.17.1.2 Priority 2 = Affecting Service
 - 6.2.17.1.3 Priority 3 = Feature Trouble
 - 6.2.17.2 Customer has the ability to escalate.
- 6.2.18 U S WEST shall provide for resale any maintenance/protection plans for services offered under this Agreement to Pac-West that it offers U S WEST's own Customers.
- 6.2.19 U S WEST's current trouble reporting system does not provide the capability to reopen a closed trouble report. Therefore, U S WEST shall allow Pac-West to designate that a trouble report is associated with the initial trouble report which was closed in the past twenty-four (24) hours without repairs being performed to the Customer's satisfaction. U S WEST shall measure the frequency of these types of repeated reports and will demonstrate non-discriminatory treatment to Pac-West.

6.2.20 Additional Unbundling Requirements

- 6.2.20.1 When trouble is reported by a Customer served through unbundled Network Elements, Pac-West will test its network to identify any

problems. If no problems are identified with the Pac-West network, Pac-West will open a trouble report with U S WEST and provide switch-based test results to the U S WEST technician. U S WEST shall then test its portion of the network and perform repairs as required in the time frames set forth below in this Attachment.

6.2.20.1.1 If U S WEST tests the unbundled loop and there is no trouble found ("NTF"), the same shall be reported back to Pac-West. If, upon testing the unbundled loop, the trouble is isolated to the Customer side of the NID (inside wire, CPE, etc.), Pac-West shall be billed a trouble isolation charge ("TIC"). If, after Pac-West has opened a trouble ticket, it cancels the trouble ticket before a U S WEST technician has been dispatched on the trouble, no charges will apply. If the U S WEST technician has been dispatched on the reported trouble before the trouble ticket is canceled by Pac-West, a TIC will be applied.

6.2.20.1.2 Pac-West will coordinate combined testing or repair activities until trouble is resolved. U S WEST shall provide repair updates to Pac-West. For trouble isolation both Parties will cooperatively test to isolate the trouble as required.

6.3 Systems Interfaces and Information Exchanges

- 6.3.1 U S WEST shall cooperate with Pac-West to establish a real-time, electronic interface to U S WEST's maintenance systems and databases. This system shall be based on existing and future uniform industry standards being worked in T1M1 standards committee and Electronics Communications Implementation Committee ("ECIC") industry forum.
- 6.3.1.1 An electronic bond will be a system to system connection with immediate update capability. In no way shall this interface cause Pac-West personnel to use U S WEST systems via remote hook up or any other means of access.
- 6.3.1.2 This interface shall allow Pac-West personnel to perform the following functions for Pac-West Customers: (a) enter trouble reports in the U S WEST maintenance systems for an Pac-West Customer; (b) retrieve and track current status on all Pac-West Customer trouble report; (c) receive "estimated time to repair" (ETTR) on a real-time basis; (d) receive immediate notification in the event a repair person is unable to be present for, or anticipates missing, a scheduled repair appointment; (e) retrieve all time and material charges that apply to Pac-West at the time of ticket closure (itemized by time spent, price of materials used, procedures employed, amounts incurred in each such category, and total by Customer, per event; and (f) receive automated notification of case closure.
- 6.3.1.3 Automated interfaces must be provided into a centralized operations support systems database for real time network monitoring to proactively identify potential service degradation. Such systems must monitor and report on the integrity of the U S WEST network, isolate trouble and, where applicable (e.g., when an unbundled loop is connected to an unbundled

port or when an unbundled loop includes such equipment as DCS, D4, etc.) initiate repair operations, test individual unbundled loops and generate maintenance and repair notices that impact any end user's ability to complete calls. Ongoing maintenance practices on such unbundled loops must be equal to or exceed the practices employed by U S WEST for facilities used to provide Services for Resale.

- 6.3.1.4 U S WEST agrees to develop and implement, as soon as possible, with a target date to be mutually agreed upon by Pac-West and U S WEST, the electronic interfaces described above.
- 6.3.2 U S WEST agrees that Pac-West may report troubles directly to a single U S WEST Repair/Maintenance Center for both residential and business Customers. The Repair Center will have two separate numbers, one for residence and one for business. Pac-West's Customers will be treated in the same manner as U S WEST Customers.
- 6.3.3 U S WEST shall perform all testing for Resale Services. U S WEST shall provide the capability for Pac-West to receive MLT test results while Pac-West customer is on line during the initial trouble report, when technically feasible in the U S WEST network.
 - 6.3.3.1 U S WEST shall provide test results to Pac-West, if appropriate, for trouble clearance. In all instances, U S WEST will provide Pac-West with the disposition of the trouble.
- 6.3.4 U S WEST shall provide to Pac-West the ability to obtain the status on open maintenance trouble reports via telephone or by another interface as agreed to by the Parties. U S WEST agrees to provide the status of residence and small business trouble reports upon Pac-West request.
- 6.3.5 U S WEST agrees to provide to Pac-West the status for open maintenance trouble reports for large business Customers anytime the status of the trouble report changes or upon Pac-West request.
- 6.3.6 U S WEST agrees that Pac-West may call U S WEST to verify central office features and functions as they relate to an open trouble report. U S WEST agrees to work with Pac-West on the initial trouble report to isolate the cause of the trouble and, where possible, resolve the feature/function related trouble at that time.
- 6.3.7 U S WEST agrees to proactively advise Pac-West of any central office failure that is known at the time of any inquiry or trouble report. U S WEST agrees to continue to work with Pac-West toward implementing a process to meet Pac-West requirements for notification of switch failures as soon as possible.
- 6.3.8 U S WEST agrees to provide an Estimated Time To Repair (ETTR) on all residence and small business trouble reports.
- 6.3.9 U S WEST agrees to develop, with Pac-West's cooperation, mutually acceptable workcenter interface agreements to document methods and procedures for interim and final interfaces for each service within (30) thirty days after Pac-West notice to U S WEST of its initiation of that service.

6.3.9.1 After the initial deployment of the workcenter processes, U S WEST agrees to continue working with Pac-West to further develop, improve and refine the operational process described in this Agreement.

6.3.10 U S WEST agrees to provide Pac-West with repair history of previous trouble reports on customer service of open trouble report.

6.3.11 U S WEST shall provide Pac-West with the capability to cancel a trouble report.

6.3.12 U S WEST shall provide Pac-West with the capability to modify a trouble report.

6.4 Standards

6.4.1 Maintenance charges for premises visits by U S WEST employees or contractors shall be billed by Pac-West to its Customer.

6.4.1.1 U S WEST employees or contractors shall present the Customer with an Pac-West provided, Pac-West-branded form detailing the time spent, the materials used and an indication that the trouble has either been resolved, or that additional work will be necessary in accordance with the provisions of this Agreement.

6.4.1.2 If additional work is required, U S WEST employees or contractors shall call Pac-West from the Customer premises so that Pac-West can schedule a new appointment with U S WEST and Customer at the same time.

6.4.2 U S WEST agrees to work with Pac-West to support expeditious development of an industry standard trouble report entry format and agrees to implement such standard within sixty (60) days after final resolution by the Network Operation Forum (NOF).

6.5 Performance Measurements and Reporting

6.5.1 Cycle Time Measurements

[Intentionally left blank for numbering consistency]

7. Miscellaneous Services and Functions

7.1 [Intentionally left blank for numbering consistency]

7.2 [Intentionally left blank for numbering consistency]

7.3 Performance Measurements and Reporting

7.3.1 [Intentionally blank for numbering consistency]⁹

⁹ Procedural Order, July 14, 1997, pages 19-20.

7.3.2 **[Intentionally blank for numbering consistency]**¹⁰

7.3.3 Pac-West may, at its discretion, further request additional and/or modified reporting as business needs demand.

¹⁰ Procedural Order, July 14, 1997, pages 19-20.

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INTERCONNECTION

1. Definitions

- 1.1 For purposes of this Attachment 4, "Interconnection" is the linking of the U S WEST and Pac-West networks for the mutual exchange of traffic. Interconnection does not include the transport and termination of traffic. Interconnection is provided by virtual or physical collocation, entrance facilities or meet point arrangements.

2. General Description

- 2.1 **U S WEST will provide Interconnection at any technically feasible point, subject to negotiations between the Parties; such points may include, but not be limited to, a Meet Point, the line side distribution frame of the local switch, the trunk side distribution frame of the local switch, trunk interconnection points of the tandem switch, central office cross-connect points, and Signaling Transfer Points necessary to exchange traffic and access call related databases.**¹
- 2.2 **Pac-West shall designate at least one POI in the LATA in which Pac-West originates local traffic and interconnects with U S WEST.**² Pac-West will be responsible for engineering and maintaining its network on its side of the POI. If and when the Parties choose to interconnect at a mid-span meet, Pac-West and U S WEST will jointly provision the fiber optic facilities that connect the two (2) networks and shall share the financial and other responsibilities for that facility.
- 2.3 Within ten (10) Business Days of Pac-West's request for any POI, U S WEST shall provide any information in its possession or available to it regarding the environmental conditions of the interconnection route or location including, but not limited to, the existence and condition of asbestos, lead paint, hazardous substance contamination, or radon. Information is considered "available" under this Agreement if it is in U S WEST's possession, or in the possession of a current or former agent, contractor, employee, lessor, or tenant of U S WEST's.
- 2.4 U S WEST shall allow Pac-West to perform any environmental site investigations, including, but not limited to, asbestos surveys, Pac-West deems to be necessary in support of its collocation needs. Pac-West shall advise U S WEST in writing of its intent to conduct any such investigations, and shall receive written approval from U S WEST to proceed with the investigation, which approval shall not be unreasonably withheld. Pac-West shall indemnify U S WEST in accordance with the provisions of Section 18 of Part A of this Agreement for any loss or claim for damage suffered by U S WEST as a result of Pac-West's actions during any site inspection.

3. Location of Interconnection

- 3.1 Pac-West will be responsible for implementing and maintaining its network on its side of the POI. U S WEST will be responsible for implementing and maintaining its network on its side

¹ MCIm Order, p. 6 at Issue 2 and AT&T Order at Issue 3(a).

² MCIm Order, p. 6 at Issue 2 and AT&T Order at Issue 3(a).

of the POI. If and when the Parties choose to interconnect at a Meet Point, Pac-West and U S WEST will jointly provision the fiber optic facilities that connect the two networks and shall proportionately share the financial and other responsibilities for that facility based on the reasonably negotiated Meet Point percentage.

- 3.2 If Interconnection is complicated by the presence of environmental contamination or hazardous materials, and an alternative route is available, U S WEST shall make such alternative route available for Pac-West's consideration.

4. Collocation

- 4.1 Interconnection may be accomplished through either virtual or physical Collocation. The terms and conditions under which Collocation will be available are described in Part A of this Agreement.

5. Entrance Facility

- 5.1 Interconnection may be accomplished using an entrance facility without the need for collocation. An entrance facility extends from the Point of Interface to a point within a U S WEST central office.

6. Quality of Interconnection

- 6.1 U S WEST will not, for the purpose of Interconnection, provide to Pac-West less favorable terms and conditions than it provides itself or any other Person or in a manner less efficient than it would impose on itself or any other Person. The quality of Interconnection will be at least equal to that U S WEST provides to itself or any other Person. To the extent that Pac-West requests higher or lower quality Interconnection, Pac-West agrees to use the Bona Fide Request process described in Part A of this Agreement.

7. Points of Interconnection

- 7.1 Upon a request for specific point to point routing, U S WEST will make available to Pac-West information indicating the location and technical characteristics of U S WEST's network facilities. The following alternatives are negotiable and include, but are not limited to: (a) a DS-1 or DS-3 entrance facility, where facilities are available (where facilities are not available and U S WEST is required to build special or additional facilities, special construction charges may apply); (b) virtual collocation; (c) physical collocation; and (d) negotiated Meet Point facilities. Each Party is responsible for providing its own facilities up to the Meet Point. The Parties will negotiate the facilities arrangement between their networks.

8. Trunking Requirements

- 8.1 U S WEST agrees to provide designed interconnection facilities that meet the same industry standards for technical criteria and service standards, such as the probability of blocking in peak hours and transmission standards.
- 8.2 The Parties shall initially reciprocally terminate local exchange traffic and intraLATA/interLATA toll calls originating on each other's networks as follows:

8.2.1 There shall be no restrictions on traffic types carried. Until the access structure is revised, to accommodate non-segregated traffic, pursuant to rules promulgated by the FCC or the Commission, two-way trunk groups will be established wherever practical, based upon Pac-West's request. **If Local Traffic and Toll Traffic are combined in one (1) trunk group, Pac-West shall provide a measure of the amount of local and toll traffic relevant for billing purposes to U S WEST. U S WEST may audit the traffic reported to it by Pac-West if it has reason to believe the reported measurement is not accurate. Such audit shall be conducted in accordance with the Audit Section set forth in this Agreement.**³ Exceptions to this provision will not be based on technical infeasibility, but will be based on billing, signaling, and network requirements. For example, exceptions include: (a) billing requirements - switched access vs. local traffic, (b) signaling requirements - MF vs. SS7, (c) network requirements - Directory Assistance traffic to TOPS tandems, and (d) one-way trunks for 911/E911. The following is the current list of traffic types that require separate trunk groups, unless otherwise specifically stated in this Agreement:

- (a) intraLATA toll and interLATA switched access trunks
- (b) EAS/local trunks
- (c) Directory Assistance trunks
- (d) 911/E911 trunks
- (e) Operator Services trunks
- (f) Non-U S WEST toll (transit toll to other providers)
- (g) Non-U S WEST local (transit local to other providers)
- (h) Commercial Mobile Radio Service/Wireless traffic

8.3 Separate trunk groups will be established connecting Pac-West's switch or Pac-West's Operator Service center to U S WEST's Operator Service center for operator-assisted busy line interrupt/verify. For traffic from the U S WEST network to Pac-West for Operator Services, U S WEST will provide one (1) trunk group per LATA served by the local U S WEST switch.

8.4 Trunk Servicing

8.4.1 Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an Access Service Request ("ASR") or another industry standard for local service ordering.

8.4.2 As further described in this Agreement, both Parties will jointly manage the capacity of Local Interconnection trunk groups. U S WEST's trunk servicing group will send a Trunk Group Service Request ("TGSR"), or another industry standard eventually adopted to replace the TGSR, to Pac-West to trigger changes U S WEST desires to the Local Interconnection trunk groups based on U S WEST's capacity assessment. Pac-West will issue an ASR or other industry ordering standard to U S WEST:

- (a) within ten (10) Business Days after receipt of the TGSR, upon review of and in response to U S WEST's TGSR, or

³ AT&T Order, p. 37.

(b) at any time, as a result of Pac-West's own capacity management assessment, to begin the provisioning process. The interval used for the provisioning of Local Interconnection trunk groups shall be no longer than the standard interval for the provisioning of U S WEST's Switched Access service and shall be consistent with U S WEST's actual provisioning intervals for its own Switched Access customers.

8.4.3 U S WEST will attempt to meet Pac-West's requested due date for the provision of Local Interconnection trunk groups. Where the installation of Local Interconnection trunk groups is required within a time that is shorter than the standard interval, the Parties will make all reasonable efforts and cooperate in good faith to ensure that the mutually agreed upon due date is met.

8.4.4 Orders that comprise a major project may be submitted at the same time, in which case their implementation shall be jointly planned and coordinated. Major projects are those that require the coordination and execution of multiple orders or related activities between and among U S WEST and Pac-West work groups, including, but not limited to, the initial establishment of Local Interconnection or Meet Point trunk groups and service in an area, NXX code moves, re-homes, facility grooming, or network rearrangements.

8.5 Trunking Requirements

8.5.1 Trunk group connections will be made at a DS-1 or multiple DS-1 level for exchange of EAS/local, intraLATA toll, wireless/Commercial Mobile Radio Service, and Switched Access Traffic. Ancillary Service trunk groups will be made below a DS-1 level, as agreed to by the Parties.

8.5.2 Where CCS is not available, in-band multi-frequency (MF) wink start signaling will be provided. This MF arrangement will require a separate local trunk circuit between Pac-West's switch and U S WEST's tandems. Reference Technical Pub. TR-314 and TR394.

9. Service Interruptions

9.1 Standards and procedures for notification of trunk disconnects will be jointly developed by the Parties within ninety (90) days of the Effective Date of this Agreement. Neither Party shall be expected to maintain active status for a trunk disconnected by the other Party for an extended or indefinite period of time.

9.2 The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not: (a) interfere with or impair service over any facilities of the other Party; its Affiliates, or its connecting and concurring carriers involved in its services; (b) cause damage to their plant; (c) violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or (d) create hazards to the employees of either Party or to the public.

9.3 Each Party shall be solely responsible, and bear the expense, for the overall design of its services. Each Party shall also be responsible for any redesign or rearrangement of its

services that may be required because of changes in facilities, operations or procedures, minimum network protection criteria, and operating or maintenance characteristics of the facilities. If one Party creates a circumstance causing additional costs to the other Party, the other Party may collect construction charges from the first Party.

- 9.4 To facilitate trouble reporting and to coordinate the repair of the service provided by each Party to the other under this Agreement, each Party shall designate and define a Trouble Reporting Control Office ("TRCO") for such service. Each Party shall furnish a trouble reporting telephone number for the designated TRCO. This number shall have access to the location where facility records are normally located and where current status reports on any trouble reports are readily available. Current and historical trouble reports will be made available, if necessary. Alternative out-of-hours procedures shall be established to ensure access to a location that is staffed and has the authority to initiate corrective action.
- 9.5 Where new facilities, services and arrangements are installed to rectify the service interruption, the TRCO shall ensure that continuity exists and take appropriate transmission measurements before advising the other Party that the new circuit is ready for service.
- 9.6 The Parties shall cooperate in isolating trouble conditions. Before either Party reports a trouble condition, it shall use reasonable efforts to isolate the trouble.
- 9.7 In cases where a trouble condition affects a significant portion of the other Party's service, the Parties shall assign the same priority provided to other interconnecting carriers.

10. Forecasting

- 10.1 The Parties agree that during the first year of Interconnection, joint forecasting and planning meetings will take place no less frequently than once per quarter.
- 10.2 The Parties shall establish joint forecasting responsibilities for traffic utilization over trunk groups. Intercompany forecast information must be provided by the Parties to each other four (4) times a year. The quarterly forecasts shall include forecasted requirements for each trunk group identified in Paragraph 8.2.1 of this Attachment. In addition, for tandem-switched traffic, the forecast shall include the quantity of tandem-switched traffic forecasted for each subtending end office. The Parties recognize that, to the extent historical traffic data can be shared between the Parties, the accuracy of the forecasts will improve. Forecasts shall be for a minimum of three (3) (current and plus-1 and plus-2) years and shall include:
 - 10.2.1 the use of Common Language Location Identifier (CLLI-MSG), which is described in Bellcore documents BR 795-100-100 and BR 795-400-100; and
 - 10.2.2 a description of major network projects anticipated for the following six (6) months that could affect the other Party. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities that are reflected by a significant increase or decrease in trunking demand for the following forecasting period. This planning will include the issues of network capacity, forecasting and compensation calculation, where appropriate.
 - 10.2.3 If forecasts vary significantly, the Parties shall meet to review and reconcile such forecasts.

