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NORTH COUNTY COMMUNICATIONS CORPORATION

AND

U S WEST COMMUNICATIONS, INC.

ARBITRATED INTERCONNECTION  
AGREEMENT

FOR THE STATE OF ARIZONA



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## INTERCONNECTION AGREEMENT

THIS INTERCONNECTION AGREEMENT, made as of the 9th day of June, 1997, is between North County Communications Corporation ("North County") and U S WEST Communications, Inc. ("USWC"), a Colorado corporation.

### I. RECITALS

Pursuant to this Interconnection Agreement North County Communications Corporation ("North County") and U S WEST Communications, Inc. ("USWC"), collectively "the Parties", will extend certain arrangements to one another within each LATA in which they both operate within this State. 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 Act"), and as such does not necessarily represent the position of either Party on any given issue. The Parties enter into this Agreement without prejudice to any position they may have taken previously, or may take in the future in any legislative regulatory, or other public forum addressing any matters, including matters related to the types of arrangements prescribed by this Agreement.

### II. SCOPE OF AGREEMENT

- A. This Agreement sets forth the terms, conditions and prices under which USWC agrees to provide (a) services for resale (hereinafter referred to as "Local Services") (b) certain Unbundled Network Elements, Ancillary Functions and additional features to North County (hereinafter collectively referred to as "Network Elements") or combinations of such Network Elements ("Combinations") for North County's own use or for resale to others. The Agreement also sets forth the terms, conditions and prices under which the parties agree to provide interconnection and reciprocal compensation for the exchange of local traffic between USWC and North County for purposes of offering telecommunications services. Unless otherwise provided in this Agreement, the parties will perform all of their obligations hereunder throughout, to the extent provided in the Appendices attached hereto. The Agreement includes all accompanying appendices.
- 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. When North County begins offering residential and business exchange services in this state through the use of North County's facilities, North County will notify USWC.
- D. Acknowledgment of Deferred Issues:

North County acknowledges it is USWC's position that USWC's existing telecommunications network represents substantial investment made as

a result of its carrier-of-last-resort obligation and that such network allows North County's end users to interconnect with significantly more business and residential customers than vice versa. North County further acknowledges USWC believes that a separate transitional element is necessary to compensate USWC for the value of its network in this Agreement, that under the Act, the FCC will establish a proceeding to address Universal Service Support, and that the Act also empowers the state Commission to establish a separate proceeding on universal service issues. North County further acknowledges that USWC believes that USWC is entitled to receive additional compensation for costs of implementing various provisions of the Act, and that USWC shall seek such additional recovery through future state and/or federal regulatory proceedings. North County disagrees with these USWC positions.

USWC acknowledges it is North County's position that the relative investments of the Parties is not a relevant consideration in the context of this Agreement and that it is the result of a historical monopoly which confers significant, continuing benefits on USWC. USWC acknowledges that it is North County's position that no transitional elements are necessary to compensate USWC, that any such transitional elements would constitute a windfall to USWC, and that the investigations contemplated at the State and federal level for Universal Service Funding will substantially disprove USWC's claims. USWC further acknowledges that North County believes that the costs of implementing the Act are costs experienced by all telecommunications carriers and that it would be unjust, discriminatory, and anti-competitive to favor USWC with additional cost recovery of implementation costs. USWC disagrees with these North County positions.

In consideration of North County's willingness to interconnect on the terms set forth in this Agreement, and without prejudice to the position it may take in the FCC docket or before any state Commission, USWC agrees to await the outcome of such proceedings, rather than seek universal service support from North County at this time.

### III. DEFINITIONS

- A. "Act" means the Communications Act of 1934 (47 U.S.C. 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 a Commission within its state of jurisdiction.
- B. "Access Services" refers to the tariffed interstate and intrastate switched access and private line transport services offered for the origination and/or termination of interexchange traffic (see each Parties' appropriate state and interstate access tariffs).
- C. "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).

- D. "Access Service Request" or "ASR" means the industry standard forms and supporting documentation used for ordering Access Services. The ASR will be used to order trunking and facilities between North County and USWC for Local Interconnection Service.
- E. "Automatic Number Identification" or "ANI" means a Feature Group D signaling parameter which refers to the number transmitted through a network identifying the billing number of the calling party.
- F. "CLASS features" are optional end user switched services that include, but are not necessarily limited to: Automatic Call Back; Call Trace; Caller ID and Related Blocking Features; Distinctive Ringing/Call Waiting; Selective Call Forward; Selective Call Rejection. (See Bellcore documentation for definition).
- G. "BLV/BLVI Traffic" means an operator service call in which the caller inquires as to the busy status of or requests an interruption of a call on another Customer's Telephone Exchange Service line.
- H. "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; and
  - 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.
- I. "Collocation" means an arrangement whereby one Party's (the "Collocating Party") facilities are terminated in its equipment necessary for Interconnection or for access to Network Elements on an unbundled basis which has been installed and maintained at the premises of a second Party (the "Housing Party"). Collocation may be "physical" or "virtual". In "Physical Collocation," the Collocating Party installs and maintains its own equipment in the Housing Party's premises. In "Virtual Collocation," the Housing Party installs and maintains the Collocating Party's equipment in the Housing Party's premises.
- J. "Commission" means the Arizona Corporation Commission.
- K. "Customer" means a third-party (residence or business) that subscribes to Telecommunications Services provided by either of the Parties.
- L. "Calling Party Number" or "CPN" is a Common Channel Signaling ("CCS") parameter which refers to the number transmitted through a network identifying the calling party.
- M. "Common Channel Signaling" or "CCS" means a method of digitally transmitting call set-up and network control data over a special signaling network fully separate from the

public voice switched network elements that carry the actual call. The CCS used by the Parties shall be Signaling System 7.

- N. "Competitive Local Exchange Carrier" means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent LEC.
- O. "Digital Signal Level" means one of several transmission rates in the time division multiplexing hierarchy.
- P. "Digital Signal Level 0" or "DS0" means the 64 Kbps zero-level signal in the time-division multiplex hierarchy.
- Q. "Digital Signal Level 1" or "DS1" means the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS1 is the initial level of multiplexing.
- R. "Digital Signal Level 3" or "DS3" means the 44.736 Mbps third-level in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS3 is defined as the third level of multiplexing.
- S. "Exchange Message Record" or "EMR" is the standard used for exchange of telecommunications message information between telecommunications providers for billable, non-billable, sample, settlement and study data. EMR format is contained in BR-010-200-010 CRIS Exchange Message Record, a Bellcore document that defines industry standards for exchange message records.
- T. "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.
- U. "HDSL" or "High-Bit Rate Digital Subscriber Line" means a two-wire or four-wire transmission technology which typically transmits a DS1-level signal (or, higher level signals with certain technologies), using: 2 Binary / 1 Quaternary ("2B1Q").
- V. "Integrated Digital Loop Carrier" means a subscriber loop carrier system which integrates within the switch at a DS1 level that is twenty-four (24) local Loop transmission paths combined into a 1.544 Mbps digital signal.
- W. "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.
- X. "Interexchange Carrier" or "IXC" means a carrier that provides, directly or indirectly, interLATA or intraLATA Telephone Toll Services.
- Y. "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).

- Z. "Local Loop Transmission" or "Loop" means the entire transmission path which extends from the network interface or demarcation point at a Customer's premises to the Main Distribution Frame or other designated frame or panel in a Party's Wire Center which serves the Customer.
- AA. "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.
- BB. "Meet-Point Billing" or "MPB" refers to an agreement whereby two LECs (including a LEC and CLEC) jointly provide switched access service to an Interexchange Carrier, with each LEC (or CLEC) receiving an appropriate share of the transport element revenues as defined by their effective access tariffs.
- CC. "MECAB" refers to the Multiple Exchange Carrier Access Billing (MECAB) document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), that 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.
- DD. "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 (OBF), that 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 that is to be provided by two or more LECs (including a LEC and a CLEC). It is published by Bellcore as SRBDS 00983.
- EE. "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.
- FF. "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.
- GG. "NXX" means the fourth, fifth and sixth digits of a ten-digit telephone number.
- HH. "Point of Interface" or "POI" is a mutually agreed upon point of demarcation where the exchange of traffic between two LECs (including a LEC and a CLEC) takes place.
- II. "Party" means either USWC or North County and "Parties" means USWC and North County.

- JJ. "Port" means a termination on a Central Office Switch that permits customers to send or receive telecommunications services over the public switched network, but does not include switch features or switching functionality.
- KK. "Rate Center" means the specific geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to a LEC (or CLEC) 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 the LEC (or CLEC) will provide Basic Exchange Telecommunications Service bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center point must be located within the Rate Center area.
- LL. "Reseller" is a category of Local Exchange service provider that obtains dial tone and associated telecommunications services from another provider through the purchase of bundled finished services for resale to its end use customers.
- MM. "Service Control Point" or "SCP" means a signaling end point that acts as a database to provide information to another signaling end point (i.e., Service Switching Point or another SCP) for processing or routing certain types of network calls. A query/response mechanism is typically used in communicating with an SCP.
- NN. "Signaling Transfer Point" or "STP" means a signaling point that performs message routing functions and provides information for the routing of messages between signaling end points. An STP transmits, receives and processes Common Channel Signaling ("CCS") messages.
- OO. "Switched Exchange Access Service" means the offering of transmission or switching services to Telecommunications Carriers for the purpose of the origination or termination of Telephone Toll Service. Switched Exchange Access Services include: Feature Group A, Feature Group B, Feature Group D, 800/888 access, and 900 access and their successors or similar Switched Exchange Access services.
- PP. "Traffic Type" is the characterization of intraLATA traffic as "local" (local includes EAS), or "toll" which shall be the same as the characterization established by the effective tariffs of the incumbent local exchange carrier as of the date of this Agreement.
- QQ. "Wire Center" denotes a building or space within a building, that serves as an aggregation point on a given carrier's network, where transmission facilities are connected or switched. Wire Center can also denote a building where one or more Central Offices, used for the provision of Basic Exchange Telecommunications Services and Access Services, are located. However, for purposes of Collocation Service, Wire Center shall mean those points eligible for such connections as specified in the FCC Docket No. 91-141, and rules adopted pursuant thereto.
- RR. "Routing Point" means a location that a LEC or CLEC has designated on its own network as the homing (routing) point for traffic, bearing a certain NPA-NXX designation, that is inbound to Basic Exchange Telecommunications Services provided by the LEC or CLEC. The Routing Point is employed to 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 above referenced Bellcore document refers to the Routing Point as the Rating Point. The Rating Point/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.<sup>1</sup>

- SS. "Tariff Services" as used throughout this Agreement refers to the applicable Party's interstate tariffs and state tariffs, price lists, price schedules and catalogs.
- TT. "Information Service Traffic" means Local Traffic or IntraLATA Toll Traffic which originates on a Telephone Exchange Service line and which is addressed to an information service provided over a Party's information services platform (e.g., 976).
- UU. Terms not otherwise defined here, but defined in the Act or in regulations implementing the Act, shall have the meaning defined there.

#### IV. RATES AND CHARGES GENERALLY

- A. Prices for termination and transport of traffic, interconnection, access to unbundled network elements, and ancillary services are set forth in Appendix A.
- B. USWC's wholesale discounts for resale services are set forth in Appendix A.
- C. The underlying provider of a resold service shall be entitled to receive, from the purchaser of switched access, the appropriate access charges pursuant to its then effective switched access tariff. For the purposes of this paragraph, Unbundled Loops are not considered as resold services.

#### V. RECIPROCAL TRAFFIC EXCHANGE

##### A. Scope

Reciprocal traffic exchange addresses the exchange of traffic between North County end users and USWC end users. If such traffic is local, the provisions of

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<sup>1</sup> Commission Decision No. 59872 states: "MFS's fiber ring, and its intended customer base, is concentrated in the Phoenix business district. While MFS may serve additional customers throughout the state by resale or purchase of unbundled elements, it is unlikely that initially many customers will be in the far reaches of the LATA. MFS should use sound engineering principles in its location of POI, and place the initial POI in the vicinity of its fiber ring. If MFS pursues a customer base in other locations within the state, we require that as its customers increase in a specific area, it add a POI to serve those customers' local traffic without USWC incurring uncompensated expense of transporting local traffic significant distances." The Parties to this Agreement agree to abide by this Commission Decision.

this Agreement shall apply. Where either party acts as an intraLATA toll provider or interLATA Interexchange Carrier (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, the Parties will directly exchange traffic between their respective networks, without the use of third party transit providers.

## **B. Types of Traffic**

The types of traffic to be exchanged under this Agreement include:

1. EAS/local traffic as defined above.
2. IntraLATA toll traffic as defined above.
3. Switched access traffic, or interLATA toll traffic, as specifically defined in USWC's state and interstate switched access tariffs, and generally identified as that traffic that originates at one of the Party's end users and terminates at an IXC point of presence, or originates at an IXC point of presence and terminates at one of the Party's end users, whether or not the traffic transits the other Party's network.
4. Transit traffic is any traffic other than switched access, that originates from one Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network.

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 Exchange Carrier, 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.

5. 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.

6. 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.

**C. Types of Exchanged Traffic**

1. Termination of Local Traffic.

Local traffic will be terminated as Local Interconnection Service (LIS).

2. Transport of 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. Based on forecasted traffic at North County's busy hour in CCS, where there is a DS1's worth of traffic (512 CCS) between the North County switch and a USWC end office, the Parties agree to provision a dedicated (i.e., direct) two-way trunk group from the North County switch directly to the USWC end office. To the extent that North County has established a collocation arrangement at a USWC end office location, and has available capacity, the Parties agree that North County shall provide two-way direct trunk facilities, when required, from that end office to the North County switch. In all other cases, the direct facility may be provisioned by USWC or North County or a third party. If both North County and USWC desire to provision the facility and cannot otherwise agree, the Parties may agree to resolve the dispute through the submission of competitive bids.

3. Transit Traffic.

- a. USWC will accept traffic originated by North County and will terminate it at a point of interconnection with another CLEC, Exchange Carrier, Interexchange Carrier or Wireless Carrier. USWC will provide this transit service through local and access tandem switches. North County may also provide USWC with transit service.

- b. 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.
- c. 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), including the one-time provision of notification to North County of the billing name, billing address and carrier identification codes of all interexchange carriers originating or terminating at each USWC access tandem.

4. Toll Traffic.

- a. Toll traffic routed to an access tandem, or directly routed to an end office, will be terminated as Switched Access Service. Traffic terminated at the access tandem will be routed to the end offices within the LATA that subtend the USWC access tandem switch. Switched Access Service also allows for termination at an end office or tandem via direct trunked circuits provisioned either by USWC or North County.

**D. Rate Structure -- Local Traffic**

1. Call Termination

- a. The Parties agree that call termination rates as described in Appendix A will apply reciprocally for the termination of local/EAS traffic per minute of use.
- b. For traffic terminated at a USWC or North County end office, the end office call termination rate in Appendix A shall apply.
- c. For traffic terminated at a USWC or North County tandem switch, the tandem call termination rate in Appendix A shall apply. The tandem call termination rate provides for end office call termination, tandem switched transport and tandem switching.
- d. The Parties acknowledge that North County will initially serve all of its customers within a given LATA through a single North County switch. The Parties also acknowledge that North County may, in the future, deploy additional switches in each LATA. The Parties acknowledge differing views on the appropriate rate treatment of the initial North County switch.

For purposes of call termination, the initial North County switch shall be treated as an end office switch.

- e. For purposes of call termination, this Agreement recognizes that the traffic originated by and terminated to enhanced service providers may be subject to further evaluation and review by the applicable regulatory authorities. The Parties agree that this traffic will be included for measuring traffic exchange, but to the extent that the applicable regulatory authorities alter or modify the routing of or compensation for this traffic, the Parties shall modify this Agreement to properly reflect such regulatory determination.

## 2. Transport

- a. If the Parties elect to each provision their own one-way trunks to the other Party's end office for the termination of local traffic, each Party will be responsible for its own expenses associated with the trunks and no transport charges will apply. Call termination charges shall apply as described above.
- b. If one Party desires to purchase direct trunk transport from the other Party, the following rate elements will apply. Transport rate elements include the direct trunk transport facilities between the POI and the terminating party's tandem or end office switches. The applicable rates are described in Appendix A.
- c. Direct-trunked transport facilities are provided as dedicated DS3 or DS1 facilities without the tandem switching functions, for the use of either Party between the point of interconnection and the terminating end office or tandem switch.
- d. If the Parties elect to establish two-way direct trunks, the compensation for such jointly used 'shared' facilities shall be adjusted as follows. The nominal compensation shall be pursuant to the rates for direct trunk transport in Appendix A. The actual rate paid to the provider of the direct trunk facility shall be reduced to reflect the provider's use of that facility. The adjustment in the direct trunk transport rate shall be a percentage that reflects the provider's relative use (i.e., originating minutes of use) of the facility in the busy hour.
- e. Multiplexing options are available at rates described in Appendix A.