- 10.2.3.1 If the Parties are unable to reach such a reconciliation, the Local Interconnection trunk groups shall be provisioned to the higher forecast. At the end of three (3) months, the utilization of the Local Interconnection trunk groups will be reviewed and if the average CCS utilization for the third month is under seventy five percent (75%) of capacity, either Party may issue an order to resize the trunk group, which shall be left with not less than twenty five percent (25%) excess capacity.
 - 10.2.3.2 If the Parties agree on the original forecast and then it is determined that a trunk group is under seventy five percent (75%) of CCS capacity on a monthly-average basis for each month of any three-month period, either Party may issue an order to resize the trunk group, which shall be left with not less than twenty five percent (25%) excess capacity. In all cases, grade of service objectives identified in this Agreement shall be maintained.
- 10.3 Each Party shall provide a specified point of contact for planning, forecasting and trunk serving purposes.
- 10.4 Trunking can be established to tandems or end offices or a combination of both via either one-way or two-way trunks. Trunking will be at the DS-0 level, DS-1 level, DS-3 level, or any other technically feasible level, subject to network disclosure requirements of the FCC. Initial trunking will be established between Pac-West's switching centers and U S WEST's access tandem(s). The Parties will utilize direct end office trunking under the following conditions:
- 10.4.1 Tandem exhaust - If a tandem through which the Parties are interconnected is unable to, or is forecasted to be unable to, support additional traffic loads for any period of time, the Parties will mutually agree on an end office trunking plan that will alleviate the tandem capacity shortage and ensure completion of traffic between Pac-West and U S WEST subscribers.
 - 10.4.2 Traffic volume - The Parties shall install and retain direct end office trunking sufficient to handle actual or reasonably forecasted traffic volumes, whichever is greater, between an Pac-West switching center and a U S WEST end office where the local traffic exceeds or is forecasted to exceed 512 CCS at the busy hour.
 - 10.4.3 Mutual agreement - The Parties may install direct end office trunking upon mutual agreement in the absence of conditions (1) or (2) above, which agreement shall not unreasonably be withheld.
- 10.5 Grade of Service:
- A blocking standard of one percent (1%) during the average busy day-busy hour, as defined by each Party's standards, for final trunk groups between an Pac-West end office and a U S WEST access tandem carrying Meet Point traffic shall be maintained. All other final trunk groups are to be engineered with a blocking standard of one percent (1%). Direct end office trunk groups are to be engineered with a blocking standard of one percent (1%).

11. Signaling

- 11.1 Signaling protocol. The Parties will interconnect their networks using SS7 signaling as defined in GR-317 and GR-394, including ISDN User Part ("ISUP") for trunk signaling and Transaction Capabilities Application Part ("TCAP") for CCS-based features in the interconnection of their networks. All appropriate industry standards for signaling interoperability will be followed.
- 11.2 The Parties will provide CCS to each other in conjunction with all trunk groups supporting Local, Transit, and Toll Traffic. The Parties will cooperate on the exchange of TCAP messages to facilitate full interoperability of CCS-based features between their respective networks, including all CLASS features and functions. All CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI), calling party category, charge number, etc. For terminating Feature Group D, the Parties will pass CPN if it receives CPN from Feature Group D carriers. All privacy indicators will be honored. Where available, network signaling information such as Transit Network Selection ("TNS") parameter (CCS platform) and CIC/OZZ information (non-CCS environment) will be provided by the Parties wherever such information is needed for call routing or billing. The Parties will follow all appropriate industry standards pertaining to TNS and CIC/OZZ codes.
- 11.3 Standard Interconnection facilities shall be Extended Superframe (ESF) with B8ZS line code. Where ESF/B8ZS is not available, Pac-West will agree to using other Interconnection protocols on an interim basis until the standard ESF/B8ZS is available. U S WEST will provide anticipated dates of availability for those areas not currently ESF/B8ZS compatible.
- 11.4 Where Pac-West is unwilling to utilize an alternate Interconnection protocol, Pac-West will provide U S WEST an initial forecast of 64 Kbps clear channel capability ("64K CCC") trunk quantities within thirty (30) days of the Effective Date of this Agreement consistent with the forecasting agreements between the Parties. Upon receipt of this forecast, the Parties will begin joint planning for the engineering, procurement, and installation of the designated 64K CCC Local Interconnection trunk groups and the associated B8ZS Extended Super Frame facilities, for the purpose of transmitting 64K CCC data calls between Pac-West and U S WEST. Where additional equipment is required, such equipment will be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for an IXC, Pac-West or U S WEST internal customer demand for 64K CCC trunks. Where technically feasible, these trunks will be established as two-way.

12.⁴ Ordering

- 12.1 **Pac-West may order Interconnection points beyond those listed in the FCC rules using the ASR process or other industry standard for local service ordering.**
- 12.2 **U S WEST must provide installation to Pac-West in the shorter of the time it provides installation to itself or any other Person. U S WEST must provide installation to Pac-West within ten (10) Business Days if it does not provide the same installation to itself or any other Person.**

⁴ MCI Order, p. 5 at Issue 1.

12.3 If Pac-West requests a shorter installation time than required by the provisions of this Attachment, U S WEST may charge Pac-West for any increased expense incurred for such installation.

12.4 Pac-West shall, on each order for Local Interconnection trunks, specify the Pac-West NXXs that are assigned to the trunks.

13. Network Management

13.1 Protective Protocols

Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward each others network when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload.

13.2 Rerouting Protocols

Where the capability exists, originating or terminating traffic reroutes may be implemented by either Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes will not be used to circumvent normal trunk servicing. Rerouting controls will only be used when mutually agreed to by the Parties.

13.3 Mass Calling

Pac-West and U S WEST shall cooperate and share pre-planning information, where available and in compliance with federal and state regulations, regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, to prevent or mitigate the impact of these events on the public switched network. Furthermore, INP numbers may only be used consistent with network efficiency and integrity, i.e., inhibitions on mass calling events.

14. Usage Measurement

14.1 When applicable, each Party shall provide to the other:

14.1.1 Bellcore AMA formatted records to generate bills to the other Party;

14.1.2 measurement of minutes of use over Local Interconnection trunk groups in actual conversation seconds. The total conversation seconds over each individual Local Interconnection trunk group will be totaled for the entire monthly bill-round and then rounded to the next whole minute; and

14.1.3 within twenty (20) calendar days after the end of each quarter (commencing with the first full quarter after the Effective Date of this Agreement), a usage report with the total traffic volume described in terms of minutes and messages and by call type (i.e., local, toll, and other) terminated to each other over SS7 local interconnection trunk groups.

15. **Audiotext and Mass Announcement Services**

The Parties agree that access to the audiotext, mass announcement and information services of one Party may be made available to the other Party upon execution of a separate agreement or an amendment to this Agreement.

16. **Interconnection to Network Elements**

16.1 Technical Requirements

16.1.1 When requested by Pac-West, U S WEST shall provide Interconnection between U S WEST Network Elements provided to Pac-West and Pac-West's network at transmission rates designated by Pac-West. If additional equipment beyond that which U S WEST currently has in place is planning to put in place or is otherwise required to have in place is required to meet such transmission rates, the installation and/or acquisition of such equipment shall be accomplished pursuant to the ordering process set forth in this Agreement.

16.1.2 Traffic shall be combined and routed as follows:

16.1.2.1 At Pac-West's request, U S WEST shall receive Pac-West traffic destined to the U S WEST Operator Systems Network Element, on trunks from an Pac-West end-office or an Pac-West tandem.

16.1.2.2) At Pac-West's request, U S WEST shall receive Pac-West CAMA-ANI (Centralized Automatic Message Accounting - Automatic Number identification) traffic destined to the U S WEST 911 PSAPs, or E911 tandems, on trunks from an Pac-West end-office.

16.1.2.3 At Pac-West's request, U S WEST shall receive Pac-West SS7 traffic destined to any U S WEST E911 tandem on trunks from an Pac-West end-office, when SS7 E911 signaling is available in U S WEST's network.

16.1.3 When requested by Pac-West and a third party carrier, U S WEST shall provide interconnections between Pac-West's network, and the other carrier's network through the U S WEST network at transmission rates designated by Pac-West, including, but not limited to, DS-1, DS-3, and STS-1, where available. U S WEST shall combine and route traffic to and from other local carriers and interLATA carriers through the U S WEST network, and, at Pac-West's request, U S WEST shall record and keep records of such traffic for Pac-West billing purposes to the extent possible.

16.1.4 U S WEST shall provide two-way trunk groups for interconnections. At Pac-West's request, and consistent with an efficient network architecture, U S WEST shall provide unidirectional traffic on such trunks, in either direction, effectively operating them as if they were one-way trunk groups.

16.1.5 All trunking provided by U S WEST shall adhere to the applicable performance requirements set forth in the "General Performance Requirements" section of this Agreement, pursuant to Sections 1.3.1 and 1.3.2 of Part A of this Agreement.

- 16.1.6 At Pac-West's request, U S WEST shall work cooperatively with Pac-West to provide for overflow routing from a given trunk group or groups onto another trunk group or groups as Pac-West designates.
- 16.1.7 U S WEST and Pac-West shall agree on the establishment of two-way trunk groups for the exchange of traffic for other IXCs. These trunk groups can be provided in a meet point arrangement.
- 16.1.8 Interconnection shall be made available upon Pac-West's request at any technically feasible Point of Interface. All trunk interconnections shall be provided, including SS7, MF, DTMF, DialPulse, PRI-ISDN (where available), DID (Direct Inward Dialing), CAMA-ANI, and trunking necessary so that INP can be provided.

16.2 Trunk Interface Requirements

16.2.1 E911 Trunks

- 16.2.1.1 U S WEST shall allow Pac-West to provide direct trunking to each U S WEST E911 end office or tandem, as is appropriate for the applicable serving area. These trunks are to be provided as one-way trunks from a given Pac-West end office to the U S WEST E911 end office or tandem.
- 16.2.1.2) U S WEST shall provide for overflow E911 traffic in the same manner that U S WEST provides E911 overflow for itself.

16.2.2 S911 Trunks

If and when S911 tandems become available in the U S WEST network, U S WEST shall allow Pac-West to provide direct trunking to each U S WEST S911 tandem. Such SS7 trunks are to be provided as one-way trunks from a given Pac-West end-office to the U S WEST S911 tandem.

16.2.3 Local Switch and Access Tandem Trunks

- 16.2.3.1 U S WEST shall provide trunk groups provisioned exclusively to carry intraLATA Toll Traffic, as designated by Pac-West.
- 16.2.3.2 U S WEST shall provide trunk groups provisioned exclusively to carry interLATA traffic, as designated by Pac-West.
- 16.2.3.3 U S WEST shall provide SS7 trunks which provide SS7 Interconnection. At Pac-West's request, MF trunks may be substituted for SS7 trunks where applicable.
- 16.2.3.4 U S WEST shall simultaneously route calls based on dialed digits (in accordance with the standard GR-317-CORE), and Carrier Identification Code (in accordance with the standard GR-394-CORE) over a single SS7 trunk group.

16.2.4 U S WEST Operator Services Trunk

U S WEST shall provide Operator Services trunks as one-way trunks from the U S WEST network to the Pac-West network.

16.3 Network Interconnection between U S WEST and Pac-West shall meet or exceed all of the requirements for network Interconnection set forth in the following technical references:

16.3.1 GR-317-CORE, Switching System Generic Requirements for Call Control Using the Integrated Services Digital Network User Part (ISDNUP), Bellcore, February 1994;

16.3.2 GR-394-CORE, Switching System Generic Requirements for Interexchange Carrier Interconnection Using the Integrated Services Digital Network User Part (ISDNUP), Bellcore, February 1994;

16.3.3 FR-NWT-000271, OSSGR Operator Services Systems Generic Requirements, Bellcore, 1994 Edition; and

16.3.4 FR-NWT-000064, LATA Switching Systems Generic Requirements (LSSGR), Bellcore, 1994 Edition.

17. Reciprocal Traffic Exchange

17.1 Scope

Reciprocal traffic exchange addresses the exchange of traffic between Pac-West end users and U S WEST end users. If such traffic is local, the provisions of this Agreement shall apply. Where either Party acts as an intraLATA toll provider or interLATA IXC or where either Party interconnects and delivers traffic to the other from third parties, each Party shall bill such third parties the appropriate charges pursuant to its respective tariffs or contractual offerings for such third party terminations. Absent a separately negotiated agreement to the contrary, compensation for reciprocal traffic exchange applies solely to traffic exchanged directly between the Parties without the use of third party transit providers.

17.2 Responsibilities of the Parties

17.2.1 U S WEST and Pac-West agree to treat each other fairly, nondiscriminatorily, and equally for all items included in this Agreement, or related to the support of items included in this Agreement.

17.2.2 Pac-West and U S WEST agree to exchange such reports and/or data as provided in this Agreement to facilitate the proper billing of traffic.

17.2.3 [Intentionally left blank for numbering consistency]

17.2.4 Pac-West and U S WEST shall share responsibility for all Control Office functions for Local Interconnection trunks and trunk groups, and both Parties shall share the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

17.2.5 The Party that performs the End Office function is responsible for all Control Office functions for the meet point trunking arrangement trunks and trunk groups, and shall be responsible for the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

17.2.6 Pac-West and U S WEST shall:

17.2.6.1 Provide trained personnel with adequate and compatible test equipment to work with each other's technicians.

17.2.6.2 Notify each other when there is any change affecting the service requested, including the due date.

17.2.6.3 Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its Interconnection trunks/trunk groups are installed per the Interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date.

17.2.6.4 Perform sectionalization to determine if a trouble is located in its facility or its portion of the Interconnection trunks prior to referring the trouble to each other.

17.2.6.5 Advise each other's Control Office if there is an equipment failure which may affect the Interconnection trunks.

17.2.6.6 Provide each other with a trouble reporting/repair contact number that is readily accessible and available twenty-four (24) hours per day, seven (7) days per week. Any changes to this contact arrangement must be immediately provided to the other Party.

17.2.6.7 Provide to each other test-line numbers and access to test lines.

17.2.6.8 Cooperatively plan and implement coordinated repair procedures for the meet point and Local Interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.

17.3 Types of Traffic

17.3.1 The types of traffic to be exchanged or provided under this Agreement include, but are not limited to, the following:

17.3.1.1 EAS/Local Traffic,

17.3.1.2 Transit Traffic,

17.3.1.3 Switched Access Traffic,

17.3.1.4 Ancillary traffic includes all traffic destined for Ancillary Services, or that may have special billing requirements, including, but not limited to, the following:

- (a) Directory Assistance
- (b) 911/E911
- (c) Operator call termination (busy line interrupt and verify)
- (d) 800/888 database dip
- (e) LIDB
- (f) Information services requiring special billing.

17.3.1.5 Unless otherwise stated in this Agreement, ancillary traffic will be exchanged in accordance with whether the traffic is Local/EAS, intraLATA toll, or Switched Access.

17.4 Transport and Termination of Exchange Traffic

17.4.1 Termination of Local Traffic

Local Traffic will be terminated pursuant to the Reciprocal Compensation described in Attachment 1.

17.4.2 EAS/Local Traffic

As negotiated between the Parties, the exchange of local traffic between the Parties may occur in several ways.

(a) While the Parties anticipate the use of two-way trunks for the delivery of Local Traffic, either Party may elect to provision its own one-way trunks for delivery of Local Traffic to be terminated on the other Party's network at the "initial" point of interconnection;

(b) The Parties may elect to purchase transport services from each other or from a third party. Such transport delivers the originating Party's Local Traffic to the terminating Party's end office or tandem for call termination. Transport may be purchased as either tandem switched transport (which is included in the tandem call termination rate) or direct trunk transport;

(c) To the extent that Pac-West has established a Collocation arrangement at a U S WEST end office location, and has available capacity, the Parties agree that Pac-West shall provide two-way direct trunk facilities, when required, from that end office to the Pac-West switch. In all other cases, the direct facility may be provisioned by U S WEST or Pac-West or a third party. If both Pac-West and U S WEST desire to provision the facility and cannot otherwise agree, the Parties may agree to resolve the dispute through the submission of competitive bids.

17.4.3 Transit Traffic

17.4.3.1 U S WEST will accept traffic originated by Pac-West and will terminate it at a point of interconnection with another CLEC, Exchange Carrier, IXC or Wireless Carrier. U S WEST will provide this transit service through Tandem Office Switches. Pac-West may also provide U S WEST with transit service.

17.4.3.2 The Parties expect that all networks involved in transporting Transit Traffic will deliver calls to each involved network with CCS/SS7 protocol and the appropriate ISUP/TCAP message to facilitate full interoperability and billing

functions. In all cases, the originating company is responsible to follow the EMR standard and to exchange records with both the transiting company and the terminating company, to facilitate the billing process to the originating network.

17.4.3.3 The Parties will use industry standards developed to handle the provision and billing of Switched Access by multiple providers (MECAB, MECOD and the Parties' FCC tariffs).

17.4.4 Toll Traffic

Toll Traffic routed to an access tandem, or directly routed to an end office, will be terminated as Switched Access Service.

17.5 Interface Code Availability And Optional Features

17.5.1 Interface Code Availability

Supervisory Signaling specifications, and the applicable network channel interface codes for Local Interconnection trunks, are the same as those used for Feature Group D Switched Access Service, as described in the Parties' applicable Switched Access tariffs.

17.5.2 Optional Features

17.5.2.1 Inband MF or SS7 Out of Band Signaling

Inband MF signaling and SS7 out of band signaling are available for local trunks. MF signaling or SS7 out-of-band signaling must be requested on the order for the new local trunks. Provisioning of the local trunks equipped with MF signaling or SS7 out of band signaling is the same as that used for Feature Group D Switched Access. Common Channel Signaling Service, as described in this Agreement, must be ordered by Pac-West when SS7 out-of-band signaling is requested on local trunks.

17.5.2.2 Clear Channel Capability

Clear channel capability permits 24 DS-0-64 kbit/s services or 1.536 Mbit/s of information on the 1.544 Mbit/s line rate. Clear channel capability is available for local trunks equipped with SS7 out-of-band signaling. Clear channel capability is only available on trunks to U S WEST's access tandem switch or U S WEST's end office switches (where available). Clear channel capability must be requested on the order for the new local trunks. The provisioning of the local trunks equipped with clear channel capability is the same as that used for Feature Group D Switched Access Service. U S WEST will provide Pac-West with a listing of U S WEST end offices, local tandems and access tandems equipped with clear channel capability. (Clear channel capability is not available on trunks to U S WEST's local tandem switches or end offices where it is currently not deployed. Pac-West agrees to use the Bona Fide Request process to request clear channel capability for such additional switches. Prices for such additional clear channel capability, if any, will be established through the BFR process).

17.6 Measuring Local Interconnection Minutes

17.6.1 Measurement of terminating Local Interconnection minutes, as calculated per Attachment 5, begins when the terminating local entry switch receives answer supervision from the called end user's end office indicating the called end user has answered. The measurement of terminating call usage over local trunks ends when the terminating local entry switch receives disconnect supervision from either the called end user's end office, indicating the called end user has disconnected, or Pac-West's Point of Interconnection, whichever is recognized first by the entry switch.

17.6.2 U S WEST and Pac-West are required to provide each other the proper call information (e.g., originated call party number and destination call party number, etc.) to enable each Party to issue bills in a complete and timely fashion.