## E. Rate Structure -- Toll Traffic.

- 1. Applicable Switched Access Tariff rates, terms, and conditions apply to toll traffic routed to an access tandem, or directly to an end office. Relevant rate elements include Direct Trunk Transport (DTT) or Tandem Switched Transport (TST), Interconnection Charge (IC), Local Switching, and Carrier Common Line, as appropriate.

**F. Rate Structure -- Transit Traffic.**

1. Applicable switched access, Type 2 or LIS transport rates apply for the use of USWC's network to transport transit traffic. For transiting local traffic, the applicable local transit rate applies to the originating party per Appendix A. For transiting toll traffic, the Parties will charge the applicable switched access rates to the responsible carrier. For terminating transiting wireless traffic, the Parties will charge their applicable rates to the wireless provider. For transiting wireless traffic, the Parties will charge each other the applicable local transit rate.

**G. LIS Interface Code Availability And Optional Features**

1. Interface Code Availability.

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

2. Optional Features.

- a. Inband MF or SS7 Out of Band Signaling.

Inband MF signaling and SS7 Out of Band Signaling are available for LIS trunks. MF signaling or SS7 Out-of-Band Signaling must be requested on the order for the new LIS trunks. Provisioning of the LIS 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 Access Capability Service, as set forth in Section XXVII herein, must be ordered by North County when SS7 Out-of-Band Signaling is requested on LIS trunks.

- b. Clear Channel Capability.

Clear Channel Capability permits 24 DS0-64 kbit/s services or 1.536 Mbit/s of information on the 1.544 Mbit/s line rate. Clear Channel Capability is available for LIS trunks equipped with SS7 Out-of-Band Signaling. Clear Channel Capability is only available on trunks to USWC's access tandem switch or USWC's end office switches (where available); (Clear Channel Capability is not available on trunks to USWC's local tandem switches or end offices where it is currently not deployed. North County agrees to use the Network Interconnection and Unbundled Element 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 NIUER Process). Clear Channel Capability must be requested on the order for the new LIS trunks. The provisioning of the LIS trunks equipped with

Clear Channel Capability is the same as that used for Feature Group D Switched Access Service. USWC will provide North County with a listing of USWC end offices, local tandems and access tandems equipped with clear channel capability.

#### **H. Measuring Local Interconnection Minutes**

1. Measurement of terminating Local Interconnection Minutes begins when the terminating LIS 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 LIS trunks ends when the terminating LIS entry switch receives disconnect supervision from either the called end user's end office, indicating the called end user has disconnected, or North County's point of interconnection, whichever is recognized first by the entry switch.
2. USWC and North County 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.

#### **I. Testing**

1. Acceptance Testing

At the time of installation of an LIS trunk group, and at no additional charge, the Parties will cooperatively test the same parameters tested for terminating Feature Group D Switched Access Service. Please see USWC's applicable switched access tariff for the specifications.

2. Testing Capabilities

- a. Terminating LIS 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).
- b. In addition to LIS 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.

#### **J. Ordering**

1. When ordering LIS, the ordering Party shall specify on the service order:  
1) the type and number of interconnection facilities to terminate at the point of interconnection in the serving wire center; 2) the type of interoffice transport, (i.e., direct trunk transport or tandem switched

transport); 3) the peak busy hour CCS from the North County end office; 4) the number of trunks to be provisioned at a local exchange office or tandem; 5) and any optional features (see form Appendix B). 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.

2. When the ordering Party initially orders a DS3 interconnection facility, in conjunction with tandem switched transport to a tandem, or DS3 direct trunk transport facilities to a tandem or local exchange office, the provider will forward the appropriate DS1 facility record information necessary to identify the circuit facility assignment (CFA). On subsequent orders utilizing existing DS3 interconnection facilities, or DS3 direct trunk transport facilities, the provider will assign the DS1 facility to the DS3 interconnection facility or DS3 direct trunk transport facility, as directed by the ordering Party.
3. A joint planning meeting will precede North County and USWC trunking orders. These meetings will result in the transmittal of Access Service Requests (ASRs) to initiate order activity. A Party requesting tandem interconnection will provide its best estimate of the traffic distribution to each end office subtending the tandem.
4. Service intervals and due dates for negotiated arrangements will be determined on an individual case basis.

#### **K. Billing Arrangements**

1. USWC and North County desire to submit separate bills, pursuant to their separate tariffs, to interexchange carriers for their respective portions of jointly provided switched access service.

Based on the negotiated POI, 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 Ordering and Billing Forum's MECAB and MECOD documents and referenced in USWC's Switched Access Tariffs. The Parties understand and agree that MPB arrangements are available and functional only to/from Interexchange Carriers who directly connect with the tandem(s) that North County subtends in each LATA.

2. 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.
3. As detailed in the MECAB document, North County and USWC will exchange all information necessary to bill third parties for Switched

Access Services traffic jointly handled by North County and USWC 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. The Parties will agree upon reasonable audit standards and other procedures as required to ensure billing accuracy.
5. Each company will bill the IXCs the appropriate rate elements in accordance with their respective interstate and intrastate tariffs, as follows:

<u>Rate Element</u>	<u>Billing Company</u>
Carrier Common Line	Dial Tone Provider
Local Switching	Dial Tone Provider
Interconnection Charge	Dial Tone Provider
Local Transport Termination	Based on negotiated BIP
Local Transport Facility (also called Tandem Transmission per mile)	Based on negotiated BIP
Tandem Switching	Access Tandem Provider
Entrance Facility	Access Tandem Provider

6. For originating 800/888 traffic routed to an access tandem, the tandem provider will perform 800/888 database inquiry and translation functions and bill the inquiry charge and translation charge (if any) to the interexchange carrier pursuant to tariff.
7. If Switched Access Detail Usage Data or Switched Access Summary Usage Data is not submitted in a timely fashion or if it is not in the proper format as previously defined, and if as a result, the receiving party is delayed in billing the IXCs, late payment charges will be payable by the recording party at a rate of 0.000493 per day (annual percentage rate of 18%) compounded daily for the number of days late. In the event the recording party has not submitted such data in the proper format by the 90th day following the original due date, billings for the traffic associated with such traffic will be deemed "lost" and the recording party shall be liable to the receiving party for the amount of the lost billings. In accordance with Commission Decision No. 59872, the foregoing is the exclusive remedy for such delays.

**L. Mileage Measurement**

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

**M. Construction Charges**

For issues related to construction charges, see Section XXIX of this Agreement.

## **VI. INTERCONNECTION**

### **A. Definition**

1. "Interconnection" is the linking of the USWC and North County networks for the mutual exchange of traffic and for North County access to unbundled network elements. 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. USWC will provide interconnection at the line side of the local switch, the trunk side 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.

### **B. Mid-span Meet POI**

1. A Mid-Span Meet POI is a negotiated point of interface, limited to the interconnection of facilities between one Party's switch and the other Party's switch. The actual physical point of interface and facilities used will be subject to negotiations between the Parties. Each Party will be responsible for its portion of the build to the Mid-Span Meet POI, if the meet point arrangement is used exclusively for the exchange of local traffic.
2. If the Mid-Span Meet arrangement is to be used for access to unbundled network elements, North County must pay the portion of the economic costs of the Mid-Span Meet arrangement used by North County for access to unbundled network elements.

### **C. Collocation**

Interconnection may be accomplished through either virtual or physical collocation. The terms and conditions under which collocation will be available are described in Section VII herein.

### **D. Entrance Facility**

Interconnection may be accomplished through the provision of an entrance facility. An entrance facility extends from the serving wire center of the provider to the other party's switch location. Entrance facilities may not extend beyond the area described by the provider's serving wire center. The rates for entrance facilities are provided in Appendix A.

### **E. Quality of Interconnection**

USWC will not, for the purpose of interconnection, provide to North County less favorable terms and conditions than USWC provides itself or in a manner less efficient than it would impose on itself. The quality of interconnection will be at least equal to that of USWC. To the extent that North County requests higher or lower quality interconnection, North County agrees to use the New Interconnection/Unbundled Element Request procedure described in Section XXIII.

Both Parties agree to manage their network switches in accordance with the Bellcore LSSGR. The acceptable service levels for LIS and the criteria for applying protective controls will be administered in the same manner as the network management for Switched Access Service.

**F. Points of Interface (POI)**

Upon the request for specific point to point routing, USWC will make available to North County information indicating the location and technical characteristics of USWC's network facilities. The following alternatives are negotiable: (1) a DS1 or DS3 entrance facility, where facilities are available (where facilities are not available and USWC is required to build, see special construction charges in Section XXIX);(2) Virtual Collocation; (3) Physical Collocation; and (4) negotiated Mid-Span Meet facilities. Each Party is responsible for providing its own facilities up to the Mid-Span Meet POI. The Parties will negotiate the facilities arrangement between their networks.

**G. Trunking Requirements**

1. USWC agrees to provide designed interconnection facilities that meet the same technical criteria and service standards, such as probability of blocking in peak hours and transmission standards, in accordance with industry standards.
2. Two-way trunk groups will be established wherever possible. Exceptions to this provision will be based on billing, signaling, and network requirements. For example, (1) billing requirements - switched access vs. local traffic, (2) signaling requirements - MF vs. SS7, and (3) network requirements - directory assistance traffic to TOPS tandems. The following is the current list of traffic types that require separate trunk groups, unless specifically otherwise stated in this Agreement.
  - a. IntraLATA toll and switched access trunks
  - b. EAS/local trunks
  - c. Directory Assistance trunks
  - d. 911/E911 trunks
  - e. Operator services trunks
  - f. Commercial Mobile Radio Service/Wireless traffic for which North County serves as the transit provider between the CMRS provider and USWC.
  - g. Meet Point Billing Trunks (for the joint provision of switched access).

Note: entries deleted, per Commission Order No. 59872.

3. Trunk group connections will be made at a DS1 or multiple DS1 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 DS1 level, as negotiated.
4. The Parties will provide Common Channel Signaling (CCS) to one another, where available, in conjunction with all Local/EAS Trunk Circuits. All CCS signaling parameters will be provided including calling party number (CPN), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored.
5. Where CCS is not available, in-band multi-frequency (MF) wink start signaling will be provided. When the Parties interconnect via CCS for jointly provided switched access service, the tandem provider will provide MF/CCS interworking as required for interconnection with interexchange carriers who use MF signalling.
6. The Parties will follow all Ordering and Billing Forum adopted standards pertaining to CIC/OZZ codes.
7. USWC will cooperate in the provision of TNS (Transit Network Selection) for the joint provision of switched access.
8. The Parties shall terminate local/EAS traffic exclusively on local/EAS trunk groups. No local/EAS trunk groups shall be terminated on USWC's access tandems.

#### **H. Service Interruptions.**

1. Standards and procedures for notification of trunk disconnects will be jointly developed by the Parties. 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. Collectively, the Parties will use their best good faith efforts to complete and agree on such plan.
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: 1) interfere with or impair service over any facilities of the other Party; its affiliated companies, or its connecting and concurring carriers involved in its services; 2) cause damage to their plant; 3) violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or 4) create hazards to the employees of either Party or to the public. Each of these requirements is hereinafter referred to as an "Impairment of Service".
3. If either Party causes an Impairment of Service, as set forth in this Section, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment

of Service (the "Impairing Party") of the nature and location of the problem. They shall advise the Impairing Party that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, the Impaired Party may temporarily discontinue use of the affected circuit, facility or equipment.

4. 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.
5. 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 a Trouble Reporting Control Office (TRCO) for such service.
6. Where new facilities, services and arrangements are installed, 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.
7. Each Party shall furnish a trouble reporting telephone number for the designated TRCO. This number shall give access to the location where facility records are normally located and where current status reports on any trouble reports are readily available. 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.
8. Before either Party reports a trouble condition, they shall use their best efforts to isolate the trouble to the other's facilities.
  - a) In cases where a trouble condition affects a significant portion of the other's service, the Parties shall assign the same priority provided to other interconnecting carriers.
  - b) The Parties shall cooperate in isolating trouble conditions.

#### **I. Interconnection Forecasting**

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.
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 times a year. The quarterly

forecasts shall include forecasted requirements for each trunk group identified in Paragraph G(2) of this Section. In addition, the forecast shall include, for tandem-switched traffic, 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 (current and plus-1 and plus-2) years;

- a) The use of Common Language Location Identifier (CLLI-MSG), which are described in Bellcore documents BR 795-100-100 and BR 795-400-100;
  - b) A description of major network projects anticipated for the following six 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.
3. If differences in quarterly forecasts of the Parties vary by more than 24 additional DS0 two-way trunks for each Local Interconnection Trunk Group, the Parties shall meet to reconcile the forecast to within 24 DS0 trunks.
  4. If a trunk group is under 75 percent of centum call seconds (ccs) capacity on a monthly average basis for each month of any three month period, either Party may request to resize the trunk group, which resizing will not be unreasonably withheld. If a resizing occurs, the trunk group shall not be left with less than 25 percent excess capacity. In all cases, grade of service objectives identified below shall be maintained.
  5. Each Party shall provide a specified point of contact for planning, forecasting and trunk servicing purposes.

## VII. COLLOCATION

1. Collocation allows North County to obtain dedicated space in a USWC wire center and to place equipment in such spaces to interconnect with the USWC network. North County may request collocation at other USWC locations pursuant to the NIUER Process or through additional interconnection negotiations under the Act. USWC will provide the resources necessary for the operation and economical use of collocated equipment. POIs for network interconnection can be established through virtual or physical collocation arrangements.
2. Collocation is offered for network interconnection between the Parties. The collocated party may cross connect to other collocated parties via

expanded interconnection channel terminations provided by USWC, provided that North County's collocated equipment is used for interconnection with USWC or access to USWC's unbundled network elements. Additional terms, conditions and rates apply in conjunction with subsequent call termination (e.g., call termination charges, tandem switching, tandem-switched transport, see Section V, Reciprocal Traffic Exchange.)

3. Except when North County purchases USWC's unbundled network transmission elements, North County will construct its own fiber optic cable to the USWC-designated point of interconnection. USWC will extend North County's fiber optic cable from the POI to the cable vault within the wire center. If necessary, USWC may bring the cable into compliance with USWC internal fire code standards and extend the cable to the collocated space.
4. North County will be provided two points of entry into the USWC wire center only when there are at least two existing entry points for USWC cable and when there are vacant entrance ducts in both. USWC will promptly remove any unused cabling to free up entrance ducts when no other ducts are available. Cable entry will be limited to fiber facilities.
5. North County may collocate transmission equipment to terminate basic transmission facilities. North County may request collocation of other equipment pursuant to the NIUER Process or through additional interconnection negotiations under the Act. North County must identify what equipment will be installed, to allow for USWC to use this information in engineering the power, floor loading, heat release, environmental particulant level, and HVAC.
6. Nothing in this part shall be construed to limit North County's ability to obtain both virtual and physical collocation in a single location.

B. Virtual Collocation

1. USWC shall provide virtual collocation for the purpose of Interconnection or access to unbundled Network Elements subject to the rates, terms and conditions of this Agreement.
2. North County will not have physical access to the USWC wire center building pursuant to a virtual collocation arrangement.
3. North County will be responsible for obtaining and providing to USWC administrative codes, e.g., common language codes, for all equipment specified by North County and installed in wire center buildings.
4. North County will be responsible for payment of training of USWC employees for the maintenance, operation and installation of North County's virtually collocated equipment when that equipment is different than the equipment used by USWC.