17.7 Testing

17.7.1 Acceptance Testing

At the time of installation of a local trunk group, and at no additional charge, the Parties will cooperatively test the same parameters tested for terminating Feature Group D Switched Access Service.

17.7.2 Testing Capabilities

17.7.2.1 Terminating Local Interconnection trunk testing is provided where equipment is available, with the following test lines: seven-digit access to balance (100 type), milliwatt (102 type), nonsynchronous or synchronous, automatic transmission measuring (105 type), data transmission (107 type), loop-around, short circuit, open circuit, and non-inverting digital loopback (108 type).

17.7.2.2 In addition to Local Interconnection trunk acceptance testing, other tests are available (e.g., additional cooperative acceptance testing, automatic scheduled testing, cooperative scheduled testing, manual scheduled testing, and non-scheduled testing) at the applicable tariff rates.

17.10. Mileage Measurement

Where required, the mileage measurement for Local Interconnection facilities and trunks is determined in the same manner as the mileage measurement for Feature Group D Switched Access Service.

EXHIBIT

B



**Alliance for
Telecommunications
Industry Solutions**

Sponsor of



**Industry Numbering
Committee**

**1200 G Street, NW
Suite 500
Washington, D.C. 20005
www.atis.org**

**CENTRAL OFFICE CODE (NXX)
ASSIGNMENT GUIDELINES (COCAG)**

These guidelines are being issued as a result of
the resolution of INC Issue 465.

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For ordering information, please contact:

ATIS
1200 G Street N.W., Suite 500
Washington, DC 20005
(202) 628-6380
inc@atis.org

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Preface

The Industry Numbering Committee (INC) provides a forum for customers and providers in the telecommunications industry to identify, discuss, and resolve national issues that affect numbering. The INC is responsible for identifying and incorporating the necessary changes into this document. All changes to this document shall be made through the INC issue resolution process and adopted by the INC as set forth in the *ATIS Operating Procedures*.

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Appendix A: Example of Pre-Planning Checklist

Appendix B: Months to Exhaust Certification Worksheet – TN Level

Appendix C: Procedures for Code Holder/LEAG Assignee Exit

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*** Note: Previous Appendices E, G, and H have been deleted.**

Central Office Code (NXX) Assignment Request and Confirmation Forms

Part 1 - Request for NXX Code Assignment

Part 2 - Routing and Rating Information (Forms 1-8)

Part 3 - Administrator's Response/Confirmation

Part 4 - Confirmation of CO Code in Service

Part 4 PA - Confirmation of Code In Service (Submitted by the Pooling Administrator)

*** Note: Previous Part 2, Forms 3, 4 and 5 have been deleted.**

compliance with these guidelines by code applicants/holders and CO Code Administrator, and 3) ensure the efficient and effective use of numbering resources by code applicants/holders and the efficient management of numbering resources by CO Code Administrator.

- 2.12 An applicant is not required to provide any additional explanation or justification of items that he/she has certified. However, certification alone may not provide the CO Code Administrator(s) with sufficient information upon which to make a decision regarding code assignment, and additional dialog and written documentation may be required. The CO Code Administrator(s) is still obligated to reply within 10 business days. Service providers participating in number pooling shall apply to the PA for all numbering resources; i.e., thousands-blocks and full NXX codes. In addition, SPs participating in number pooling must submit changes or disconnects for pooled NXXs to the PA. Changes or disconnects for non-pooled NXXs in a pooling rate area should be sent to NANPA, unless the PA received the original request for the non-pooled NXX.
- 2.13 State commissions have access to service providers' applications for numbering resources. State commissions should request copies of such applications from the service providers operating within their states, and service providers must comply with state commission requests for copies of numbering resource applications. Carriers that fail to comply with a state commission request for numbering resource application materials shall be denied numbering resources.¹⁰
- 2.14 It is assumed from a wireline perspective that CO codes/blocks allocated to a wireline service provider are to be utilized to provide service to a customer's premise physically located in the same rate center that the CO codes/blocks are assigned. Exceptions exist, for example tariffed services such as foreign exchange service.

3.0 Assignment Principles

The following assignment principles apply to all aspects of the CO code (NXX) Guidelines:

- 3.1 CO codes (NXXs) are assigned to entities for use at a Switching Entity or Point of Interconnection they own or control. Where thousands-block number pooling has been implemented, an entity assigned a CO Code is designated as the "LERG Assignee." An entire NXX code dedicated for a single customer's use may be classified as a non-pooled code at the discretion of the SP. The SP will be considered the CO Code Holder by leaving the pool indicator field blank in Section 1.5 of the CO Code Part 1. In addition, the SP should write "Non-pooled code for dedicated customer" in Section 1.7 of the Part 1.

¹⁰ FCC 01-362, § 52.15 (g)(5).

2. to request an entire NXX code (i.e., 10,000 numbers) to satisfy the numbering needs for a service provider's single customer. A single customer is defined as one customer requiring 10,000 consecutive telephone numbers from one central office exchange. SPs have the option whether or not to indicate such a code as pooled or non-pooled.
3. to request an NXX code for LRN purposes when an SP is deploying a new switching entity/POI that requires the assignment of an LRN.

4.2 Code Assignment Criteria for Initial Codes

Application to the NANPA for an initial code assignment shall include evidence that the applicant is authorized to provide service in the area for which the code is being requested,²⁰ and that the applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date requested.²¹

For an initial code request, a code applicant must provide one form of documentation from both Sections 4.2.1 and 4.2.2 below:

4.2.1 License and/or Certification

Evidence that demonstrates the SP has a license or authority issued by the FCC or a Certificate of Public Convenience and Necessity (CPCN) issued by a State Regulatory Body to provide service in the city and state/rate center/MSA#/RSA# /MTA#/BTA#/national /LATA. The SP may attach a copy of the FCC license or authority or CPCN to the application.

4.2.2 Facilities Readiness

Appropriate evidence that facilities are in place or will be in place to provide service within 60 days of the numbering resources activation date (LERG Routing Guide effective date). Evidence may be provided via a copy of any one of the following document(s)²² the SP selects:

1. An executed interconnection agreement between a Local Exchange Carrier and the service provider requesting numbering resources. The relevant pages are the cover page, area covered and the signature page from the interconnection agreement.

²⁰ FCC 00-104, § 52.15 (g) (2) (i).

²¹ FCC 00-104, § 52.15 (g) (2) (ii).

²² There may be additional or different criteria requested by state regulators. See FCC 00-104 ¶ 98.

2. Service Provider developed business plans to provide service in this area. Relevant excerpts from the Business Plan to include planned coverage area and in service dates.²³
3. A letter from the SP indicating the scheduled switch installation complete date (month/day/year), including the address location, as well as Point of Interconnection or CLLI.
4. The service order request, pre-planning checklist, or the equivalent to show that facilities for origination or termination for calls being used specifically for the requested code(s) have been requested and are anticipated to be completed prior to the effective date of the code (See Appendix A for an example of a pre-planning checklist showing the identified fields which must be completed).
5. A confirmation letter or letter of intent provided by the entity with which the requesting SP will interconnect. Interconnecting carriers are encouraged, but not required, to provide such letters.
6. The construction schedule including the following information: site identifier, latitude and longitude of the cell site, and its construction start or complete date. The numbers assigned to the facilities identified must serve subscribers in the geographic area corresponding with the rate center requested.
7. A letter from the requesting carrier identifying a code in service in another rate center that already uses the same facilities that will be used to serve the new rate center where the initial code is being requested.

All documentation submitted will be held confidential pursuant to FCC confidentiality rules.²⁴

4.3 Code Assignment Criteria for Growth Codes

Assignment of additional code(s) (growth codes) in a rate center will be made by satisfying the criteria in Section 4.3.1, 4.3.2, 4.3.3, or 4.3.4.

The MTE form submitted must demonstrate that all of the numbers assigned to the code holder in the rate center will exhaust within six months. In the MTE calculation, SPs must include every code in the rate center, regardless of NPA.²⁵ An exception occurs in cases where a rate center is split among multiple NPAs due to a regulatory order by a state commission. Should that occur, the MTE calculation shall be based on

²³ Provision of business plans may not be sufficient proof of facilities readiness in some serving areas.

²⁴ 47 CFR, § 52.13 (c) (7)

²⁵ State commissions may have certain requirements as to the treatment of different types of grandfathered codes.

13.0 Glossary

Activation Deadline	Six months from the original effective date returned on the Part 3 and entered on the ACD screen in BIRRDs. A Part 4 should be returned to NANPA by this date.
Active Code	A code assigned by the CO Code Administrator and implemented in the PSTN for specific routing and rating requirements as of the LERG Routing Guide effective date.
Additional NXX Code Assignment for Growth	A code assigned to a rate center subsequent to the assignment of the first code (See Initial Code), for the same purpose as a code that was previously assigned to the same rate center. A "Growth Code" is requested when the line numbers available for assignment in a previously assigned NXX code will not meet expected demand.
Affected Parties	Affected parties are a) those entities that have applied for and/or received central office code (NXX) assignments or reservations within the NPA per Section 4.0 of these Guidelines; b) all interested members of the industry within the affected NPA.
Administrative Numbers	Administrative numbers are numbers used by telecommunications carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards. Examples of administrative numbers are: Test numbers, employee/official numbers, Location Routing Numbers, Temporary Local Directory Numbers, soft dial tone numbers and wireless E911 (ESRD/ESRK) numbers. (FCC 00-104, § 52.15 (f) (1) (i))
Administrative Operating Company Number (AOCN)	A four character numeric or alphanumeric that identifies the administrator of one (or more) data record contained in BIRRDs. Numeric/alphanumeric AOCNs are determined by Operating Company Number (OCN) assignment. The AOCN further identifies the entity authorized by the code holder to input and maintain data into BIRRDs.

Newly Acquired Numbers	<p>"<i>Newly acquired numbers</i>" are those that have been activated within the LERG Routing Guide, and thus are available for assignment, within the preceding 90 days of reporting utilization. <i>Newly acquired</i> numbering resources may be excluded from the calculation of utilization level (FCC CFR 52.15(g)(3)(ii)).</p>
North American Numbering Plan Numbering Resource Utilization/Forecasting (NRUF) Report	<p>The NANPA gathers forecast and utilization information to monitor and project exhaust in individual NPAs/area codes as well as in the NANP overall. This semi-annual report includes number utilization information as well as a five-year forecast of demand by year. Pooling carriers report at the thousands-block level per rate center. Non-pooling carriers report at the Central Office Code level per rate center. For more detailed information, see the NRUF Reporting Guidelines.</p>
NPA	<p>Numbering Plan Area, also called area code. An NPA is the 3-digit code that occupies the A, B, and C positions in the 10-digit NANP format that applies throughout the NANP Area. NPAs are of the form N0/1X, where N represents the digits 2-9 and X represents any digit 0-9. After 1/1/95, NPAs will be of the form NXX. In the NANP, NPAs are classified as either geographic or non-geographic.</p> <ul style="list-style-type: none">a) <u>Geographic NPAs</u> are NPAs which correspond to discrete geographic areas within the NANP Area.a) <u>Non-geographic NPAs</u> are NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries. The common examples are NPAs in the N00 format, e.g., 800.
NPA Code Relief	<p>NPA code relief refers to an activity that must be performed when an NPA nears exhaust of its 792 NXX capacity. Options for relief are described in Section 6.0 of the NPA Code Relief Planning & Notification Guidelines.</p>
NPA Relief Date	<p>The date by which the NPA is introduced and routing of normal commercial traffic begins.</p>
OCN	<p>An Operating Company Number (OCN) is a four place alphanumeric code that uniquely identifies providers of</p>

EXHIBIT

C



Qwest
607 14th Street, NW, Suite 950
Washington, DC 20005
Phone 202.429.3121
Fax 202.293.0561

Cronan O'Connell
Vice President-Federal Regulatory

EX PARTE

Electronic Filing via ECFS

March 11, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW B-204
445 12th Street, S.W.
Washington, DC 20554

RE: *In the Matter of Petition of Level 3 Communications LLC for
Forbearance Under 47 U.S.C. Section 160(c) -- WC Docket
No. 03-266; In the Matter of IP-Enabled Services -- WC Docket
No. 04-36*

Dear Ms. Dortch:

Enclosed with this letter is the *Ex Parte* Presentation of Qwest. Please include this submission in each of the records of the above-captioned proceedings.

In accordance with FCC rule 1.49(f), this *ex parte* submission is being filed electronically via the Electronic Comment Filing System pursuant to FCC Rule 1.1206(b)(1).

Sincerely,

/s/ Cronan O'Connell

Enclosure

Copies to:

Scott Bergmann (scott.bergmann@fcc.gov)
Daniel Gonzalez (daniel.gonzalez@fcc.gov)
Christopher Libertelli (christopher.libertelli@fcc.gov)
John Stanley (john.stanley@fcc.gov)
Jessica Rosenworcel (jessica.rosenworcel@fcc.gov)
Jeffrey Carlisle (jeffrey.carlisle@fcc.gov)
Lisa Gelb (lisa.gelb@fcc.gov)
Tamara Preiss (tamara.preiss@fcc.gov)



Qwest
1801 California Street, 10th Floor
Denver, Colorado 80202
Phone 303-383-6650
Facsimile 303-896-1107

Robert B. McKenna
Associate General Counsel

EX PARTE PRESENTATION

DATE: March 11, 2005

RE: *In the Matter of Petition of Level 3 Communications LLC for
Forbearance Under 47 U.S.C. Section 160(c) -- WC Docket
No. 03-266; In the Matter of IP-Enabled Services -- WC Docket
No. 04-36*

The purpose of this presentation is to address several recent *ex parte* filings made by Level 3 Communications LLC ("Level 3") in support of its Petition for Forbearance from the legal requirement that interstate and intrastate feature group access charges be assessed and paid on certain carrier traffic that makes use of local exchange switching facilities to originate and terminate calls carrying "IP voice" communications. As Qwest has pointed out in the past, all of the legitimate concerns raised by Level 3 are already dealt with effectively by proper application of the so-called "ESP exemption." Level 3's Petition would expand the scope of the rules flowing from the ESP exemption into areas where they are unnecessary and would be harmful. Given the language of the new Level 3 *ex parte* presentations, it is now likely that grant of the Petition would also act to dramatically undermine the existing interstate access structure, a disruption that would be particularly egregious today now that the FCC is acting to rationalize the entire structure in a fair and neutral manner. The Level 3 Petition should be denied, and the relief that Level 3 seeks should not be resurrected through some other means (such as "interim rules" effectively granting the Petition).

In this regard, Chairman Powell's parting comment, as quoted in the telecommunications trade press, that the ILEC and the IP voice communities should "'find the common ground somewhere in the middle . . . Right now we're stuck with binary choices' between high access charges and 'free' [IP voice access]"¹ resonates with considerable force with Qwest. By suggesting that the proper treatment of IP voice pending long term resolution of the intercarrier compensation proceeding should be based on a current and consistent application of the ESP exemption, Qwest has in fact proposed exactly the "middle ground" that the Chairman has suggested. This *ex parte* presentation deals with several aspects of the Level 3 Petition that are contrary to law and reason. The solution that Qwest has proposed presents a far superior solution to the issues that Level 3 raises.

¹ TRDaily, March 8, 2005 (second article entitled "Powell Proud of FCC's VoIP Approach").

I. Introduction.

The Level 3 Forbearance Petition² requests that the FCC “forbear” from various provisions of the Act and the FCC’s rules relating to the application of tariffed feature group access charges to carriers handling “Voice-embedded IP traffic that originates or terminates on the PSTN . . .”³ It has never been exactly clear just what rules Level 3 was seeking forbearance from, or what the regulatory structure it sought would ultimately look like.⁴ However, it has been clear from the outset that Level 3 seeks a regulatory structure whereby CLECs who carry IP Voice traffic, either acting as their own ISP or for unaffiliated VoIP providers, are entitled to entirely special treatment outside of the existing regulatory structure. Level 3 has been able to make a facially plausible argument for this position only by misconstruing both the nature of the existing regulatory environment (the ESP exemption that has been in place for over 20 years) and the sweeping and potentially destructive impact which grant of its petition could have on the public interest.

To a large extent Level 3’s position is based on the assumption that, if IP Voice providers are not granted special treatment under today’s access structure not available to any other providers, including providers of all other IP-enabled services, the deployment of IP voice technology and service will be fatally wounded. This is a questionable assumption even if IP voice providers were not currently treated in the same manner as other providers of IP enabled services under the “ESP exemption” and the regulatory structure that is based on that rule.⁵ But the ESP exemption does dictate how ISP access (including IP voice access) to the local exchange is handled, and Level 3’s position borders on the ridiculous when the Level 3 Petition is compared to the actual regulatory structure from which Level 3 seeks forbearance. The current rules actually provide Level 3 with all the protection that it (and other providers of IP voice applications, including Qwest Communications Corporation, the long distance affiliate of Qwest Corporation), are entitled to and realistically need. They provide the common ground somewhere in the middle, that the Chairman said was necessary. This is especially true while the FCC develops a long-term intercarrier compensation plan that takes IP voice and other IP-enabled services into account. It is the disjunction between the Level 3 relief and its proclaimed flaws in the existing

² In the Matter of Level 3 Communications LLC’s Petition for Forbearance Under 47 U.S.C. § 160(c) and Section 1.53 of the Commission’s Rules from Enforcement of Section 251 (g), Rule 51.701(b)(i), and Rule 69.5(b), WC Docket No. 03-266, filed Dec. 23, 2003.

³ *Id.* at 5.

⁴ Compare the actual Petition with the Level 3 *ex parte* presentation of December 22, 2004 (claiming that its Petition did not apply to carriers who actually purchased tariffed feature group access services) (“December 22 *ex parte*”).

⁵ In fact, any claim that IP Voice providers are languishing is contradicted by all evidence, not the least of which is provided by IP Voice providers themselves. *See* Ben Charny, Cable Raises its Voice, c/net news.com, http://news.com.com/Cable+raises+its+voice/2100-7352_3-5579111.html, March 3, 2005; Steven Lawson, SPRING Von: VOIP players gear up fast for fast-growing market, IT World.com Site Network, www.itworld.com/Net/3303/050307von/pfindex.html, March 7, 2005.

structure that have made it so difficult to actually determine just what Level 3 is asking for in its Petition and, more significantly, to fully grasp the dangers inherent in a grant of the Petition.

In two recent *ex parte* presentations,⁶ Level 3 has elaborated on its position in a manner that highlights both the fatal flaws in the Level 3 position and the problems inherent in any approach to IP voice access issues, even on an interim basis, which is not part of and consistent with a comprehensive approach to the intercarrier compensation regulatory structure. Pending development of an intercarrier compensation structure, clarification and continued application of the existing rules, as embedded in the so-called "ESP exemption," provides a logical and reasonably fair method of treating all IP-enabled services.⁷ Qwest's position is simple. True IP voice services⁸ are "enhanced services"⁹ under the Commission's rules. They are customarily used by customers and ISP providers alike in conjunction with a multitude of other IP-enabled services. There is no logical reason to treat IP voice applications any different than other IP-enabled services for purposes of determining the correct access charge or intercarrier compensation mechanism. Namely, for "true IP voice" services when a call originating in IP terminates on the PSTN, the ISP POP¹⁰ is treated as an end user for both access charge application and determination of whether, when multiple LECs are involved, a call is subject to the access charge regime or Section 251(b)(5) of the Act.

Appended hereto as Attachment A is a brief description of the background of the ESP exemption as it applies to IP-enabled services today. This attachment provides the backdrop for the analysis that follows.

II. Level 3 Now Effectively Concedes That The Relief It Seeks Would Potentially Undercut The Existing Access Charge Structure By Allowing Carriers To Utilize Local Exchange Switching Facilities To Originate And Terminate Interstate Interexchange Telecommunications Outside Of The Carrier Access Charge Structure.

The legal treatment of an ISP POP as an end-user premise for access charge (and reciprocal compensation) purposes enabled the carrier access charge system to remain intact even while ISPs were able to purchase local access for interstate service. The analysis is simple: end users

⁶ Letter from John T. Nakahata to Marlene H. Dortch, March 2, 2005 (March 2 *ex parte*); Letter from John T. Nakahata to Marlene H. Dortch, February 23, 2005 (February 23 *ex parte*).

⁷ True IP voice services are voice applications originating in the Internet protocol over a broadband connection.

⁸ See Reply Comments of Qwest Communications International Inc., WC Docket No. 04-36, filed July 14, 2004 at 5.

⁹ See 47 C.F.R. § 64.702(a).

¹⁰ POP is short for "point of presence." In the context of an ISP or an interexchange carrier, the term POP is used to designate the location of the place or places where an ISP or IXC receives traffic from or delivers traffic to a local exchange carrier. In the case of a CLEC, that point is customarily referred to as a "point of interconnection."

are entitled to purchase retail local access services to interconnect with local exchanges for services within a properly designated local calling area, while carriers are not (and must purchase feature group services for such access).¹¹ Because an ISP POP is treated as an end user premise for access charge purposes, when an ISP POP is connected to a local exchange, it may do so through the purchase of the same retail (business) services as are available to other end users, and thereby receive the same access to a local calling area as an end user receives. If the ISP makes or receives a call from another end user within the same LATA but within a different local calling area, the call is deemed to be an interexchange call and proper toll charges are assessed. The same analysis applies when interconnection by an ISP to a local exchange is through another carrier even when that carrier is interconnected via a single point of interconnection within the LATA: if the call is from an end user NOT in the same local calling area as the ISP POP, it would be rated as a toll call,¹² and the call treated under the access charge rules (as jointly provided access generally)¹³ rather than under the reciprocal compensation rules that dictate the exchange of non-toll traffic.¹⁴

The ESP exemption does not exempt a carrier transporting ISP traffic from payment of a tariffed rate for services that it orders to originate or terminate that traffic, nor does it permit a carrier to purchase local service when terminating a call from or originating a call to an ISP POP in a different local calling area. It simply permits the ISP to purchase local services as if it were an end user -- something that a carrier cannot do. It similarly permits a CLEC to treat local ISP traffic (*i.e.*, traffic where the ISP POP is located within the same local calling area as the called or calling party) as subject to the compensation provisions of Section 251(b)(5) rather than the access charge structure (*i.e.*, jointly provided switched access).

Level 3 has been somewhat evasive on this critical issue -- whether its Petition includes a request for a ruling that a carrier carrying an intraLATA toll call to or from an ISP POP in a different local calling area would be "exempt" from the access structure. In December, Level 3 came very close to agreeing, at least with regard to traffic originating on the PSTN, that, even if its forbearance petition were to be granted, the POPs of IP-enabled service providers would nevertheless be rated as end user premises and carriers transporting ISP calls to or from an ISP POP in another local calling area would have that call rated as an interexchange call. Most significantly, Level 3 seemed to indicate in its December *ex parte* that the originating end of a 1+ call destined to an IP Voice provider would be subject to the tariffed rate for access:

¹¹ Feature group access customarily covers an entire LATA, not just a local calling area.

¹² We note here that the phrase "toll" and "interexchange" are used interchangeably in this paper. Common usage often refers to interLATA calls as "interexchange calls" and intraLATA toll calls as "toll calls." For purposes of our analysis, the terms are identical. The provision in 47 U.S.C. Section 153(48) that "telephone toll service" includes a "separate charge not included in contracts with subscribers for exchange service" is not relevant to the issues raised in the Level 3 Petition.

¹³ In the case of jointly provided access, each carrier bills the customer -- in this case the ISP.

¹⁴ See *In the Matter of Developing a Unified Intercarrier Compensation Regime*, FCC 05-33, *Further Notice of Proposed Rulemaking*, CC Docket No. 01-92 ¶¶ 141-43 ("*Intercarrier Compensation FNPRM*").

Level 3 is not seeking forbearance from the applicability of originating interstate and intrastate access charges with respect to traffic that reaches Level 3 or any other carrier serving a VoIP provider via the calling party's pre-subscribed or dial-around interexchange carrier ("IXC"). When such "1+" traffic or "10-XXX" traffic is exchanged between the originating LEC and the intermediary IXC (such as for an intraLATA toll call placed to a VoIP number), originating access charges would continue to apply as between the originating LEC and the IXC[.]¹⁵

In its March 2 *ex parte*, Level 3 withdrew from this position, and now claims that a carrier carrying an IP voice call could claim that a call was local for access charge and reciprocal compensation purposes solely on the basis that the call was "VoIP traffic," without regard to the actual location of the ISP POP, the configuration of the traffic, or rating of the NPA/NXXs. And Level 3 now also includes interexchange carriers within the ambit of those brought within the reciprocal compensation structure of the rules:

If the Commission were to grant forbearance, any telecommunications carrier -- including but not limited to CLECs -- would be able to exchange traffic with LECs pursuant to interconnection agreements under which reciprocal compensation would govern the exchange of VoIP traffic. Section 251(b)(5) is not limited to traffic exchanges between LECs or LECs and CMRS carriers. Nor is Level 3's Petition -- rather, it expressly applies to Level 3 and "*any other telecommunications carrier* handling [IP-enabled services] traffic that originates or terminates on the PSTN."¹⁶

This, of course, puts Level 3 back in its original position -- that IP voice traffic should simply be "exempted" from paying the proper rate for access no matter what services a carrier carrying traffic for an IP voice provider purchases or is required to purchase from an ILEC or CLEC. This would apparently include allowing a carrier interconnecting with an ILEC in a manner governed by the rules regarding access and jointly provided switched access to treat even 1+ dialed access traffic as local. It is not a responsible position. It is on its face also quite opposed to Level 3's December 22 position.

But the difficulty is not so much that Level 3 has been unable to articulate its position with consistency. Rather, the problem is that the current broad and destructive sweep of the Level 3 Petition is the natural consequence that would result from any effort to "exempt" IP-enabled services from access charges instead of keeping them in harmony with the structure growing from the ESP exemption. The complexity of the undertaking suggested by Level 3 is breathtaking and doomed to failure -- at least if failure is defined as bringing about results that have no relationship to those that were intended. For all of its flaws, the ESP exemption is at

¹⁵ See December 22 *ex parte* at ¶ 2.

¹⁶ March 2 *ex parte* at 6 [italics and brackets in original; footnote omitted]. It is possible to read the Level 3 *ex parte* as limited to terminating traffic, but, even if Level 3 meant to bring only terminating IXC access traffic into the sphere of reciprocal compensation, the fact that it could not say so plainly emphasizes the serious problems that would be raised by a grant of its Petition.

least comprehensible. Creating an "exemption" from access charges, no matter how styled, is bound to go far beyond any legitimate application of the already extensive rights enjoyed by IP-enabled services providers and carriers to which they connect. This is particularly true in the case of the Level 3 Petition, because it appears to apply to calls that are not "true VoIP" -- that is, calls that originate on the PSTN, using 1+, 10XXX and even VNXX calls, and are terminated to a VoIP customer.

An example of the application of how the ESP exemption works with regard to traffic originating and terminating on the PSTN can be seen in Attachment B.¹⁷ In Attachment B-1, an IP voice customer in Denver, CO calls a PSTN customer in Washington, DC. The call travels over the Internet and other facilities to the ISP POP located within the local calling area of the called customer. As the ISP POP is treated as an end user premise for access purposes, the connection between the ISP POP and the end user is treated as a local call whenever the two are located in the same local calling area, whether the call is routed directly to the called party by local connection to the terminating ILEC, or through a CLEC. If the ISP POP were located in a different local calling area than the called party, the call between those two locations would not be treated as local.

In Attachment B-2, a PSTN end user in Denver calls an IP voice customer in DC by dialing the standard 1+ dialing code. This call travels from the customer in Denver to a long distance carrier, which then carries the call to Washington, DC where the number resides.¹⁸ The LEC in Denver charges the IXC for originating access, and the two LECs in DC charge the IXC for terminating access. The IXC then normally recovers its costs from the end user in Denver. In other words, the call is treated like any other call from a PSTN end user in Denver to the IP voice provider's ISP POP.

If the Level 3 arguments are accepted, this call, which today is a normal long distance call subject to assessment of carrier access charges, could be converted to a different compensation scheme based solely on the fact that it terminates to an ISP POP for further delivery to an IP voice customer. The network components have not changed, the carriers involved have not changed, the services passing over the network have not changed, and the location of the ISP POP (end user) has not changed, and the dialing pattern has not changed. In fact, given the technological reality of 1+ dialing, it appears that the IXC would have been required to order FGD from the originating LEC in Denver and from the terminating LEC in DC in order for the originating and terminating parts of the call to be routed properly. While this scenario would not arise under the December 22 *ex parte*, it seems inescapable under the March 2 *ex parte*. Under these circumstances Level 3's Petition would create a special class of long distance carriers that

¹⁷ Attachment B-1, appended hereto, and entitled "True-VoIP-Originated Call to PSTN End User; Attachment B-2, appended hereto, and entitled "PSTN-originated Call to VoIP End User in Different Local Calling Area (LCA)."

¹⁸ We recognize that the number of an IP voice customer may not be in the same area code as the location of the customer. However, in such an event an ISP facility would be required in the geographic location to which the number is assigned, and the same analysis would apply to delivery of the call to that location. The routing shown on Attachment B-2 would also not be possible if the IP voice customer's number were assigned to a different area code.

were "exempt" from payment of proper switched access charges based solely on the content (*i.e.*, IP voice content) of the messages that they were carrying. There is simply neither justification nor reason to allow this scenario to develop.

III. Level 3 Misstates The Current Treatment Of Local Calls Under Existing Rules.

In its February 23 *ex parte*, Level 3 distorts the manner in which compensation for local and non-local traffic is currently calculated and assessed among carriers, the apparent import of which is to claim that the existing rules do not adequately protect providers of IP-enabled services from arbitrary assessment of unwarranted charges for access. The ESP exemption, properly interpreted, provides a reasonable way to treat IP-enabled services, including IP voice applications, while final intercarrier compensation rules are developed. But it must be properly interpreted and uniformly applied.

Level 3 starts with the proposition that the differentiation between local calls and non-local calls for purposes of access and reciprocal compensation currently specified in the Commission's rules is "absurd."¹⁹ Level 3's support for this claim is the fact that, under the current rules, a call between two parties in the same local calling area is a local call, and a call between two parties in different local calling areas is an interexchange or toll call. But local calls and interexchange calls are always evaluated based on the end points of the call, and it is absurd not to continue to do so in the context of the ESP exemption. It is just that, in the case of an ISP call, for access charge purposes, the ISP POP is one of the call's two end points, and must be evaluated as such. If a local call traverses a CLEC switch, the location of the CLEC switch (assuming that it is in the same LATA as the ILEC) does not determine whether the call is local, and calls within a LATA are treated either as access (*i.e.*, they are interexchange or toll calls) or reciprocal compensation based on the location of the end points.²⁰ This is exactly the same whether the end users are traditional end users or ISP POPs. This principle is neither complicated nor absurd.

Level 3 next compounds this error by claiming that treating IP voice providers as end users violates the rights of CLECs to demand interconnection with an ILEC at a single point of interface within a LATA.²¹ The problem with Level 3's position here is that Level 3 totally misconstrues the right of a CLEC to a single point of interconnection, and the cases it relies on stand for exactly the opposite proposition than that for which they are cited by Level 3. Level 3 contends that it has a right to interconnect at a single point of interface within a LATA (which Qwest does not contest under the current rules). But rather than recognizing that this single point of interface does not transform interexchange calls between end users into local calls, Level 3 argues that the right to a single point of interconnection now should be dramatically expanded to require treatment of all traffic within a LATA as local traffic. This is simply not true. Under all of Qwest's interconnection agreements, when toll traffic is exchanged between two LECs, it is exchanged on an access basis, not a reciprocal compensation basis. Toll traffic is measured based on the locations of the two end points of the call.

¹⁹ February 23 *ex parte* at 2-3.

²⁰ *See id.* at Exhibit A.

²¹ *Id.* at 3-5.

Attachment C, appended hereto, demonstrates how this scenario is played out in real life based on Qwest's actual network configurations and Qwest's actual interconnection agreements. Attachment C-1 shows a local call when the ISP POP is in the same local calling area as the other party to the call, compared to the same result (in Attachment C-3) when a traditional called party or PBX is in the same local calling area. Attachment C-2 and Attachment C-4 show the converse—with an ISP POP, a PBX or a traditional end user in a local calling area that is different from the local calling area of the other party. The treatment is identical, and clearly consistent with the right of a CLEC to a single point of interconnection within a LATA. Level 3's support for the proposition that relying on state designated local calling areas to determine the status of a call between two end points is unlawful is predicated on the decision of the Fourth Circuit Court of Appeals in *MCIMetro Transmission Services Inc. v. BellSouth Telecommunications, Inc.*²² Level 3 contends that this case, in which an effort by BellSouth to charge a CLEC for the cost of delivering traffic to the CLEC's single point of interconnection was rebuffed by the Court based on the existing rules of the Commission,²³ somehow implicates the definitions of local and toll traffic in terms of determining whether the reciprocal compensation or the jointly provided switched access rules apply. It appears that Level 3 contends that these decisions somehow grant to ISPs (rather than CLECs) the right to maintain a single POP within a LATA and to use this single POP to avoid toll charges. The right to maintain a single point of interconnection within a LATA is a right reserved to carriers. In fact, the proper application of the ESP exemption to ISP POPs does not implicate the right of a CLEC to a single point of interconnection within a LATA at all, and Level 3 has simply misconstrued a CLEC's interconnection rights and improperly sought to apply them to an ISP.

The *MCIMetro* decision does not hold to the contrary. That case dealt with whether an ILEC could, under the FCC's current rules, charge a CLEC to deliver traffic to a remote CLEC single point of interconnection. The case actually focused on calls where both end points were within a single local calling area, but the CLEC switch was in a different local calling area, and had nothing to do with the principle for which Level 3 cites the case.²⁴ This point was emphasized even more strongly in the D.C. Circuit case of *Mountain Communications, Inc. v. FCC*,²⁵ in which the Court repeatedly noted that the calls in question, while delivered to a CLEC single point of interconnection in a local calling area other than the location of the originating caller, were ultimately between end points in "the same local calling area." Whether an ILEC can charge a CLEC for delivering traffic to a remote CLEC single point of interconnection is a very

²² *MCIMetro Access Transmission Services, Inc. v. BellSouth Telecommunications, Inc.*, 352 F.3d 872 (4th Cir. 2003).

²³ The Commission is currently studying under what circumstances an ILEC may lawfully charge a CLEC for delivery of traffic to a remote single point of interconnection, especially when the single point of interconnection is located in another calling area. *Inter-carrier Compensation FNPRM ¶¶ 91-7*.

²⁴ See *MCIMetro*, 352 F.3d at 877, describing the calls at issue in the case as being between "neighbors."

²⁵ *Mountain Communications, Inc. v. FCC*, 355 F.3d 644, 646, 647 (D.C. Cir. 2004).

important issue. But it has nothing to do with whether a call between two end points in two different local calling areas is a local call or a toll (interexchange) call.

There is no reason in law or logic why these principles should apply any differently when one of the end points of a call is an ISP POP (designated as an end user under the ESP exemption) than is the case when both end points are more traditional end users.

IV. Conclusion.

It is true, as Chairman Powell has noted, that the issues raised by access charges as applied to IP-enabled services, including IP voice applications, are often polarized and are always controversial. But the Level 3 Petition serves to create controversy where there is no need for it. While Qwest completely agrees that it is vital that the Commission act promptly and decisively to devise a comprehensive intercarrier compensation regime that includes the IP-enabled services discussed by Level 3, it is not necessary, and indeed would be affirmatively harmful, to take action along the lines requested by Level 3. There is neither need nor reason for a special status for IP voice applications that is different from that afforded to other IP-enabled services through the ESP exemption. In fact, granting such a status to providers of IP voice services (even assuming that this could be accomplished without dragging the entirety of other IP-enabled services with them) would dramatically undercut the existing access structure and undermine the Commission's ultimate efforts to rationalize the access infrastructure in the intercarrier compensation docket.

The Level 3 Petition should be denied, and the temptation to grant some of Level 3's relief through "interim rules" should be resisted. On the other hand, the Commission should eliminate any uncertainty as to the proper application of the ESP exemption in the context of IP-enabled services through an appropriate clarifying order.

ATTACHMENT A

The ESP Exemption

I. BACKGROUND

The Commission has been wrestling with the issue of how providers of "enhanced services" should pay for interstate use of local exchange switching facilities and services since the very beginning of the access charge regime.¹ The "interim" solution to enhanced services access was the so-called "ESP exemption," whereby enhanced service providers were entitled to connect their "POPs" to local exchanges via local exchange services (as opposed to the tariffed feature group services that carriers were required to purchase), even though they used the local exchange facilities for interstate access.² The ESP exemption was never really an "exemption" at all -- it was simply a regulatory decision that, for a variety of policy reasons, interstate access by ESPs located within the local calling area of a customer would be treated as local for the purpose of assessing the correct access charge, at least if local service were ordered. The same status was accorded to private networks that accessed local exchanges for interstate origination and termination of interstate calls -- these private networks were likewise treated as end users for access charge purposes based on the location of the PBX or other terminating device (including Centrex) through which the traffic was delivered into a local exchange.³ In both cases, interstate cost recovery was designed to be achieved through assessment of a special access surcharge on ILEC interstate special access lines used by ESPs or "leaky PBXs".⁴

This "local" designation of an ESP POP carried over into the telecommunications environment established in the 1996 Telecommunications Act. Information service providers (ISPs), the heirs of the old enhanced service provider moniker, are entitled to have their ISP POPs treated as end-user premises under the ESP exemption. Thus, ISPs can order local service to ISP POPs in the same manner as such service can be ordered to other end user premises. When the ISP is served by a CLEC and matters of reciprocal compensation under Section 251(b)(5) of the Act arise, the

¹ See *In the Matter of MTS and WATS Market Structure, Third Report and Order*, 93 FCC 2d 241, 254-55 ¶ 39 and n.15, 320 ¶ 269 (1983); *modified on recon.*, 97 FCC 2d 682 (1984) ("*First Order on Reconsideration*"), *further modified on recon.*, 97 FCC 2d 834 (1984) ("*Order on Further Reconsideration*"), *aff'd in principal part and remanded in part sub nom.*, *NARUC v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 1227 (1985).