5. North County will be responsible for payment of charges incurred in the maintenance and/or repair of North County's virtually collocated equipment.
6. USWC does not guarantee the reliability North County's virtually collocated equipment.
7. North County is responsible for ensuring the functionality of virtually collocated SONET equipment provided by different manufacturers.
8. Maintenance Labor, Inspector Labor, Engineering Labor and Equipment Labor business hours are considered to be Monday through Friday, 8:00am to 5:00pm and after business hours are after 5:00pm and before 8:00am, Monday through Friday, all day Saturday, Sunday and holidays.
9. North County will transfer possession of North County's virtually collocated equipment to USWC via a no cost lease. The sole purpose of the lease is to provide USWC with exclusive possessory rights to North County's virtually collocated equipment. Title to the North County virtually collocated equipment shall not pass to USWC.
10. Installation and maintenance of North County's virtually collocated equipment will be performed by USWC or a USWC authorized vendor.
11. North County shall ensure that upon receipt of the North County virtually collocated equipment by USWC, all warranties and access to ongoing technical support are passed through to USWC, all at North County's expense. The interconnector shall advise the manufacturer and seller of the virtually collocated equipment that it will be possessed, installed and maintained by USWC.
12. North County's virtually collocated equipment must comply with the Bellcore Network Equipment Building System (NEBS) Generic Equipment Requirements TR-NWT-000063, USWC wire center environmental and transmission standards and any statutory (local, state or federal) and/or regulatory requirements in effect at the time of equipment installation or that subsequently become effective. North County shall provide USWC interface specifications (e.g., electrical, functional, physical and software) of North County's virtually collocated equipment.
13. USWC may restrict the type of virtually collocated equipment. USWC will only permit basic transmission terminating equipment to be virtually collocated by North County. North County may request collocation of other equipment pursuant to the NIUER Process or through additional interconnection negotiations under the Act.
14. North County must specify all software options and associated plug-ins for its virtually collocated equipment.

15. North County is responsible for purchasing and maintaining a supply of spares. Upon failure of North County's virtually collocated equipment, North County is responsible for transportation and delivery of maintenance spares to USWC at the wire center housing the failed equipment.

C. Physical Collocation

1. USWC shall provide to North County Physical Collocation of equipment necessary for Interconnection or for access to unbundled Network Elements, except that USWC may provide for Virtual Collocation if USWC demonstrates to the Commission that Physical Collocation is not practical for technical reasons or because of space limitations, as provided in Section 251(c)(6) of the Act. USWC shall provide such Collocation for the purpose of Interconnection or access to unbundled Network Elements, except as otherwise mutually agreed to in writing by the Parties or as required by the FCC or the appropriate Commission subject to the rates, terms and conditions of this Agreement.
2. Where North County is Virtually Collocated in a premises which was initially prepared for Virtual Collocation, North County may elect to (i) retain its Virtual Collocation in that premises and expand that Virtual Collocation according to the rates, terms and conditions of this Agreement, or (ii) unless it is not practical for technical reasons or because of space limitations, convert its Virtual Collocation at such premises to Physical Collocation, in which case North County shall coordinate the construction and rearrangement with USWC of its equipment (IDLC and transmission) and circuits for which North County shall pay USWC at applicable rates, and pursuant to the other terms and conditions in this Agreement. In addition, all applicable Physical Collocation recurring charges shall apply.
3. North County will be allowed access to the POI on non-discriminatory terms. North County owns and is responsible for the installation, maintenance and repair of its transmission equipment located within the space rented from USWC.
4. North County must use leased space promptly and may not warehouse space for later use or sublease to another provider. Physical collocation is offered in wire centers on a space-available, first come, first-served basis.
5. The minimum standard leasable amount of floor space is 100 square feet. North County must efficiently use the leased space; no more than 50% of the floor space may be used for storage cabinets and work surfaces. The Commission will be the final arbitrator in points of dispute between the Parties.
6. North County's leased floor space will be separated from other competitive providers and USWC space through cages or hard walls. North County may elect to have USWC construct the cage, or choose

from USWC approved contractors to construct the cage, meeting USWC's installation Technical Publication 77350.

7. The following standard features will be provided by USWC:
  - a. Heating, ventilation and air conditioning.
  - b. Smoke/fire detection and any other building code requirement.
8. USWC Responsibilities.
  - a. Design the floor space within each wire center which will constitute North County's leased space.
  - b. Ensure that the necessary construction work is performed to build North County's leased physical space and the riser from the vault to the leased physical space.
  - c. Develop a quotation specific to North County's request.
  - d. Extend USWC-provided and owned fiber optic cable from the POI through the cable vault and extending the cable to North County's leased physical space or place the cable in fire retardant tubing prior to extension to North County's leased physical space.
  - e. Installation and maintenance and all related activity necessary to provide Channel Termination between USWC's and North County's equipment.
  - f. Work cooperatively with North County in matters of joint testing and maintenance.
9. North County Responsibilities
  - a. Determine the type of enclosure for the physical space.
  - b. Where applicable, procure, install and maintain all fiber optic facilities up to the USWC designated POI.
  - c. Install, maintain, repair and service all North County's equipment located in the leased physical space.
  - d. Ensure that all equipment installed by North County complies with Bellcore Network Equipment Building System Generic Equipment requirements, USWC wire center environmental and transmission standards, and any statutory (local, federal, or state) or regulatory requirements in effect at the time of equipment installation or that subsequently become effective.

10. Once construction is complete for physical collocation and North County has accepted its leased physical space, North County may order its DS0, DS1, DS3 or other Expanded Interconnection Channel Terminations.
11. North County may not extend dark fiber to North County's leased physical space or connecting DS1/DS3 Channel Terminations to USWC dark fiber.
12. If, at any time, USWC determines that the equipment or the installation does not meet requirements, North County will be responsible for the costs associated with the removal, modification to, or installation of the equipment to bring it into compliance. If North County fails to correct any non-compliance within fifteen (15) days of written notice of non-compliance, USWC may have the equipment removed or the condition corrected at North County's expense.
13. If, during installation, USWC determines North County activities or equipment are unsafe, non-standard or in violation of any applicable laws or regulations, USWC has the right to stop work until the situation is remedied. If such conditions pose an immediate threat to the safety of USWC employees, interfere with the performance of USWC's service obligations, or pose an immediate threat to the physical integrity of the conduit system or the cable facilities, USWC may perform such work and/or take action as is necessary to correct the condition at North County's expense.
14. For each Physical Collocation, the Parties agree to execute an individual 'Physical Collocation Agreement' in form attached hereto as Appendix C.

D. Collocation Rate Elements

1. Common Rate Elements

The following rate elements are common to both virtual and physical collocation:

- a. Quote Preparation Fee. This covers the work involved in developing a quotation for North County for the total costs involved in its collocation request.
- b. Entrance Facility. Provides for fiber optic cable on a per fiber basis from the point of interconnection utilizing USWC owned, conventional single mode type of fiber optic cable to the collocated equipment (for virtual collocation) or to the leased space (for physical collocation). Entrance facility includes riser, fiber placement, entrance closure, conduit/innerduct, and core drilling.
- c. Cable Splicing. Represents the labor and equipment to perform a subsequent splice to the North County provided fiber optic cable

after the initial installation splice. Includes a per-setup and a per-fiber-spliced rate elements.

- d. -48 Volt Power. Provides -48 volt power to the North County collocated equipment. Charged on a per ampere basis.
- e. 48 Volt Power Cable. Provides for the transmission of -48 Volt DC power to the collocated equipment. It includes engineering, furnishing and installing the main distribution bay power breaker, associated power cable, cable rack and local power bay to the closest power distribution bay. It also includes the power cable (feeders) A and B from the local power distribution bay to the leased physical space (for physical collocation) or to the collocated equipment (for virtual collocation).
- f. Inspector Labor. Provides for the USWC qualified personnel necessary when North County requires access to the point of interconnection after the initial installation or access to its physical collocation floor space, where an escort is required. A call-out of an inspector after business hours is subject to a minimum charge of four hours. The minimum call-out charge shall apply when no other employee is present in the location, and an 'off-shift' USWC employee (or contract employee) is required to go 'on-shift' on behalf of North County.
- g. Expanded Interconnection Channel Termination (EICT). Telecommunications interconnection between North County's collocated equipment and USWC's network is accomplished via an Expanded Interconnection Channel Termination (EICT). This element can be at the DS0, DS1, DS3 or other level depending on the USWC service it is connecting to. Connection to any other network or telecommunications source within the wire center is allowed only through USWC services.
- h. Expanded Interconnection Channel Regeneration. Required when the distance from the leased physical space (for physical collocation) or from the collocated equipment (for virtual collocation) to the USWC network is of sufficient length to require regeneration.

## 2. Physical Collocation Rate Elements

The following rate elements apply only to physical collocation arrangements:

- a. Floor Space Rental. Provides the monthly rent for the leased physical space, property taxes and base operating cost without -48 Volt DC power. Includes convenience 110 AC, 15 amp electrical outlets provided in accordance with local codes and may not be used to power transmission equipment or -48 Volt DC power generating equipment. Also includes maintenance for the

leased space; provides for the preventative maintenance (climate controls, filters, fire and life systems and alarms, mechanical systems, standard HVAC); biweekly housekeeping services (sweeping, spot cleaning, trash removal) of the USWC wire center areas surrounding the leased physical space and general repair and maintenance.