² See, e.g., *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, First Report and Order*, 12 FCC Rcd 15982, 16131-34 ¶¶ 341-48 (1997); see, also, generally, *In the Matter of Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, Order*, 3 FCC Rcd 2631 (1988).

³ See *In the Matter of WATS-Related and Other Amendments of Part 69 of the Commission's Rules, Memorandum Opinion and Order*, 2 FCC Rcd 7424, 7425 ¶¶ 13-15 (1987).

⁴ See *First Order on Reconsideration*, 97 FCC 2d at 714-15 ¶ 82, 743 ¶ 151; *Order on Further Reconsideration*, 97 FCC 2d at 867-78 ¶¶ 107-39.

ESP exemption analysis carries over into the current realm under Section 251(g) of the Act. Subject to modification by the FCC and the interim ISP reciprocal compensation rules,⁵ the end-user designation of an ISP POP also allows for reasoned analysis of the rights and obligations of local exchange carriers when exchanging ISP traffic with each other. In such an event the ISP POP is treated as an end user for analytical purposes. Based on the location of the ISP POP, whatever mechanism is used to treat calls between traditional end users (reciprocal compensation, tariffed access, *i.e.*, jointly provided switched access paid by the ISP to both carriers, or some other approach) is applied to this traffic and used by the respective carriers to recover the costs incurred in exchanging the ISP traffic.

The key of course is that an ISP POP is not the same thing as an IXC POP or a CLEC point of interface, because neither an IXC POP nor a CLEC point of interface is treated as an end user for access purposes and neither is entitled to purchase retail services reserved for end users (although CLECs may purchase local services for resale under Section 251(c)(4) of the Act). There must always be an ISP POP in the case of an IP-enabled service, even if that POP is collocated at the same premise with an IXC POP or a CLEC point of interface. When reciprocal compensation is paid by one carrier to another for delivering a call between two end points in a specific local calling area, compensation under Section 251(b)(5) of the Act, as clarified by the interim rules regarding ISP reciprocal compensation, is likewise paid when the end-user premise is an ISP POP. When the call to an end user is interexchange in nature (for calls within a LATA, this is designated as "toll" traffic whether or not a separate toll charge is actually assessed), it is delivered via jointly provided switched access. Jointly-provided switched access is the compensation vehicle when two LECs combine to provide access to an interexchange carrier, and is the proper compensation mechanism whenever the ISP POP is located in a calling area other than the one in which the LEC's customer is located. The LECs do not bill each other—they bill the IXC. This is important because it is well agreed that, when two LECs collaborate to complete a toll call (*i.e.*, any call between two local calling areas, whether a toll charge is assessed to the end user or not), the reciprocal compensation rules do not apply and instead the call is billed under access principles. In the case of a call where the LEC is often also the toll carrier (a common scenario in the case of intraLATA toll calls), access charges are assessed based on the toll carriage (*i.e.*, which carrier actually provides the toll service to the end user).

Because "true IP voice" service (a voice application originating in Internet Protocol over a broadband line) is an information service, IP voice providers and carriers carrying their traffic operate under the ESP exemption. Thus, while an IP-voice provider can, of course, purchase feature group services to originate or terminate calls to and from their ISP POPs, they are entitled to purchase local service under the ESP exemption, and calls to and from IP-voice providers are treated in the same fashion as calls to other ISP POPs under the principles stated in this memorandum.

⁵ See *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report and Order*, 16 FCC Rcd 9151, 9163-81 ¶¶ 23-65, 9186-90 ¶¶ 77-84 (2001), *remanded sub nom. WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), *reh'g, en banc, denied* (D.C. Cir. Sept. 24, 2002), *cert. denied*, 538 U.S. 1012 (May 5, 2003).

The appropriate rules can be summarized as follows:

- All IP-enabled traffic, including true VoIP traffic, is currently treated as an information service under the Commission's rules. The principles that guide the pricing of interconnection to a local exchange by a VoIP provider are derived from the ESP exemption.
- The ESP exemption is something of a misnomer. It is not an exemption from the payment of access. Rather it is a regulatory structure that treats ISP POPs as if they were end-user premises for the purpose of assessing access charges. Because of this status, ISPs are entitled to purchase exchange access from ILECs out of ILEC end-user tariffs under the same terms and conditions as other end users. Any special access services they purchase from an ILEC to connect their ISP POPs to an IXC or other carriers of traffic are subject to the "special access surcharge" rules.⁶
- In addition, when an ISP POP is served by a CLEC, the CLEC is entitled to treat that ISP POP as an end-user premise for purposes of determining whether the rules regarding reciprocal compensation (47 U.S.C. § 251(b)(5)) or access (jointly provided switched access) apply. The compensation levels for ISP traffic are treated under the interim rules respecting ISP reciprocal compensation.
- Under these circumstances, unlike the LATA-wide access available through ILEC tariffed switched access services, an end user generally has LATA-wide access only through the purchase of toll service. If an ISP POP is located in a local calling area that is within the same LATA as a terminating caller, but which requires a toll call between the ISP POP and the terminating caller, the ISP POP is still treated as an end user and the proper toll charges to the ISP are assessed. Access charges are then assessed to the toll carrier.
- This is consistent with the right of a CLEC to establish a single point of interconnection within a LATA. The existence of such a single point of interconnection does not affect the basic differentiation between local and toll (intra and interexchange) calls. An ISP POP is entitled to "LATA-wide termination," but the rates are different than the LATA-wide termination provided pursuant to ILEC access tariffs. Specifically, an ISP POP's connections within a LATA are governed by the same rules that govern other end users.⁷
- It is vital to remember that, whenever an ISP orders service from an ILEC access tariff, it must pay the tariffed rate for the service that it ordered. There is a prevalent misconception to the effect that the ESP exemption permits an ISP to order a tariffed feature group service and not pay for it. This is totally wrong. The ESP exemption permits an ISP to order local service under circumstances where a carrier does not have

⁶ 47 C.F.R. § 69.115.

⁷ The right of a purchaser of interstate switched access to "LATA wide termination" is of course irrelevant to this analysis. No one doubts the ability of an ISP to purchase access service pursuant to the ILEC feature group services so long as it pays the proper tariffed rate for service.

the same right to order local service. The ESP exemption does not allow an ISP to pay a non-tariffed rate for a tariffed service that it has ordered, and the ISP choosing to order FGD service, for example, must pay the tariffed rate for service. In fact, as an ISP is treated as an end user, the ISP must pay the tariffed rate for services it orders from ILECs -- it has no right to bargain for any different rate.⁸

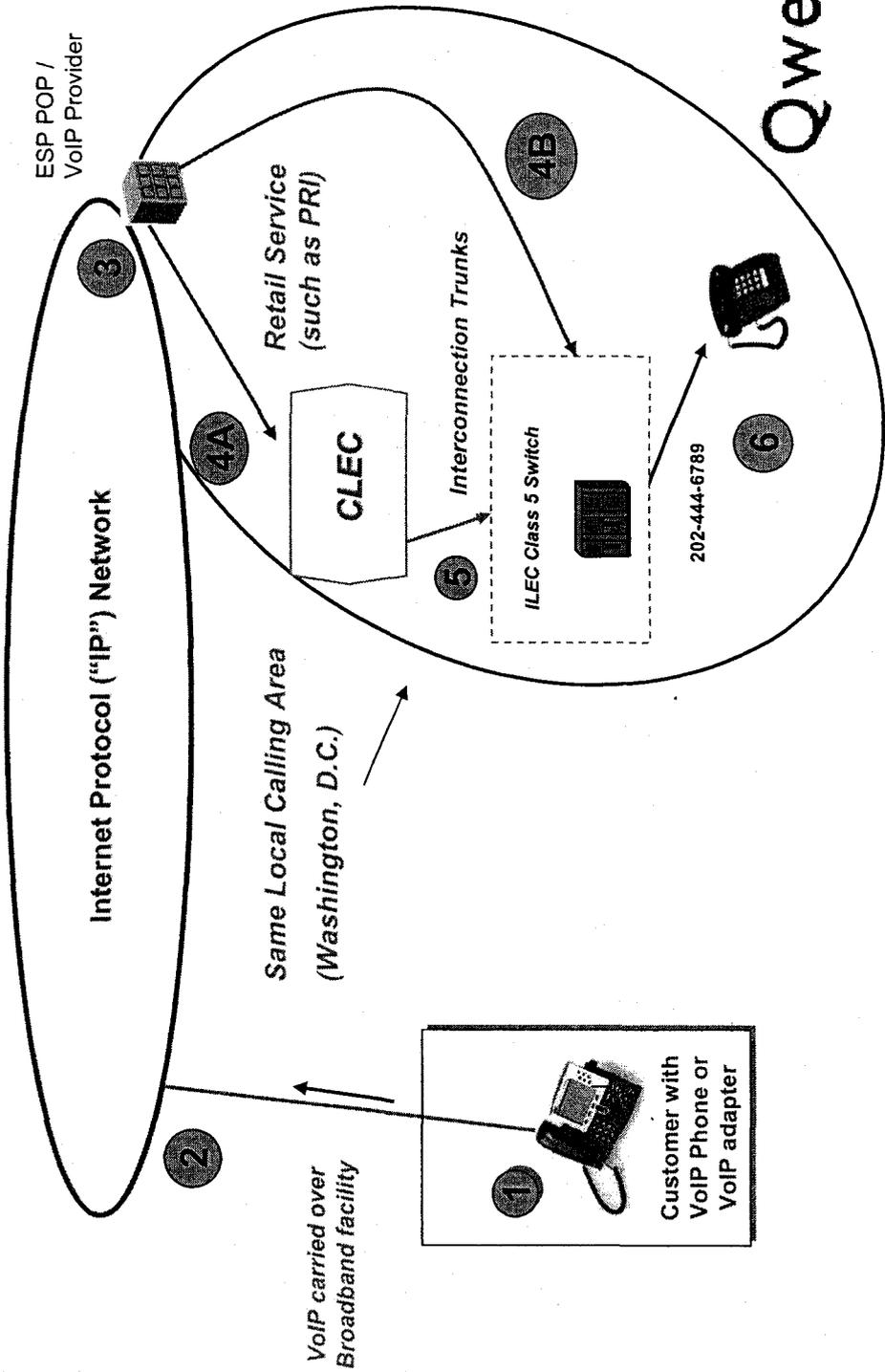
- When IP voice traffic is delivered to an ILEC, either directly from the ISP POP or through a CLEC, these principles apply. The ISP POP is treated like any other end-user premise. If the IP voice provider is purchasing access service directly from an ILEC, it may do so as an end user subject to the normal rules regarding local and toll service. If the IP-voice provider purchases service from a CLEC and the IP-voice traffic is exchanged with an ILEC, whether the access rules or the intercarrier compensation rules apply depends entirely on the location of the IP voice provider's ISP POP.

⁸ Unlike carriers, end users generally do not have the statutory ability to contract with dominant carriers for tariffed services at other than the tariffed rates. *See American Broadcasting Companies, Inc. v. FCC*, 643 F.2d 818, 822-24 (D.C. Cir. 1980).

True-VoIP-Originated Call to PSTN End User Attachment B-1

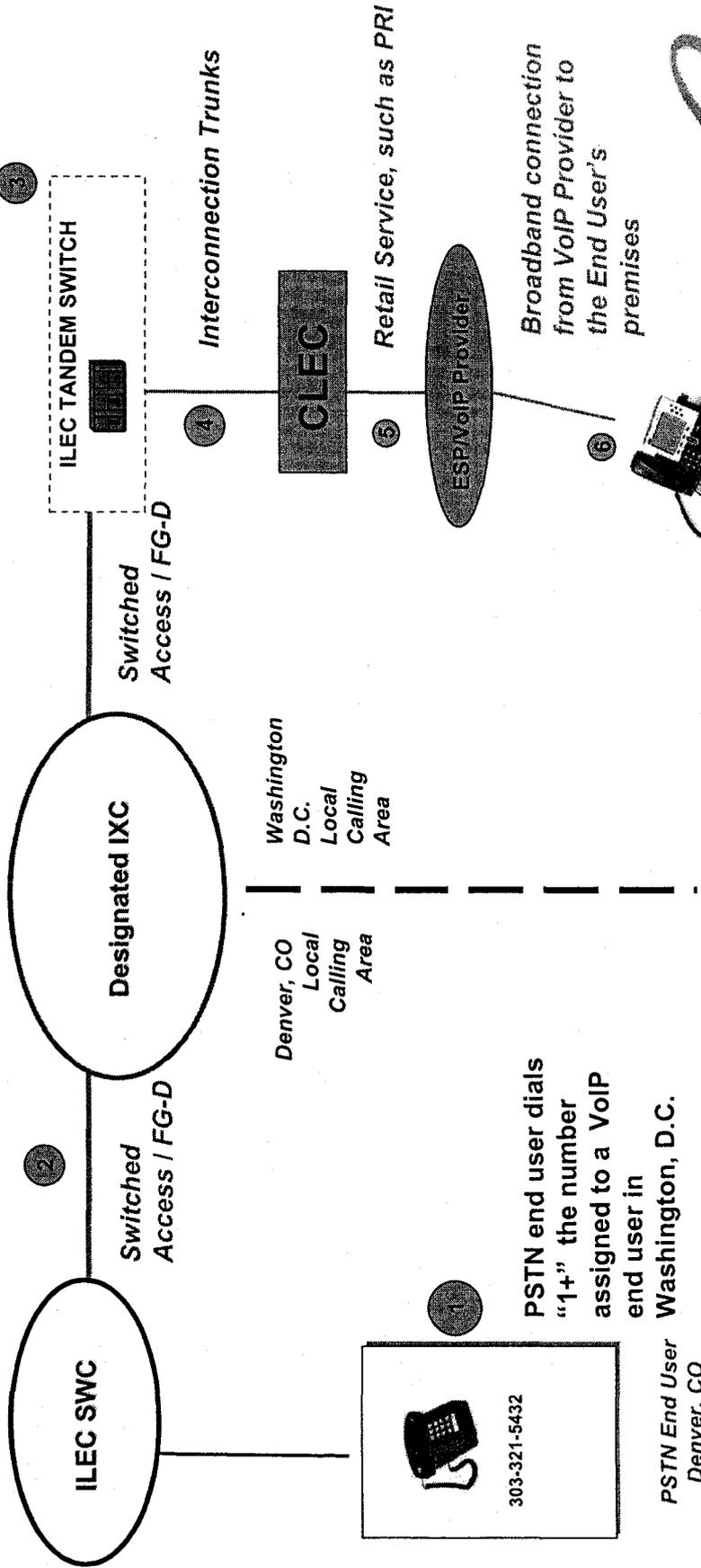
ESP POP and Terminating End User in the Same LCA

1. VoIP Phone or VoIP Adapter at Customer Premises
2. Call initiated in IP over a Broadband Connection (e.g. IP over DSL, T1, or Cable modem)
3. Call is routed via the Internet Protocol Network to an Enhanced Service Provider/VoIP Provider's POP located in the same Local Calling Area as the terminating PSTN end user
4. ESP/VoIP Provider purchases Retail Service (PRIs) to connect to CLEC (4A) or alternatively purchases PRIs to connect to the ILEC (4B).
5. CLEC passes traffic to ILEC via Interconnection Trunks. Reciprocal Compensation applies
6. ILEC terminates call to end user.



PSTN-originated Call to VoIP End User in Different Local Calling Area (LCA)

1. End user in Denver dials a "1+" call to an end user in Washington, D.C. Call is transported in TDM. The originating end user has purchased a telecom service from the originating LEC
2. Call routes from ILEC SWC to designated IXC. Switched access / FG-D charges apply.
3. IXC carries call from Denver to Washington, D.C. and hands the call off to Washington, D.C.-based ILEC. Jointly provided switched access charges apply
4. The ILEC sends traffic via its tandem to the CLEC switch. Jointly provided switched access charges apply.
5. CLEC sends the call to the ESP/VoIP Provider via a Retail Service (such as PRI) offered via contract or tariff.
6. ESP/VoIP provider converts the call to IP and terminates the call to its VoIP end user customer via a broadband connection.



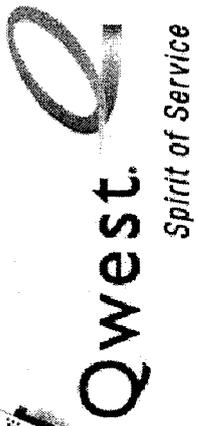
PSTN End User
Denver, CO

PSTN end user dials
"1+" the number
assigned to a VoIP
end user in
Washington, D.C.

Denver, CO
Local
Calling
Area

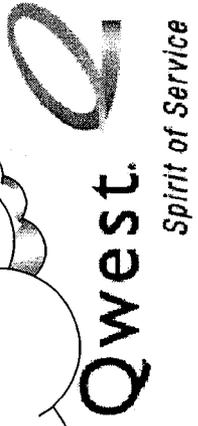
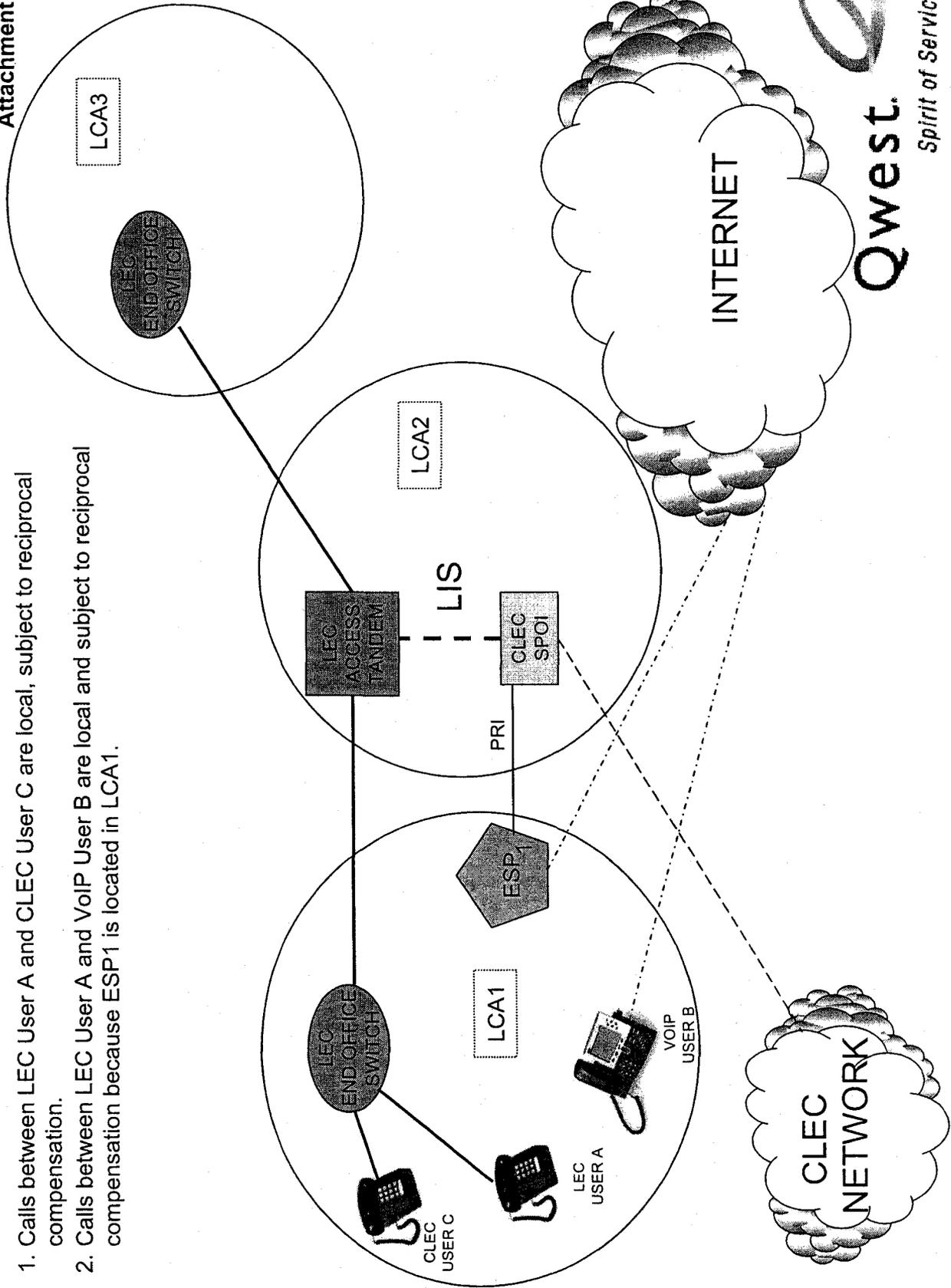
Washington
D.C.
Local
Calling
Area

VoIP End User:
202-444-6789
Washington, D.C.



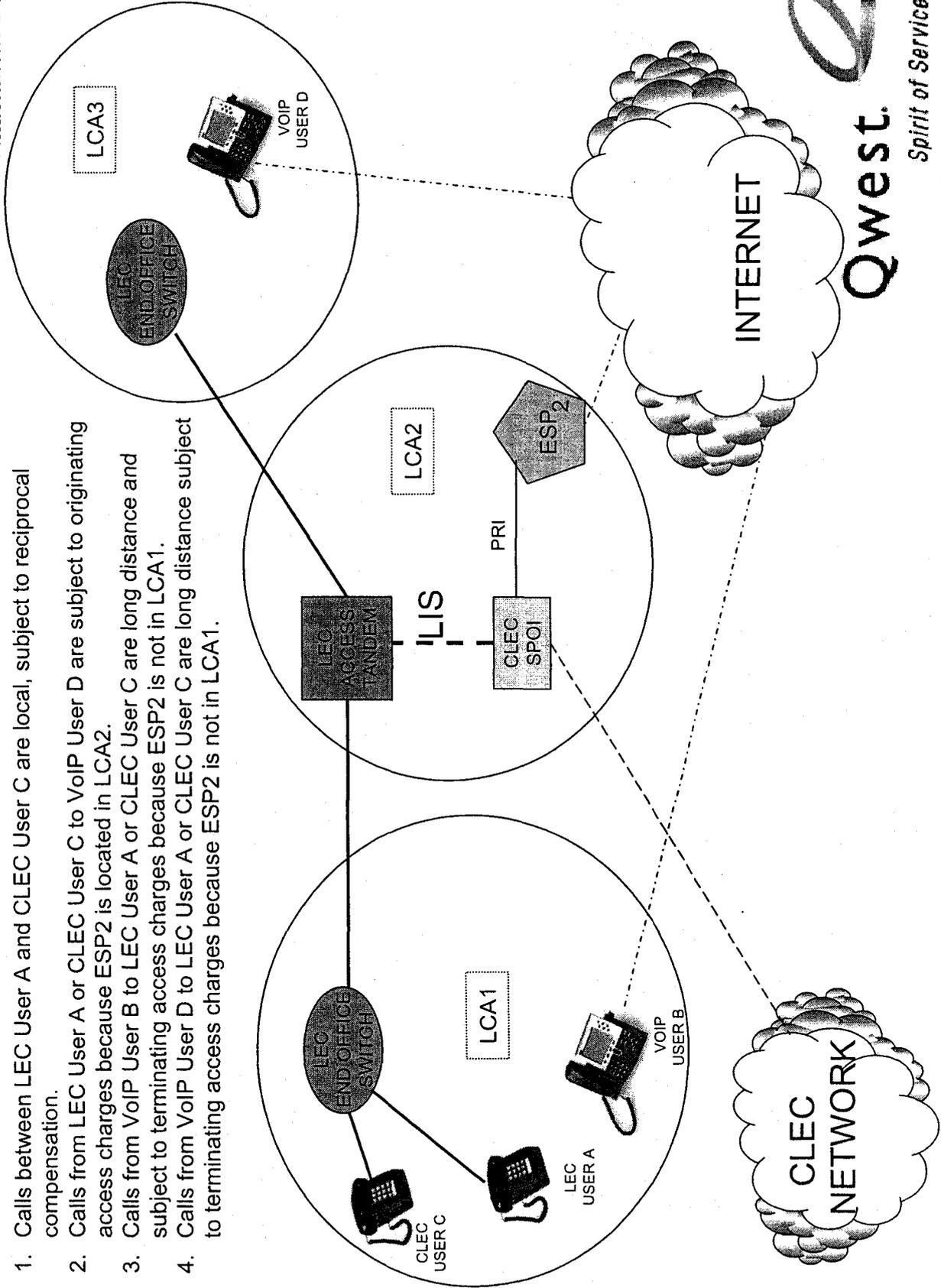
Attachment C-1

1. Calls between LEC User A and CLEC User C are local, subject to reciprocal compensation.
2. Calls between LEC User A and VoIP User B are local and subject to reciprocal compensation because ESP1 is located in LCA1.



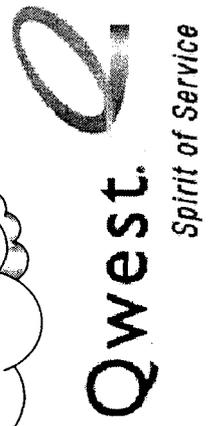
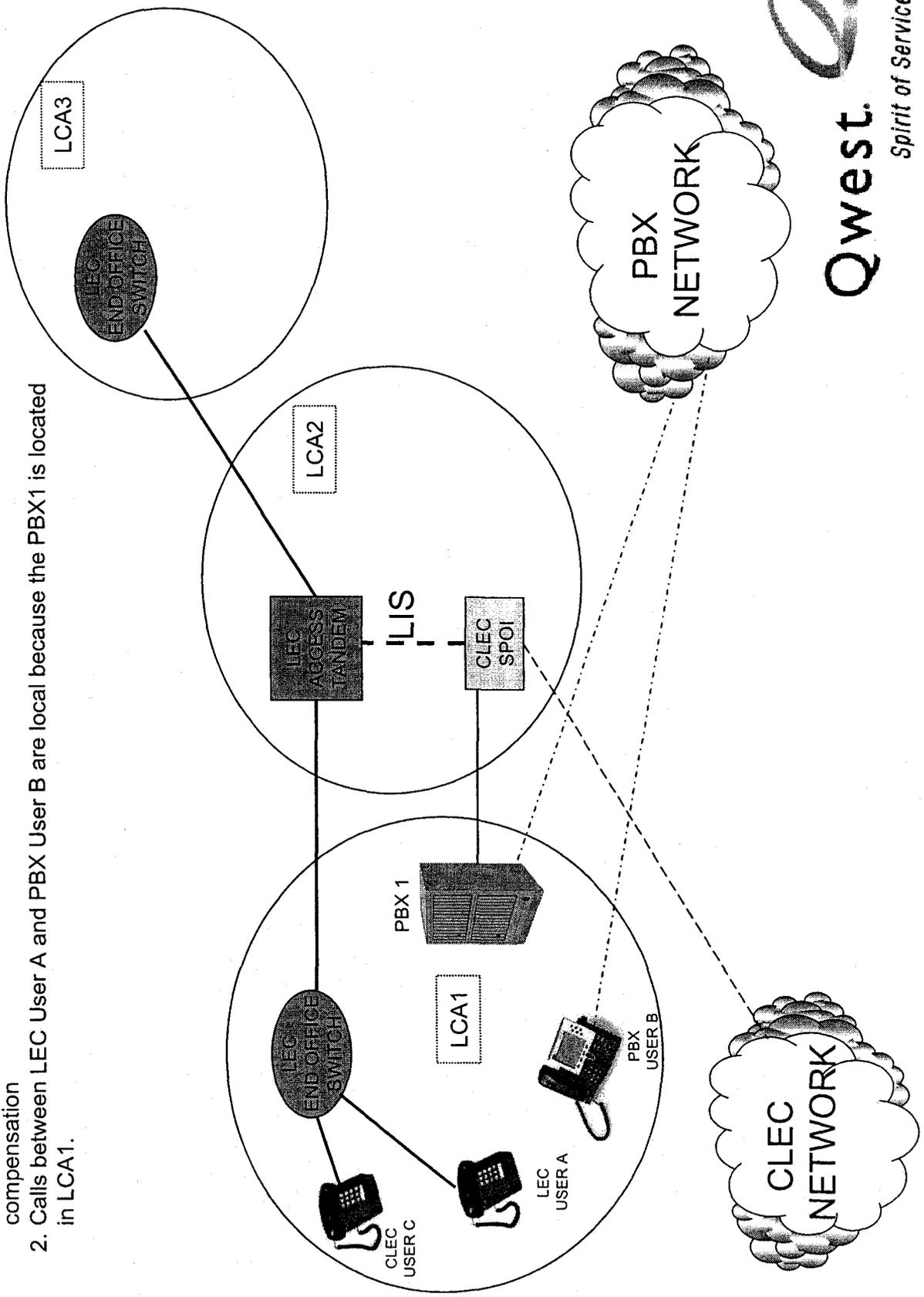
Attachment C-2

1. Calls between LEC User A and CLEC User C are local, subject to reciprocal compensation.
2. Calls from LEC User A or CLEC User C to VoIP User D are subject to originating access charges because ESP2 is located in LCA2.
3. Calls from VoIP User B to LEC User A or CLEC User C are long distance and subject to terminating access charges because ESP2 is not in LCA1.
4. Calls from VoIP User D to LEC User A or CLEC User C are long distance subject to terminating access charges because ESP2 is not in LCA1.

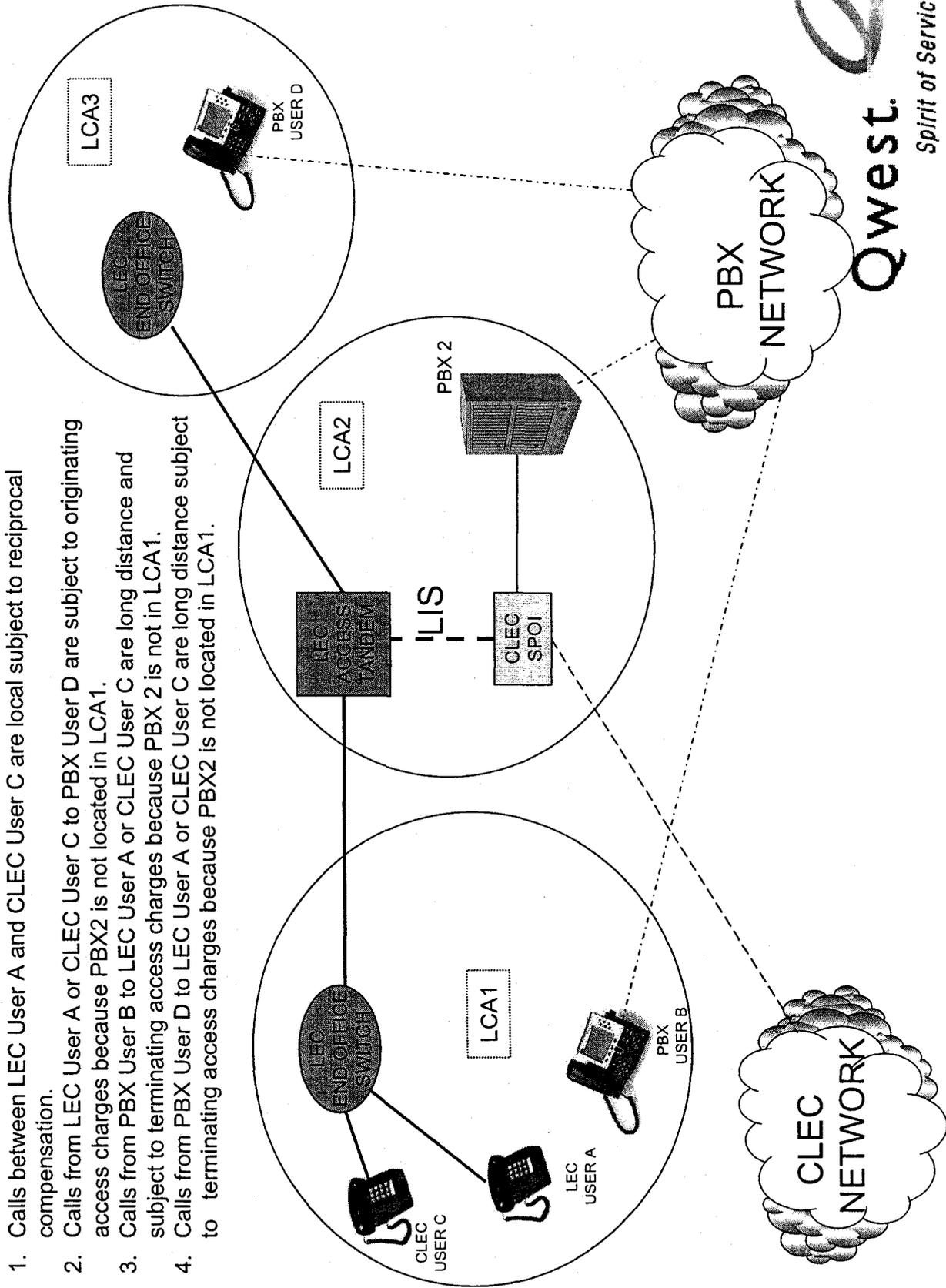


Attachment C-3

1. Calls between LEC User A and CLEC User C are local, subject to reciprocal compensation
2. Calls between LEC User A and PBX User B are local because the PBX1 is located in LCA1.



Attachment C-4



1. Calls between LEC User A and CLEC User C are local subject to reciprocal compensation.
2. Calls from LEC User A or CLEC User C to PBX User D are subject to originating access charges because PBX2 is not located in LCA1.
3. Calls from PBX User B to LEC User A or CLEC User C are long distance and subject to terminating access charges because PBX 2 is not in LCA1.
4. Calls from PBX User D to LEC User A or CLEC User C are long distance subject to terminating access charges because PBX2 is not located in LCA1.

EXHIBIT

D

ISSUED: August 16, 2005

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

IC 12

In the Matter of)
)
QWEST CORPORATION vs. LEVEL 3)
COMMUNICATIONS, LLC,) RULING
)
Complaint for Enforcement of Interconnection)
Agreement.)

DISPOSITION: COMPENSATION FOR VNXX-ROUTED
ISP-BOUND TRAFFIC NOT AUTHORIZED
UNDER INTERCONNECTION AGREEMENT

Procedural History

On June 6, 2005, Qwest Corporation (Qwest) filed a complaint against Level 3 Communications, LLC (Level 3), asserting that Level 3 is violating federal law, state law, and terms of the Interconnection Agreement (ICA) executed by the parties. Qwest alleges that Level 3 is assigning local telephone numbers to Internet Service Provider (ISP) customers, even though the ISP's modem banks (or servers) are not located within the local calling area to which those numbers have been assigned. Qwest asserts that Level 3 improperly seeks payment of reciprocal compensation for such 'Virtual NXX' (VNXX) traffic. Qwest further alleges that Level 3 is violating the ICA by obligating Qwest to send non-local ISP traffic over Local Interconnection Service (LIS) trunks.

Level 3 responded to Qwest's complaint on June 20, 2005. It denies the allegations in the complaint and counterclaims that Qwest is violating the ICA by refusing to compensate Level 3 for the transport and termination of Qwest-originated ISP-bound traffic. Level 3 also counterclaims that Qwest violated the ICA by failing to negotiate an amendment to the agreement reflecting the Federal Communications Commission's (FCC's) *Core Communications Order*.¹

¹ *Petition of Core Communications, Inc., for Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP Remand Order*, FCC 04-241, WC Docket No. 03-171 (rel. Oct. 18, 2004) ("*Core Communications Order*").

A prehearing conference was held in this matter on June 30, 2005. On July 5, 2005, the ALJ issued a Memorandum requesting that the parties file briefs addressing whether the ICA requires compensation for the exchange of VNXX-routed ISP-bound traffic. Because Section 7.3.4.3 of the ICA provides that the parties shall exchange "ISP-bound traffic (as that term is used in the FCC ISP Order),"² a central issue in this complaint proceeding is whether the FCC's use of the term "ISP-bound traffic" in that order encompasses VNXX traffic.³ The parties filed briefs addressing that issue on July 18, 2005.

VNXX

In Order No. 04-504, the Commission described VNXX as follows:

The incumbent local telephone company does not have the exclusive right to assign specific phone numbers to specific customers. Competitive local exchange carriers (CLECs) are, by law, entitled to be assigned blocks of numbers in sequence, including entire NXXs. A 'Virtual NXX' (VNXX) occurs when a CLEC assigns a 'local' rate center code to a customer physically located in a 'foreign' rate center. For example, a customer physically located in Portland might order a phone number from a CLEC with a Salem NXX rate center code. Calls between that Portland customer's phone and other Salem area customers would be treated as if they were local calls, even though the calls between Salem and the customer's physical location in Portland is a distance of some 50 miles. Thus, under a CLEC's VNXX arrangement, all Salem customers would be paying a flat, monthly, local rate, even though they are calling the CLEC's Portland customer. When those same customers call the ILEC's Portland customers, served out of the same central office as the CLEC's Portland customer, they are charged intraLATA toll charges.

This type of service was not unknown to the telephone industry prior to the arrival of CLECs. For many years, incumbent carriers offered foreign exchange (FX) services, which, for an additional monthly fee, also provided

² The 'FCC ISP Order' is more commonly known as the 'ISP Remand Order.' I use the latter reference throughout this ruling. See, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-bound Traffic*, Order on Remand and Report and Order, 16 FCC Rcd 9151, para. 81, CC Docket No. 01-92, FCC 01-131, rel. April 27, 2000, *remanded sub nom*, *WorldCom Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), *reh'g en banc denied*, (D.C. Cir. Sept. 24, 2002), *cert. denied*, 538 U.S. 1012 (May 5, 2003). ("ISP Remand Order.")

³ ALJ Memorandum, July 5, 2005, at 2.

business customers served out of one central office with numbers from an NXX assigned to another central office, usually so that their customers could call them without incurring intraLATA toll charges. By Order No. 83-869, issued almost 21 years ago, the Commission prohibited incumbent carriers from offering FX services to any new customers or adding additional FX lines for existing customers.⁴

For purposes of this case, “VNXX-routed ISP-Bound traffic” describes a situation wherein a CLEC, such as Level 3, obtains numbers for various locations within a state. Those numbers are assigned by the CLEC to its ISP customers even though the ISP has no physical presence (*i.e.*, does not locate its modem banks or server) within the local calling area (“LCA”) associated with those telephone numbers. ISP-bound traffic directed to those numbers is routed to the CLEC’s Point of Interconnection (POI) and then delivered to the ISP’s modem bank/server at a physical location in another LCA.⁵

Qwest takes the position that the FCC’s definition of ISP-bound traffic in the *ISP Remand Order*, and therefore Section 7.3.4.3 of the ICA, encompasses only those circumstances where an ISP modem bank/server is physically located in the same LCA as the end-user customer initiating an Internet call.⁶ Level 3, on the other hand, maintains that the *ISP Remand Order*, read in conjunction with the *Core Communications Order*, requires that reciprocal compensation must be paid on *all* ISP-bound traffic, including VNXX-routed ISP-bound traffic.