- b. Enclosure Buildout. The Enclosure Buildout element, either Cage or, at North County's option, Hardwall, includes the material and labor to construct the enclosure specified by North County or North County may choose from USWC approved contractors to construct the cage, meeting USWC's installation Technical Publication 77350. It includes the enclosure (cage or hardwall), air conditioning (to support North County loads specified), lighting (not to exceed 2 watts per square foot), and convenience outlets (3 per cage or number required by building code for the hardwall enclosure). Also provides for humidification, if required.
- c. Pricing for the above physical collocation rate elements will be provided on an individual basis due to the uniqueness of North County's requirements, central office structure and arrangements.

### 3. Virtual Collocation Rate Elements

The following rate elements apply uniquely to virtual collocation:

- a. Maintenance Labor -- Provides for the labor necessary for repair of out of service and/or service-affecting conditions and preventative maintenance of the North County virtually collocated equipment. North County is responsible for ordering maintenance spares. USWC will perform maintenance and/or repair work upon receipt of the replacement maintenance spare and/or equipment for North County. A call-out of a maintenance technician after business hours is subject to a minimum charge as specified above.
- b. Training Labor -- Provides for the billing of vendor-provided training for USWC personnel on a metropolitan service area basis, necessary for North County virtually collocated equipment which is different from USWC provided equipment. USWC will require three USWC employees to be trained per metropolitan service area in which the North County virtually collocated equipment is located. If, by an act of USWC, trained employees are relocated, retired, or are no longer available, USWC will not require North County to provide training for additional USWC employees for the same virtually collocated equipment in the same metropolitan area. The amount of training billed to North County will be reduced by half, should a second collocater in the same metropolitan area select the same virtually collocated equipment as North County.

- c. Equipment Bay -- Provides mounting space for the North County virtually collocated equipment. Each bay includes the 7 foot bay, its installation, all necessary environmental supports. Mounting space on the bay, including space for the fuse panel and air gaps necessary for heat dissipation is limited to 78 inches. The monthly rate is applied per shelf.
- d. Engineering Labor -- Provides the planning and engineering of the North County virtually collocated equipment at the time of installation, change or removal.
- e. Installation Labor -- Provides for the installation, change or removal of the North County virtually collocated equipment.

E. Collocation Installation Intervals

The following intervals are common to both virtual and physical collocation:

1. Acknowledgment of Floor Space Availability. Within fifteen days of the receipt by USWC from North County of a Request for Collocation and an associated Quote Preparation Fee, USWC will notify North County whether the sufficient floor space is available to accommodate North County's request.
2. Quote Preparation. Within twenty-five business days of the receipt by USWC from North County of a Request for Collocation and an associated Quote Preparation Fee, USWC provide North County with a written quotation containing all nonrecurring charges for the requested collocation arrangement.
3. Quote Acceptance. Within thirty days of the receipt by North County of the USWC quotation, North County will accept the USWC proposed quotation. Acceptance shall require payment to USWC of fifty percent of the non-recurring charges provided on the quotation.
4. Completion of Cage Construction (physical collocation only). Within 90 days of the acceptance of the quotation by North County, the construction of the necessary cage/hardwall enclosure shall be completed. At this time, the leased floor space will be available to North County for installation of its collocated equipment.
5. Completion of Collocated Equipment Installation (virtual collocation only) -- USWC shall complete the installation of North County's collocated equipment within 90 days of USWC's receipt of North County's collocated equipment. The installation of line cards and other minor modifications shall be performed by USWC on intervals equivalent to those that USWC applies to itself, but in no instance shall any such interval exceed 90 days.

## VIII. INTERIM NUMBER PORTABILITY

## **A. General Terms**

1. The Parties shall provide Number Portability on a reciprocal basis to each other to the extent technically feasible, and in accordance with rules and regulations as from time to time prescribed by the FCC and/or the Commission.
2. Until Number Portability is implemented by the industry pursuant to regulations issued by the FCC or the Commission, the Parties agree to provide Interim Telecommunications Number Portability ("INP") to each other through remote call forwarding, direct inward dialing and NXX migration.
3. Once permanent number portability is implemented pursuant to FCC or Commission regulation, either Party may withdraw, at any time and at its sole discretion, its INP offerings, subject to advance notice to the other Party and coordination to allow the seamless and transparent conversion of INP customer numbers to permanent number portability. Upon implementation of permanent number portability pursuant to FCC regulations, both Parties agree to conform and provide such permanent number portability.
4. USWC will update its Line Information Database ("LIDB") listings for retained numbers, and restrict or cancel calling cards associated with these forwarded numbers as directed by North County. LIDB updates shall be completed by the Parties on the same business day each INP arrangement is activated.
5. Upon request, USWC shall provide to North County INP via Direct Inward Dial Trunks pursuant to applicable tariffs.
6. Where either party has activated an entire NXX for a single customer, or activated a substantial portion of an NXX for a single customer with the remaining numbers in that NXX either reserved for future use or otherwise unused, if such customer chooses to receive service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead-times for movement of NXXs from one switch to another. Other applications of NXX migration will be discussed by the Parties as circumstances arise.

## **B. Description Of Service**

1. Interim Number Portability Service ("INP") is a service arrangement that can be provided by USWC to North County or by North County to USWC. For the purposes of this section, the Party porting traffic to the other Party shall be referred to as the "INP Provider" and the Party receiving INP traffic for termination shall be referred to as the "INP Requestor".

2. INP applies to those situations where an end-user customer elects to transfer service from the INP Provider to the INP Requestor and they also wish to retain their existing telephone number. INP consists of INP Provider's provision to the INP Requestor the capability to route calls placed to telephone numbers assigned to the INP Provider's switches to the INP Requestor's switches. INP is available only for working telephone numbers assigned to the INP Provider's customers who request to transfer to the INP Requestor's service
3. INP is available as INP-Remote Call Forwarding ("INP-RCF") permitting a call to a INP Provider's assigned telephone number to be translated to the INP Requestor's dialable local number. INP Requestor may terminate the call as desired. Additional capacity for simultaneous call forwarding is available where technically feasible. The INP Requestor will need to specify the number of simultaneous calls to be forwarded for each number ported.
4. INP is subject to the following restrictions:
  - i. An INP telephone number may be assigned by INP Requestor only to the Requestor's customers located within the INP Provider's local calling area and toll rating area that is associated with the NXX of the portable number.
  - ii. INP is applicable only if the INP Requestor is engaged in a reciprocal traffic exchange arrangement with the INP Provider.
  - iii. Only the existing, INP Provider assigned end-user telephone number may be used as a ported number for INP.
  - iv. INP will not be provided by the INP Provider for customers whose accounts are in arrears and who elect to make a change of service provider unless and until the following conditions are met:
    - Full payment for the account (including directory advertising charges associated with the customer's telephone number) is made by customer or INP Requestor agrees to make full payment on behalf of customer.
    - INP Provider is notified in advance of the change in service provider and a Change of Responsibility form is issued.
    - INP Provider accepts the transfer of responsibility.
  - v. INP services shall not be re-sold, shared or assigned by either party to another LEC or CLEC.

- vi. INP is not offered for NXX Codes 555, 976, 960 and coin telephones, and Service Access Codes (i.e. 500, 700, 800/888, 900). INP is not available for FGA seven-digit numbers, including foreign exchange (FEX), FX and FX/ONAL and foreign Central Office Service. Furthermore, INP numbers may not be used for mass calling events.
- vii. The ported telephone number will be returned to the originating company (or to the common pool of telephone numbers upon implementation of permanent number portability) when the ported service is disconnected. The company purchasing a ported number may not retain it and reassign it to another customer. The normal intercept announcement will be provided by the INP Provider for the period of time until the telephone number is reassigned by the Provider.

5. Ordering and Maintenance

- a. The INP Requestor is responsible for all dealings with and on behalf of its end users, including all end user account activity, e.g. end user queries and complaints.
- b. Each party is responsible for obtaining a Letter of Authorization (LOA) from its end users who requests a transfer of the end user's telephone number from the other party.
- c. The INP Provider will work cooperatively with the Requestor to ensure a smooth customer transition and to avoid unnecessary duplication of other facilities (e.g., unbundled loops). The Parties will cooperate to develop intercompany procedures to implement the requirements of this paragraph.
- d. If an end user requests transfer of service from the INP Requestor back to the INP Provider, the Provider may rely on that end user request to institute cancellation of the INP service. The INP Provider will provide at least 48 hours notice to the INP Requestor of the cancellation of INP service, and will work cooperatively with the Requestor to ensure a smooth customer transition and to avoid unnecessary duplication of other facilities (e.g., unbundled loops). The Parties will cooperate to develop intercompany procedures to implement the requirements of this paragraph.
- e. Certain features are not available on calls passed through INP service.
- f. The Requestor's designated INP switch must return answer and disconnect supervision to the INP Provider's switch.

- g. The Requestor will provide to the E911 database provider the network telephone number that the Requestor assigned to the Provider-assigned, ported telephone number. Updates to and maintenance of the INP information to the E911 database are the responsibility of the INP Requestor.
  - h. The INP Requestor will submit to the INP Provider a disconnect order for each ported number that is relinquished by the Requestor's end users.
6. Cost Recovery
- a. North County and USWC shall provide Remote Call Forwarding functionality or other INP capabilities to each other at no charge in accordance with the provision of the FCC's First Report and Order and further Notice of Proposed Rule Making, see Docket No. 95-116 ("FCC Number Portability Order").
  - b. The costs incurred by North County and USWC of providing INP shall be recovered through a broad based cost recovery mechanism as described in the FCC Number Portability Order. The Parties will work together in encouraging state commissions to establish such a mechanism.<sup>2</sup>
  - c. The parties shall, each quarter, exchange the confidential data necessary to implement the above pro-rata assignment of interim number portability costs.
  - d. The INP Provider will, when using RCF, send the original ("ported") number over the interconnection arrangements as the calling party number using the signaling protocol applicable to the arrangements. The INP Requestor will capture and measure the number of minutes of INP incoming traffic. USWC will provide (and update quarterly) percentage distributions of all terminating traffic in the LATA by jurisdictional nature of the traffic: a) local; b) intrastate, intraLATA switched access; c) intrastate, interLATA switched access; d) interstate, intraLATA switched access; e) interstate, interLATA switched access. Separate residence and business percentage distributions will be provided, to the extent possible. The Parties agree to work cooperatively to develop and

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<sup>2</sup> The Commission directed MFS and USWC, in Commission Decision No. 59872, with respect to cost recovery as follows: "We will require the annual surcharge for number portability to be assessed based upon each carrier's number of ported telephone numbers relative to the total number of active telephone numbers in the local service area, which is the first INP cost recovery method recommended by the FCC in the TNP Order, Para. 136. While this is not a generic proceeding and therefore we cannot order all carriers to comply with the payment method at this time, we anticipate ordering each carrier to comply as part of its interconnection proceeding." The Parties to this Agreement agree to comply with this Commission decision.

exchange the data required to implement this paragraph. The appropriate percentage will be applied to the number of minutes of INP traffic in each category to determine the number of minutes eligible for additional "pass through" switched access compensation. Pass through switched access compensation will be paid at the following rates:<sup>3</sup>

For all intra-LATA toll and inter-LATA minutes delivered over INP, USWC will pay, in lieu of reciprocal compensation, all terminating switched access elements otherwise due the terminating office provider, including:

end office switching;  
IC (interconnection charge);  
CCLC; and  
appropriate portion of tandem switched transport.

## **IX. DIALING PARITY**

The Parties shall provide Dialing Parity to each other as required under Section 251(b)(3) of the Act. This Agreement does not impact either Party's ability to default intraLATA toll via a specific dialing pattern until otherwise required by the Act.

## **X. ACCESS TO TELEPHONE NUMBERS**

1. Number Resources Arrangements.
  - a. 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). NXXs, and the initial points of interface for interconnection between the Parties' networks, will be included in Addenda to this Agreement.
  - b. To the extent USWC serves as Central Office Code Administrator for a given region, USWC will support all North County requests related to central office (NXX) code administration and assignments in the manner required and consistent with the Central Office Code Assignment Guidelines.
  - c. The parties shall provide local dialing parity to each other as required under Section 251(b)(3) of the Act.

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<sup>3</sup>This provision is adopted pursuant to Commission Decision No. 59872.

- d. The Parties will comply with code administration requirements as prescribed by the Federal Communications Commission, the Commission, and accepted industry guidelines.
- e. 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.
- f. 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.
- g. Until an impartial entity is appointed to administer telecommunications numbering and to make such numbers available on an equitable basis, USWC will assign NXX codes to North County in accordance with national guidelines at no charge.
- h. Each Party is responsible for administering NXX codes assigned to it. Each Party is responsible for obtaining Local Exchange Routing Guide ("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.

## **XI. CALL COMPLETION FROM USWC OPERATORS**

USWC Operators will provide operator call completion and call completion and rating information and like assistance to any end user customer reaching USWC Operators (including information for calls to North County' NXXs) in the same manner as they provide such services for end user customers served by USWC NXXs and for calls involving only USWC NXXs.

## **XII. BUSY LINE VERIFY/INTERRUPT**

- A. Busy Line Verification ("BLV") is performed when one Party's Customer requests assistance from the operator bureau to determine if the called line is in use, however, the operator bureau will not complete the call for the Customer initiating the BLV inquiry. Only one BLV attempt will be made per Customer operator bureau call, and a charge shall apply whether or not the called party releases the line.
- B. Busy Line Verification Interrupt ("BLVI") is performed when one Party's operator bureau interrupts a telephone call in progress after BLV has occurred. The operator bureau will interrupt the busy line and inform the called party that there

is a call waiting. The operator bureau will only interrupt the call and will not complete the telephone call of the Customer initiating the BLVI request. The operator bureau will make only one BLVI attempt per Customer operator telephone call and the applicable charge applies whether or not the called party releases the line.

- C. The rate for Busy Line Verify shall be \$.72 per call, and for Busy Line Verify and Interrupt, \$.87 per call.
- D. Each Party's operator bureau shall accept BLV and BLVI inquiries from the operator bureau of the other Party in order to allow transparent provision of BLV/BLVI Traffic between the Parties' networks.
- E. Each Party shall route BLV/BLVI Traffic inquiries over separate direct trunks (and not the Local/IntraLATA Trunks) established between the Parties' respective operator bureaus. Unless otherwise mutually agreed, the Parties shall configure BLV/BLVI trunks over the Interconnection architecture defined in Section VI, Interconnection, consistent with the Joint Grooming Plan. Each Party shall compensate the other Party for BLV/BLVI Traffic as set forth above.

### **XIII. TOLL AND ASSISTANCE OPERATOR SERVICES**

1. Description of Service.

Toll and Assistance refers to functions customers associate with the "O" operator. Subject to availability and capacity, access may be provided via operator services trunks purchased from USWC or provided by North County via collocation arrangements to route calls to North County's platform.

2. Functions include:

- a. O-Coin, Automatic Coin Telephone Service (ACTS) - these functions complete coin calls, collect coins and provide coin rates.
- b. Alternate Billing Services (ABS or O+ dialing): Bill to third party, Collect and Mechanized Credit Card System (MCCS).
- c. O- or operator assistance which provides general assistance such as dialing instruction and assistance, rate quotes, emergency call completion and providing credit.
- d. Automated Branding - ability to announce the carrier's name to the customer during the introduction of the call.
- e. Rating Services - operators have access to tables that are populated with all toll rates used by the operator switch.

3. Pricing for Toll and Assistance Operator Services shall be determined on a case-by-case basis, upon request.

4. Interconnection to the USWC Toll and Assistance Operator Services from an end office to USWC T/A is technically feasible at three distinct points on the trunk side of the switch. The first connection point is an operator services trunk connected directly to the T/A host switch. The second connection point is an operator services trunk connected directly to a remote T/A switch. The third connection point is an operator services trunk connected to a remote access tandem with operator concentration capabilities.
5. Trunk provisioning and facility ownership will follow the guidelines recommended by the Trunking and Routing, IOF and Switch sub-teams. All trunk interconnections will be digital.
6. Toll and Assistance interconnection will require an operator services type trunk between the end office and the interconnection point on the USWC switch.
7. Connecting a position to the host system requires two circuits (one voice and one data) per position on a T1 facility.
8. The technical requirements of operator services type trunks and the circuits to connect the positions to the host are covered in the OSSGR under Section 6 (Signaling) and Section 10 (System Interfaces) in general requirements form.