Applicable Law

Section 251(b)(5) of the Telecommunications Act of 1996 requires all local exchange carriers (LECs) to establish reciprocal compensation arrangements for the transport and termination of telecommunications. In its 1996 *Local Competition Order*,⁷ the FCC found that Section 251(b)(5) reciprocal compensation obligations “apply only

⁴ Order No. 04-504 at 2. (Footnotes omitted.)

⁵ Qwest notes that the ISP server or modem banks may be located in another state. VNXX arrangements can also exist for voice traffic. Qwest Brief at 1-2. See also, *In the Matter of the Investigation into the Use of Virtual NPA/NXX Calling Patterns*, OPUC Docket UM 1058, Order No. 04-504 (Sept. 7, 2004).

⁶ Thus, for intercarrier compensation purposes, Qwest states that the relevant endpoints are the physical location of the calling party and the physical location of the ISP’s servers or modem banks. Qwest describes this arrangement as “local ISP traffic,” to distinguish it from “VNXX-routed ISP-bound traffic.”

⁷ *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket 96-98, FCC 96-325, First Report and Order, 11 FCC Rcd 15499 (1996), *aff’d in part and vacated in part sub nom. Competitive Telecommunications Ass’n v. FCC*, 117 F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. V. FCC*, 120 F.3d 744 (8th Cir. 1997), *aff’d in part and remanded, AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999), on remand, *Iowa Utils. Bd. V. FCC*, 219 F.3d 744 (8th Cir. 2000), *reversed in part sub nom. Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002). (“*Local Competition Order*.”)

to traffic that originates and terminates *within a local area* as defined by the state commissions.”⁸

In its 1999 *Declaratory Ruling*, the FCC concluded that ISP-bound traffic was interstate traffic, and therefore not subject to the reciprocal compensation provisions of §251(b)(5).⁹ The FCC “reached this conclusion by applying its end-to-end analysis, traditionally employed in determining whether a call was jurisdictionally interstate or not, stressing that ISP-bound traffic ultimately reaches websites that are typically located out-of-state.”¹⁰

On review in *Bell Atlantic Tel. Cos. v. FCC*,¹¹ the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated and remanded the *Declaratory Ruling*. The Court held “that the [FCC’s] order had failed to adequately explain why the traditional ‘end-to-end’ jurisdictional analysis was relevant to deciding whether ISP calls fitted the local call or the long-distance call model.”¹²

On remand, the FCC again concluded that the reciprocal compensation provisions of §251(b)(5) should not govern the compensation between two LECs involved in delivering ISP-bound traffic.¹³ This time, however, the FCC abandoned the “local v. long distance” dichotomy used in the end-to-end analysis in the *Declaratory Ruling*.¹⁴ Instead, the FCC held that “under §251(g) of the Act it was authorized to

⁸ Local Competition Order at ¶1034, *ISP Remand Order* at ¶12. (Emphasis added.)

⁹ *ISP Remand Order* at ¶1.

¹⁰ *WorldCom Inc. v. FCC*, 288 F.3d 429, 431 (D.C. Circuit 2002) (*WorldCom*).

¹¹ *Bell Atlantic Tel. Cos. v. FCC*, 206 F.3d 1, 5, 8 (D.C. Cir. 2000) (*Bell Atlantic*).

¹² *WorldCom*, 288 F.3d at 431.

¹³ *Id.*

¹⁴ *ISP Remand Order* at ¶¶46-47, 54, 56; See also, *Pacific Bell v. Pac-West Telecom, Inc.*, 325 F.3d 1114, 1131 (9th Cir. 2003), *ISP Remand Order* at: In the *ISP Remand Order*, the FCC explained that it had erred by attempting to characterize ISP-bound traffic as “local” or “long distance.” It held, in part:

45....By indicating that all ‘local calls,’ however defined, would be subject to reciprocal compensation obligations under the Act, we overlooked the interplay between these two inter-related provisions of section 251 -- subsections (b) and (g). Further, we created unnecessary ambiguity for ourselves, and the court, because the statute does not define the term ‘local call,’ and thus that term could be interpreted as meaning either traffic subject to local *rates* or traffic that is *jurisdictionally* intrastate. In the context of ISP-bound traffic, as the court observed, our use of the term ‘local’ created a tension that undermined the prior order because the ESP exemption permitted ISPs to purchase access through local business tariffs, yet the jurisdictional nature of this traffic has long been recognized as interstate.

46. For similar reasons, we modify our analysis and conclusion in the *Local Competition Order*. There we held that ‘[t]ransport and termination of *local* traffic for purposes of reciprocal compensation are governed by sections 251(b)(5) and 251(d)(2).’ We now hold

'carve out' from §251(b)(5) calls made to ISPs located within the caller's local calling area."¹⁵ Specifically, the FCC concluded that ISP-bound traffic is "information access" under §251(g), and therefore "excepted from the scope of 'telecommunications' subject to reciprocal compensation under §251(b)(5)."¹⁶

On review in *Worldcom v. FCC*, the D.C. Circuit again remanded the *ISP Remand Order* to the FCC. The Court concluded that the FCC erred in relying upon §251(g) "to 'carve out' from §251(b)(5) calls made to internet service providers ('ISPs') located within the caller's local calling area."¹⁷ Emphasizing that its decision was limited to 251(g), the Court stated:

Having found that §251(g) does not provide a basis for the Commission's action, we make no further determinations. For example, as in *Bell Atlantic*, we do not decide whether handling calls to ISPs constitutes 'telephone exchange service' or 'exchange access' (as those terms are defined in the Act, 47 U.S.C. §§153(16), 153(47)) or neither, or whether those terms cover the universe to which such calls might belong. Nor do we decide the scope of the 'telecommunications' covered by §251(b)(5). Nor do we decide whether the Commission may adopt bill-and-keep for ISP-bound calls pursuant to §251(b)(5); see §252(d)(B)(i) (referring to bill-and-keep). Indeed, these are only samples of the issues we do not decide, which are in fact all issues other than whether §251(g) provided the

that the telecommunications subject to those provisions are all such telecommunications not excluded by section 251(g). In the *Local Competition Order*, as in the subsequent *Declaratory Ruling*, use of the phrase 'local traffic' created unnecessary ambiguities, and we correct that mistake here. *ISP Remand Order* at ¶¶45-46, see also, ¶¶23-31, 54. (Footnotes omitted.)

¹⁵ *WorldCom*, 288 F.3d at 430.

¹⁶ *Id.* at 431. Having removed ISP-bound calls from the scope of §251(b)(5), the FCC established an interim compensation regime including a transition to 'bill and keep,' whereby each carrier recovers its costs from its own end-users. In arriving at this solution, the FCC pointed to a number of flaws in the prevailing intercarrier compensation mechanism for ISP calls, under which the originating LEC paid the LEC that served the ISP. Because ISPs typically generate large volumes of one-way traffic in their direction, the old system attracted LECs that entered the business simply to serve ISPs, making enough money from reciprocal compensation to pay their ISP customers for the privilege of completing the calls.... To smooth the transition to bill-and-keep (but without fully committing itself to it), the FCC adopted several interim cost-recovery rules that sought to limit arbitrage opportunities by lowering the amounts and capping the growth of ISP-related intercarrier payments. These tend to force ISP-serving LECs to recover an increasing portion of their costs from their own subscribers rather than from other LECs. *Id.* at 431-432. See also, *ISP Remand Order* at ¶1.

¹⁷ *Id.* at 430. (Emphasis added.)

authority claimed by the Commission for not applying §251(b)(5).

Moreover, we do not decide petitioners' claims that the interim pricing limits imposed by the Commission are inadequately reasoned. Because we can't yet know the legal basis for the Commission's ultimate rules, or even what those rules may prove to be, we have no meaningful context in which to assess these explicitly transitional measures.

Finally, we do not vacate the order. Many of the petitioners themselves favor bill-and-keep, and there is plainly a non-trivial likelihood that the Commission has authority to elect such a system (perhaps under §§251(b)(5) and 252(d)(B)(i)).¹⁸

Discussion.

I. As noted above, the Level 3/Qwest ICA provides that the parties shall exchange ISP-bound traffic as that term is used in the FCC's *ISP Remand Order*, pursuant to the rates specified in the *ISP Remand Order*.¹⁹ The parties appear to agree that, until October 18, 2004, at least, no compensation was due for ISP-bound traffic in accordance with Section 7.3.6.3 of the ICA. That provision basically mirrors the "New Markets Rule" adopted in the *ISP Remand Order*.²⁰

On October 18, 2004, the FCC released its *Core Communications Order*, granting forbearance from the New Markets Rule. Level 3 asserts that the practical effect of that Order is to require intercarrier compensation for all ISP-bound traffic, including VNXX-routed ISP-bound traffic, after October 18, 2004, under Section 7.3.6.2.3.4 of the ICA. That provision contemplates payment at \$.0007 per minute of use (MOU).

Qwest apparently concedes that the *Core Communications Order* requires it to pay Level 3 for "local" ISP-bound traffic originated by Qwest customers

¹⁸ *Id.* at 434.

¹⁹ Section 7.3.4.3 provides: "The Parties agree to exchange all EAS/Local (§251(b)(5)) and ISP-bound traffic (as that term is used in the FCC ISP Order) at the FCC ordered rate, pursuant to the FCC ISP Order. The FCC ordered rate for ISP-bound traffic will apply to EAS/Local and ISP-bound traffic in lieu of End Office call termination and Tandem Switched Transport. See Section 7.3.6 of this Agreement for FCC-ordered rates."

Section 7.3.6 of the ICA is entitled 'ISP-Bound Traffic.' Section 7.3.6.1 specifies that 'the Parties shall exchange ISP-bound traffic pursuant to the compensation mechanism set forth in the FCC ISP Order.' Accordingly, the rates set forth in the ICA mirror the interim compensation rates specified in the *ISP Remand Order*.

²⁰ *ISP Remand Order* at ¶81; *Core Communications Order* at ¶24.

and terminated by Level 3 at the \$.0007/MOU compensation rate.²¹ Qwest's objection, and indeed the principal dispute in this proceeding, concerns whether the ICA requires the parties to exchange compensation for VNXX-routed ISP-bound traffic. In accordance with Section 7.3.4.3, the Commission must determine whether the FCC's definition of "ISP-bound traffic" in the *ISP Remand Order* includes VNXX-routed ISP-bound traffic.²²

II. Qwest argues that prior and subsequent history confirm that the *ISP Remand Order* defines ISP-bound traffic to encompass only those situations in which the customer initiating an Internet call, and the ISP equipment to which that call is directed, are located in the same local calling area. It points out that:

- The FCC's description of ISP traffic in the *Declaratory Ruling* states that "[u]nder one typical arrangement, an ISP customer dials a seven-digit number to reach the ISP server in the same local calling area."²³
- The *ISP Remand Order* contains essentially the same description of ISP traffic, observing that "an ISP's end-user customers typically access the Internet through an ISP server located in the same local calling area."²⁴
- In the *Bell Atlantic* decision, remanding the *Declaratory Ruling* back to the FCC, the D.C. Circuit stated that the issue before the FCC in the *Declaratory Ruling* was "whether calls to internet service providers ('ISPs') within the caller's local calling area are themselves 'local.'"²⁵
- In the *WorldCom* decision, remanding the *ISP Remand Order*, the D.C. Circuit stated that "[i]n the order before us the Federal Communications Commission held that under §251(g) of the Act it was authorized to 'carve out' from §251(b)(5) calls made to internet service providers ('ISPs') located within the caller's local calling area."²⁶

²¹ Qwest Complaint at ¶28; see fn. 6.

²² ALJ Memorandum at 2; Level 3 Brief at 2.

²³ *Declaratory Ruling* at ¶4. (Emphasis added.)

²⁴ *ISP Remand Order* at ¶10. (Emphasis added.) The FCC does not discuss 'atypical' methods of accessing the Internet. Qwest states that the other methods involve making either a 1+ toll call or an "800" service call to access ISP modem banks located outside an end-user's LCA. Qwest Brief at 2.

²⁵ *Bell Atlantic*, 206 F.3d at 2. (Emphasis added.)

²⁶ *Worldcom*, 288 F.3d at 430. (Emphasis added.) The Court also held "[t]he reciprocal compensation requirement of §251(b)(5) . . . is aimed at assuring compensation for the LEC that completes a call originating within the same area.'). *Id.*

III. Level 3 argues that nothing in the *ISP Remand Order* limits reciprocal compensation payments to traffic exchanged within the same local calling area. It contends that:

[w]hile Qwest relies on background statements in the *ISP Remand Order* that discuss ISPs ‘typically’ establishing points of presence in the same local calling area, the FCC’s decision was in no way dependent upon the geographic location of the ISP. To the contrary, the FCC concluded that ISP-bound traffic was interstate based on its end-to-end analysis of the entire media stream, all the way to the server on which the actual content was located.²⁷

Level 3 also emphasizes that the *ISP Remand Order* expressly repudiates the FCC’s earlier rulings limiting §251(b)(5) to local telecommunications. In that Order, the FCC stated that it had erred in focusing on the nature of the service (i.e., local or long distance) in interpreting the relevant scope of §251(b)(5). Moreover, it specifically found that “[o]n its face, local exchange carriers are required to establish reciprocal compensation arrangements for the transport and termination of *all* ‘telecommunications’ they exchange with another telecommunications carrier, without exception.”²⁸ In addition, the FCC stated that “[u]nless subject to further limitation, Section 251(b)(5) would require reciprocal compensation for transport and termination of *all* telecommunications traffic, – i.e., whenever a local exchange carrier exchanges telecommunications traffic with another carrier.”²⁹

Level 3 further maintains that *WorldCom* expressly rejects the FCC’s conclusion in the *ISP Remand Order* that §251(b)(5) was “subject to further limitation” because certain types of traffic, including ISP-bound traffic were ‘carved out’ by §251(g). It observes that the Court found that “ISP-bound traffic exchanged between LECs did not constitute ‘information access’ subject to §251(g), as the FCC had asserted.”³⁰ It also stressed that the Court did not “cast any doubt on the [FCC’s] express finding that §251(b)(5) applies, ‘on its face,’ to *all* telecommunications traffic, whether local or otherwise.”³¹ In addition, Level 3 observes that the FCC amended its reciprocal compensation rules to eliminate the word “local” and to apply §251(b)(5) to all telecommunications.

²⁷ Level 3 Brief at 6.

²⁸ *ISP Remand Order* at ¶31. (Emphasis in original.)

²⁹ *Id.* at ¶32. (Emphasis in original.)

³⁰ Level 3 Brief at 5.

³¹ *Id.*

IV. For the reasons set forth below, I find that ISP-bound traffic, as defined in the *ISP Remand Order*, does not include VNXX-routed ISP-bound traffic:

(a) Level 3 appears to argue that the FCC's decision to reject the "local v. long distance" dichotomy in the *ISP Remand Order* somehow compels the conclusion that the FCC's definition of ISP-bound traffic includes VNXX-routed ISP-bound traffic. The problem with that argument is that it confuses the FCC's description of how ISP-bound traffic is provisioned with the agency's conclusions regarding how that traffic should be treated for reciprocal compensation and jurisdictional purposes.³² Put another way, the FCC's decision to abandon its attempt to categorize ISP-bound traffic as local or long distance for purposes of determining whether reciprocal compensation is due under §251(b)(5), is unrelated to its longstanding definition of ISP-bound traffic.³³ Beginning with the *Declaratory Ruling* and extending to the *ISP Remand Order*, the FCC has consistently described ISP-bound traffic as "the delivery of calls from one LEC's end-user customer to an ISP in the same local calling area that is served by the competing LEC."³⁴ That definition was adopted by the D.C. Circuit in both the *Bell Atlantic* and *Worldcom* decisions. None of these decisions provide any indication that ISP-bound traffic encompasses VNXX-routed traffic.

(b) Level 3 argues that the descriptions of ISP-bound traffic used by the FCC and the D.C. Circuit are really only "background statements" and were not intended to place a geographical limitation on the placement of ISP servers or modem banks. On the contrary, Level 3 stresses that "the FCC concluded that ISP-bound traffic was interstate based on its end-to-end analysis of the entire media stream..."³⁵ This argument is unconvincing. First, it presumes that both the FCC and the Court chose to describe ISP-bound traffic in a particular manner without intending it to have any specific meaning. Second, it ignores the fact that there are repeated references in both the *Declaratory Ruling* and the *ISP Remand Order* that make clear that the FCC intended that an ISP server or modem bank be located in the same LCA as the end-user customer

³² The Ninth Circuit recognized the distinction "between the jurisdictional analysis of what constitutes 'interstate' or 'intrastate' traffic, and the analysis of what constitutes 'local' or 'interexchange' traffic for the purposes of reciprocal compensation." *Pacific Bell*, 325 F.3d at 1126.

³³ As discussed herein, the FCC has consistently recognized that ISP-bound traffic is initiated by an end-user customer making a seven-digit local call to an ISP server/modem bank located in the same local calling area. Once the call reaches the server/modem bank, the ISP utilizes a variety of computer processing and other functions to enable the caller to access the Internet. It is this understanding of ISP-bound traffic that the FCC had in mind as it endeavored to determine whether ISP-bound traffic is eligible for reciprocal compensation. It is also important to note that, in the proceedings that led to the *Declaratory Ruling*, many CLECs argued that ISP-bound traffic actually involved two calls: the first terminating at the ISP's local server, where a second, packet-switched "call" then commenced. That theory was rejected by the FCC in the *Declaratory Ruling* by applying the end-to-end analysis. The decision to abandon the end-to-end analysis in the *ISP Remand Order* did not, however, alter the FCC's understanding of how ISP-bound traffic is provisioned. See e.g., *ISP Remand Order* at ¶¶ 9-16.

³⁴ *ISP Remand Order* at ¶13.

³⁵ Level 3 Brief at 6.

initiating the call.³⁶ Third, Level 3's argument continues to confuse the FCC's jurisdictional analysis of ISP-bound traffic with the definition of how that traffic is provisioned. The FCC has consistently held that ISP-bound traffic is "predominately interstate for jurisdictional purposes."³⁷ The *ISP Remand Order* did nothing to change that determination. Likewise, the *ISP Remand Order* preserved the FCC's holding in the *Declaratory Ruling*, which defined ISP-bound traffic to require ISP servers or modems to be located in the same LCA as the end-user customer initiating the call.

(c) As noted above, Level 3 reads the *ISP Remand Order* and the *Worldcom* decision to mandate that: (a) the reciprocal compensation requirements of §251(b)(5) apply to *all* telecommunications, and (b) that ISP-bound traffic qualifies as telecommunications. These assertions remain open to question.³⁸ Even if Level 3's interpretation of these decisions is correct, it does not advance its position regarding VNXX traffic. Because VNXX-routed ISP-bound traffic does not fall within the

³⁶ See, e.g., *Declaratory Ruling* at ¶¶4, 7-8, 12, 24 (fn. 77), 27; *ISP Remand Order* at ¶¶10, 13, 24.

³⁷ The FCC emphasized that it has been consistent in its jurisdictional treatment of ISPs. It further emphasized that "[i]nternet service providers are a class of ESPs [Enhanced Service Providers]. Accordingly, the LEC-provided link between an end-user and an ISP is properly characterized as *interstate access*." *ISP Remand Order* at ¶57. (Emphasis in original.) See e.g., ¶¶52-58 for discussion of the ESP exemption.

³⁸ In *WorldCom*, the D.C. Circuit held:

The reciprocal compensation requirement of §251(b)(5), quoted above, is aimed at assuring compensation for the LEC that completes a call originating within the same area. Although its literal language purports to extend reciprocal compensation to all 'telecommunications,' the [FCC] has construed it as limited to 'local' traffic only. For long distance calls, by contrast, the long-distance carrier collects from the user and pays both LECs – the one originating and the one terminating the call. 288 F.3d at 429. (Citations omitted.)

The D.C. Circuit went on to emphasize that it did not decide "whether handling calls to ISPs constitutes 'telephone exchange service' or 'exchange access'...." Nor did the Court "decide the scope of the 'telecommunications' covered by §251(b)(5)." *Id.* at 434.

Likewise, in *Pacific Bell* (issued subsequent to *WorldCom*), the Ninth Circuit held "[b]ecause the FCC has yet to resolve whether ISP-bound traffic is 'local' within the scope of §251, the CPUC's decision to enforce an arbitration agreement that subjects ISP-bound traffic to reciprocal compensation was not inconsistent with §251." 325 F.3d at 1130.

More recently, in *Qwest Corporation v. Universal Telecom, Inc., et al.*, Civil No. 04-6047-AA (2004), the U.S. District Court for the District of Oregon held that "VNXX traffic does not meet the definition of local traffic because it does not originate and terminate in the same LCA or EAS; it instead crosses LCAs and EASs." It further held that VNXX traffic was not local "whether it was ISP-bound or not." *Universal*, mimeo at 24.

The *Worldcom*, *Pacific Bell*, and *Universal* decisions disclose that there remains considerable uncertainty regarding the future application of "local v. interstate" analysis, as well as the scope of "telecommunications" under §251(b)(5) of the Act.

FCC's definition of ISP-bound traffic, it is irrelevant whether ISP-bound traffic is telecommunications subject to reciprocal compensation.

(d) Level 3 suggests that paragraph 84 of the *ISP Remand Order* supports its position because the FCC made reference to agreements negotiated between CLECs and RBOCs that provided compensation for VNXX traffic. In that paragraph, the FCC explained the reasons why its interim compensation regime included rate caps "to limit carriers' ability to draw revenue from other carriers, rather than from their own customers." The third reason cited by the FCC was "that negotiated reciprocal compensation rates continue to decline as ILECs and CLECs negotiate new interconnection agreements."³⁹ The FCC's discussion, however, makes no mention of VNXX-routed ISP-bound traffic. To argue that a passing reference to "negotiated agreements" somehow expands the FCC's definition of ISP-bound traffic is unreasonable.

(e) Level 3 suggests that the fact that VNXX calls are "locally dialed" is sufficient to bring those calls within the FCC's definition of ISP-bound traffic. Thus, as long as an end-user customer makes a seven-digit call to access an ISP, it is unnecessary to impose a geographical limitation on the location of the ISP's server/modem bank. This is a convenient theory, but it is inconsistent with the characterization of ISP-bound traffic that has been consistently used by the FCC and the D.C. Circuit.

(f) Level 3 next argues that the *Core Communications Order* requires that the definition of ISP-bound traffic include VNXX-routed traffic. It states that "[t]he FCC's retention of the Rate Cap and Mirroring rules and forbearance from the New Markets and Growth Cap rules has made it clear that ISP-bound traffic encompasses traffic that is terminated to an ISP by means of VNXX routing."⁴⁰ It also points out, among other things, that the FCC recognized that the ISP dial-up market has changed, and that it is necessary to promote efficient investment in telecommunications services and facilities.⁴¹ Level 3 stresses that precluding VNXX-routed traffic from ISP-bound traffic will result in unnecessary investment expense, create the need for a separate compensation system, and encourage regulatory arbitrage.⁴²

Despite Level 3's claim, there is nothing in the *Core Communications Order* that even remotely suggests that the FCC intended to expand its definition of ISP-bound traffic to include VNXX-routed traffic.⁴³ Moreover, as Qwest points out, it would

³⁹ See also, *ISP Remand Order* at ¶85.

⁴⁰ Level 3 Brief at 11.

⁴¹ *Id.* at 12.

⁴² *Id.*

⁴³ At most, the FCC decision in *Core Communications* to forbear from the New Market's rule signalled its intention to permit the continued payment of reciprocal compensation for ISP-bound traffic. But, as

be highly unusual for the FCC to invoke a policy that would impact state authority (*i.e.*, regulation of intrastate access charges) without making some mention of that fact.

Level 3's VNXX-related policy arguments are irrelevant to the issue before the Commission. The Commission's task is to interpret the Level 3/Qwest ICA; specifically, whether the term "ISP-bound traffic," as used in the *ISP Remand Order*, encompasses VNXX-routed traffic. That inquiry does not include an evaluation of the parties' competing policy arguments.

(g) Level 3 argues that the legal and factual issues in this case are intertwined and that an ALJ ruling interpreting Section 7.3.4.3 of the ICA is inappropriate at this time. I disagree with that assessment. In my opinion, the relevant FCC and judicial interpretations of ISP-bound traffic are dispositive of this issue.

(h) Because this ruling has a substantial impact upon the interests of the parties, I am automatically certifying it to the Commission. In the final analysis, the interests of both parties are better served by having the agency resolve this matter as soon as possible. That is especially true given the parties have already indicated that the Commission's decision will be appealed no matter who prevails. The sooner the parties obtain final resolution regarding the treatment of VNXX-routed ISP-bound traffic, the sooner they will be able to devote their energies and resources to more productive pursuits.

RULING

For the reasons set forth above, I find that the term "ISP-bound traffic," as used in the *ISP Remand Order*, does not include VNXX-routed ISP-bound traffic. Accordingly, Section 7.3.4.3 of the Level 3/Qwest ICA does not require the exchange of compensation for this traffic.

Objections to this ruling shall be filed with the Commission no later than August 30, 2005. Replies to objections shall be filed with the Commission no later than September 9, 2005.

Dated at Salem, Oregon, this 16th day of August, 2005.

Samuel J. Petrillo
Administrative Law Judge

emphasized in this ruling, that decision has no bearing on this matter because VNXX-routed traffic does not fall within the FCC's definition of ISP-bound traffic, as that term is used in the *ISP Remand Order*.

EXHIBIT

E

E

**Internet Service Provider ("ISP") Bound Traffic /
to the Interconnection Agreement between
Qwest Corporation and
Pac-West Telecomm, Inc.
for the State of Arizona**

This is an Amendment ("Amendment") to the Interconnection Agreement between Qwest Corporation ("Qwest"), formerly known as U S WEST Communications, Inc., a Colorado corporation, and Pac-West Telecomm, Inc. ("CLEC"). CLEC and Qwest shall be known jointly as the "Parties".

RECITALS

WHEREAS, CLEC and Qwest entered into an Interconnection Agreement ("Agreement") which was approved by the Arizona Corporation Commission ("Commission") on December 14, 1999; and

WHEREAS, The FCC issued an Order on Remand and Report and Order in CC Docket 99-68 (Intercarrier Compensation for ISP-Bound Traffic); and

WHEREAS, the Parties wish to amend the Agreement to reflect the aforementioned Order under the terms and conditions contained herein.

WHEREAS, the Parties wish to amend the Agreement to add a Change of Law provision.

AGREEMENT

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

1. Definitions

For purposes of this Amendment the following definitions apply:

- 1.1 "Bill and Keep" is as defined in the FCC's Order on Remand and Report and Order in CC Docket 99-68 (Intercarrier Compensation for ISP-Bound Traffic). Bill and Keep is an arrangement where neither of two (2) interconnecting networks charges the other for terminating traffic that originates on the other network. Instead, each network recovers from its own end users the cost of both originating traffic that it delivers to the other network and terminating traffic that it receives from the other network. Bill and Keep does not, however, preclude intercarrier charges for transport of traffic between carriers' networks.

- 1.2 "Information Service" is as defined in the Telecommunications Act of 1996 and FCC Order on Remand and Report and Order in CC Docket 99-68 and includes ISP-bound traffic.
- 1.3 "Information Services Access" means the offering of access to Information Services Providers.
- 1.4 "ISP-Bound" is as described by the FCC in its Order on Remand and Report and Order (Intercarrier Compensation for ISP-Bound Traffic) CC Docket 99-68.

2. Exchange Service (EAS/Local) Traffic

Pursuant to the election in Section 5 of this Amendment, the Parties agree to exchange all EAS/Local (§251(b)(5)) traffic at the state ordered reciprocal compensation rate.

3. ISP-Bound Traffic

3.1 Qwest elects to exchange ISP-bound traffic at the FCC ordered rates pursuant to the FCC's Order on Remand and Report and Order (Intercarrier Compensation for ISP-Bound Traffic) CC Docket 99-68 (FCC ISP Order), effective June 14, 2001, and usage based intercarrier compensation will be applied as follows:

3.2 Compensation for presumed ISP-bound traffic exchanged pursuant to Interconnection agreements as of adoption of the FCC ISP Order, April 18, 2001:

3.2.1 Identification of ISP-Bound traffic -- Qwest will presume traffic delivered to CLEC that exceeds a 3:1 ratio of terminating (Qwest to CLEC) to originating (CLEC to Qwest) traffic is ISP-bound traffic. The Parties agree that the "3:1 ratio of terminating to originating traffic", as described in Paragraph 79 of the FCC ISP Order, will be implemented with no modifications.

3.2.2 Growth Ceilings for ISP-Bound Traffic -- Intercarrier compensation for ISP-bound traffic originated by Qwest end users and terminated by CLEC will be subject to growth ceilings. ISP-bound MOUs exceeding the growth ceiling will be subject to Bill and Keep compensation.

3.2.2.1 For the year 2001, CLEC may receive compensation, pursuant to a particular Interconnection Agreement for ISP bound minutes up to a ceiling equal to, on an annualized basis, the number of ISP bound minutes for which CLEC was entitled to compensation under that Agreement during the first quarter of 2001, plus a ten percent (10%) growth factor.

3.2.2.2 For 2002, CLEC may receive compensation, pursuant to a particular Interconnection Agreement, for ISP bound minutes up to a ceiling equal to the minutes for which it was entitled to compensation under that Agreement in 2001, plus another ten percent (10%) growth factor.

3.2.2.3 In 2003, CLEC may receive compensation, pursuant to a particular Interconnection Agreement, for ISP bound minutes up to a ceiling

equal to the 2002 ceiling applicable to that Agreement.

3.2.3 Rate Caps -- Intercarrier compensation for ISP-bound traffic exchanged between Qwest and CLEC will be billed in accordance with their existing Agreement or as follows, whichever rate is lower:

3.2.3.1 \$.0015 per MOU for six (6) months from June 14, 2001 through December 13, 2001.

3.2.3.2 \$.001 per MOU for eighteen (18) months from December 14, 2001 through June 13, 2003.

3.2.3.3 \$.0007 per MOU from June 14, 2003 until thirty six (36) months after the effective date or until further FCC action on intercarrier compensation, whichever is later.

3.2.3.4 Compensation for ISP bound traffic in Interconnection configurations not exchanging traffic pursuant to Interconnection agreements prior to adoption of the FCC ISP Order on April 18, 2001 will be on a Bill and Keep basis until further FCC action on Intercarrier compensation. This includes carrier expansion into a market it previously had not served.

4. Effective Date

This Amendment shall be deemed effective upon approval by the Commission; however, Qwest will adopt the rate-affecting provisions for both ISP bound traffic and (§251(b)(5)) of the Order as of June 14, 2001, the effective date of the Order.

5. Rate Election

The reciprocal compensation rate elected for (§251(b)(5)) traffic is (elect and sign one):

Current rate for voice traffic in the existing Interconnection Agreement:

Signature

Name Printed/Typed

OR

The rate applied to ISP traffic:

Signature

Name Printed/Typed

6. Change of Law

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.

7. Further Amendments

Except as modified herein, the provisions of the Agreement shall remain in full force and effect. Neither the Agreement nor this Amendment may be further amended or altered except by written instrument executed by an authorized representative of both Parties. This Amendment shall constitute the entire Agreement between the Parties, and supercedes all previous Agreements and Amendments entered into between the Parties with respect to the subject matter of this Amendment.

The Parties understand and agree that this Amendment will be filed with the Commission for approval. In the event the Commission rejects any portion of this Amendment, renders it inoperable or creates an ambiguity that requires further amendment, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

Pac-West Telecomm, Inc.

Signature

Name Printed/Typed

Title

Date

Qwest Corporation

Signature

L. T. Christensen

Name Printed/Typed

Director – Business Policy

Title

Date

EXHIBIT

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**Single Point of Presence (SPOP) in the LATA Amendment
to the Interconnection Agreement between
Qwest Corporation and
Pac-West Telecomm, Inc.
for the State of Arizona**

This is an Amendment ("Amendment") for Single Point of Presence (SPOP) in the LATA to the Interconnection Agreement between Qwest Corporation ("Qwest"), formerly known as U S WEST Communications, Inc., a Colorado corporation, and Pac-West Telecomm, Inc. Corporation ("CLEC"). CLEC and Qwest shall be known jointly as the "Parties".

RECITALS

WHEREAS, CLEC and Qwest entered into an Interconnection Agreement ("Agreement") for service in the state of Arizona which was approved by the Arizona Corporation Commission ("Commission"); and

WHEREAS, the Parties wish to amend the Agreement further under the terms and conditions contained herein.

AGREEMENT

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

Amendment Terms

The Agreement is hereby amended by adding terms and conditions for Single Point of Presence (SPOP) in the LATA as set forth in Attachment 1, to this Amendment, attached hereto and incorporated herein by this reference.

Effective Date

This Amendment shall be deemed effective upon approval by the Commission; however, the Parties may agree to implement the provisions of this Amendment upon execution. To accommodate this need, CLEC must generate, if necessary, an updated Customer Questionnaire. In addition to the Questionnaire, all system updates will need to be completed by Qwest. CLEC will be notified when all system changes have been made. Actual order processing may begin once these requirements have been met.

Further Amendments

Except as modified herein, the provisions of the Agreement shall remain in full force and effect. Neither the Agreement nor this Amendment may be further amended or altered except by written instrument executed by an authorized representative of both Parties.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

Pac-West Telecomm, Inc.

Qwest Corporation

Signature

Signature

Name Printed/Typed

Name Printed/Typed

Title

Title

Date

Date

ATTACHMENT 1
SINGLE POINT OF PRESENCE (SPOP) IN THE LATA

1. By utilizing SPOP in the LATA, CLEC can deliver both Exchange Access (IntraLATA Toll Non-IXC) and Jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic and Exchange Service EAS/Local traffic at Qwest's Access Tandem Switches. CLEC can also utilize Qwest's behind the tandem infrastructure to terminate traffic to specific end offices. The SPOP is defined as the CLEC's physical point of presence.
2. SPOP in the LATA includes an Entrance Facility (EF)/Expanded Interconnect Channel Termination (EICT) and Direct Trunked Transport (DTT) options at both a DS1 and DS3 capacity.
3. Where there is a Qwest local tandem serving an end office that CLEC intends to terminate traffic, the following conditions apply:
 - 3.1 All local trunking must be ordered to the Qwest local tandem for the Qwest end office served by the Qwest local tandem.
 - 3.2 Connections to a Qwest local tandem may be two-way or one-way trunks. These trunks will carry Exchange Service EAS/Local traffic only.
 - 3.3 A separate trunk group to the Qwest Access Tandem is required for the exchange of Exchange Access (IntraLATA Toll Non-IXC) traffic and jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic.
4. Where there is no Qwest local tandem serving a Qwest end office, CLEC may choose from one of the following options:
 - 4.1 A two-way CLEC LIS trunk group to the Qwest access tandem for CLEC traffic terminating to, originating from, or passing through the Qwest network that combines Exchange Service EAS/ Local, Exchange Access (IntraLATA Toll Non-IXC) and Jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic.
 - 4.2 A two-way CLEC LIS trunk group to the Qwest access tandem for CLEC Jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic terminating to and originating from the IXC Feature Group (FG) A/B/D network through the Qwest network and an additional two-way trunk group to the Qwest access tandem for the combined Exchange Service EAS/ Local and Exchange Access (IntraLATA Toll Non-IXC) traffic terminating to, originating from, and transiting the Qwest network.
 - 4.2.1 If CLEC uses two way trunking, Qwest will send all Exchange Service EAS/Local, Exchange Access (IntraLATA Toll Non-IXC) and Jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic delivered to the Qwest access tandem on the same combined trunk.

4.3 A one-way terminating CLEC LIS trunk group to the Qwest access tandem for CLEC traffic destined to or through the Qwest network that combines Exchange Service EAS/Local, Exchange Access (Intra LATA Toll Non-IXC) and Jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic.

4.4 CLEC may utilize a one-way LIS trunk group to the Qwest access tandem for Jointly Provided Switched Access (InterLATA and IntraLATA IXC) traffic terminating to the IXC FG A/B/D network through the Qwest network, and an additional one-way trunk group to the Qwest access tandem for the combined Exchange Service EAS/ Local, Exchange Access (IntraLATA Toll Non-IXC) traffic terminating to, originating from, and transiting the Qwest network.

4.4.1 If CLEC orders either of the above one-way trunk options, Qwest will return the traffic via one combined Exchange Service EAS/ Local, and Exchange Access (IntraLATA Toll Non-IXC) trunk group.

5. CLEC must have SS7 functionality to use SPOP in the LATA.
6. If there is more than one Qwest access tandem within the LATA boundary, CLEC must order LIS trunking to each Qwest access tandem that serves their end-user customers' traffic to avoid call blocking. CLEC must trunk to each Qwest access tandem even if there is not currently a CLEC customer base at each access tandem. CLECs only need to trunk to each local tandem where they have a customer base. The 512 CCS rule and other direct trunking requirements will apply for direct trunking to Qwest end offices.
7. Where CLEC requests for trunking for SPOP in a LATA that exceed fifty (50) miles, Qwest reserves the right to request negotiation of a Mid-Span meet POI.
8. SPOP in the LATA cannot be used in conjunction with existing CLEC LIS trunking that connect to Qwest's end office switches with tandem functionality.
9. SPOP in the LATA is not available for the sole purpose of delivering ISP bound, interstate in nature, traffic.
10. The LIS SPOP facility cannot be used to access unbundled network elements.
11. SPOP in a LATA is available only where facilities are available. Qwest is not obligated to construct new facilities to provide SPOP in a LATA.
12. SPOP in a LATA will be ordered based upon the standard ordering process for the type of facility chosen. See the Qwest Interconnection and Resale Resource Guide for further ordering information.