#### **XIV. DIRECTORY ASSISTANCE**

- A. USWC agrees to (1) provide to North County operators on line access to USWC's directory assistance database; (2) provide to North County unbranded directory assistance service (3) provide to North County directory assistance service under North County brand (where technically feasible); (4) allow North County or a North County designated operator bureau to license USWC's directory assistance database for use in providing competitive directory assistance services; and (5) in conjunction with (2) or (3) above, provide caller-optional directory assistance call completion service which is comparable in every way to the directory assistance call completion service USWC makes available to its own users and to provide caller name and number.
- B. The price for directory assistance, provided pursuant to this Agreement, shall be 34 cents per call. As an alternative, the Parties may obtain directory assistance service pursuant to effective tariffs.
- C. The price for directory call completion services shall be 35 cents per call, pending the completion of an approved TELRIC cost study. Additional charges, for USWC intraLATA toll services, also apply for completed intraLATA toll calls. Long distance service shall be available pursuant to the wholesale discount provided in Section XXX, Resale, herein. Call completion service is an optional service. North County may, at its option, request USWC to not provide call completion services to North County customers.

## XV. LISTINGS

### A. Scope.

1. Listings Service ("Listings") consists of USWC placing the names, addresses and telephone numbers of North County's end users in USWC's listing database, based on end user information provided to USWC by North County. USWC is authorized to use Listings in Directory Assistance (DA) and as noted in paragraph 4, below.
2. North County will provide in standard, mechanized format, and USWC will accept at no charge, one primary listing for each main telephone number belonging to North County's end user customers. Primary listings are as defined for USWC end users in USWC's general exchange tariffs. North County will be charged for premium listings, e.g., additional, foreign, cross reference, informational, etc., at USWC's general exchange listing tariff rates. North County utilizing Remote Call Forwarding for local number portability can list only one number without charge - either the end customer's original telephone number or the North County-assigned number. The standard discounted rate for an additional listing applies to the other number.
3. USWC will furnish North County the Listings format specifications. North County may supply a maximum of one batch file daily, containing only Listings that completed on or prior to the transmission date. USWC cannot accept Listings with advance completion dates. Large volume activity (e.g., 100 or more listings) on a caption set is considered a project that requires coordination between North County and USWC to determine time frames.
4. North County grants USWC a non-exclusive license to incorporate Listings information into its directory assistance database. North County hereby selects one of two options for USWC's use of Listings and dissemination of Listings to third parties.

#### EITHER:

- a. Treat the same as USWC's end user listings - No prior authorization is needed for USWC to release Listings to directory publishers or other third parties. USWC will incorporate Listings information in all existing and future directory assistance applications developed by USWC. North County authorizes USWC to sell and otherwise make Listings available to directory publishers. USWC shall be entitled to retain all revenue associated with any such sales. Listings shall not be provided or sold in such a manner as to segregate end users by carrier.

#### OR:

- b. Restrict to USWC's directory assistance -- Prior authorization required by North County for all other uses. North County makes its own, separate agreements with USWC, third parties and directory publishers for all uses of its Listings beyond DA. USWC will sell Listings to directory publishers (including USWC's publisher affiliate), other third parties and USWC products only after the third party presents proof of North County's authorization. USWC shall be entitled to retain all revenue associated with any such sales. Listings shall not be provided or sold in such a manner as to segregate end users by carrier.
5. To the extent that state tariffs limit USWC's liability with regard to Listings, the applicable state tariff(s) is incorporated herein and supersedes Section XXXIV(U), "Limitation of Liability", of this Agreement with respect to Listings only.

B. USWC Responsibilities

1. USWC is responsible for maintaining Listings, including entering, changing, correcting, rearranging and removing Listings in accordance with North County orders. USWC will take reasonable steps in accordance with industry practices to accommodate non-published and non-listed Listings provided that North County has supplied USWC the necessary privacy indicators on such Listings.
2. USWC will include North County Listings in USWC's Directory Assistance service to ensure that callers to USWC's Directory Assistance service have non-discriminatory access to North County's Listings.
3. USWC will incorporate North County Listings provided to USWC in the white pages directory published on USWC's behalf.

C. North County Responsibilities

1. North County agrees to provide to USWC its end user names, addresses and telephone numbers in a standard mechanized format, as specified by USWC.
2. North County will supply its ACNA/CIC or CLCC/OCN, as appropriate, with each order to provide USWC the means of identifying Listings ownership.
3. North County represents and warrants the end user information provided to USWC is accurate and correct. North County further represents and warrants that it has reviewed all Listings provided to USWC, including end user requested restrictions on use such as non-published and non-listed. North County shall be solely responsible for knowing and adhering to state laws or rulings regarding Listings (e.g., no solicitation requirements in the states of Arizona and Oregon, privacy requirements in Colorado), and for supplying USWC with the applicable Listing information.

4. North County is responsible for all dealings with, and on behalf of, North County's end users, including:
  - a. All end user account activity, e.g. end user queries and complaints.
  - b. All account maintenance activity, e.g., additions, changes, issuance of orders for Listings to USWC.
  - c. Determining privacy requirements and accurately coding the privacy indicators for North County's end user information. If end user information provided by North County to USWC does not contain a privacy indicator, no privacy restrictions will apply.
  - d. Any additional services requested by North County's end users.
- D. The terms contained in this Section refer specifically to the provision of Listings from North County to USWC. The Parties acknowledge that the Telecommunications Act of 1996 imposes reciprocal obligations on incumbent and new entrant Local Exchange providers with respect to directory assistance listings and white pages listings. As a result, the Parties agree that the terms in this Section are reciprocal and also include the provision of Listings from USWC to North County, in the event that North County provides its own directory assistance service or publishes its own white pages directory.

#### **XVI. U S WEST DEX ISSUES**

USWC and North County agree that certain issues, such as yellow page advertising, directory distribution, access to call guide pages, yellow page listings, will be the subject of negotiations between North County and directory publishers, including U S WEST DEX. USWC acknowledges that North County may request USWC to facilitate discussions between North County and U S WEST DEX.

#### **XVII. ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS OF WAY**

Each Party shall provide the other Party access to its poles, ducts, rights-of-way and conduits it controls on terms, conditions and prices comparable to those offered to any other entity pursuant to each party's applicable tariffs and/or standard agreements.

#### **XVIII. ACCESS TO DATABASES**

In accordance with Section 271 of the Act, USWC shall provide North County with interfaces to access USWC's databases and associated signaling necessary for the routing and completion of North County traffic. Except where otherwise specified, access to such databases, and the appropriate interfaces, shall be made available to North County via a Network Interconnection and Unbundled Element Request.

## **XIX. NOTICE OF CHANGES**

If a Party makes a change in its network which it believes will materially affect the inter-operability of its network with the other Party, the Party making the change shall provide advance notice of such change to the other Party in accordance with the applicable FCC regulations.

## **XX. 911/E-911 SERVICE**

1. Scope.
  - a. North County exchanges to be included in USWC's E-911 Data Base will be indicated via written notice and will not require an amendment to this Agreement.
  - b. In counties where USWC has obligations under existing agreements as the primary provider of the 911 System to the county, North County will participate in the provision of the 911 System as described in this Agreement.
    - i. Each party will be responsible for those portions of the 911 System for which it has total control, including any necessary maintenance to each Party's portion of the 911 System.
    - ii. USWC will be responsible for maintaining the E-911 Data Base. USWC will provide a copy of the Master Street Address Guide ("MSAG"), and periodic updates, to North County.
    - iii. North County assumes all responsibility for the accuracy of the data that North County provides to USWC for MSAG preparation and E-911 Data Base operation.
    - iv. North County will provide end user data to the USWC ALI data base utilizing NENA-02-001 Recommended Formats For Data Exchange, NENA-02-002 Recommended Standard For Street Thoroughfare Abbreviations and NENA-02-003 Recommended Protocols For Data Exchange. USWC will furnish North County any variations to NENA recommendations required for ALI data base input.
    - v. North County will provide end user data to the USWC ALI data base that are Master Street Address Guide (MSAG) valid and meet all components of the NENA-02-004 Recommended Measurements For Data Quality.

- vi. North County will update its end user records provided to the USWC ALI data base to agree with the 911 MSAG standards for its service areas.
  - vii. USWC will provide North County with the identification of the USWC 911 controlling office that serves each geographic area served by North County.
  - viii. The Parties will cooperate in the routing of 911 traffic in those instances where the ALI/ANI information is not available on a particular 911 call.
  - ix. USWC will provide North County with the ten-digit telephone numbers of each PSAP agency, for which USWC provides the 911 function, to be used by North County operators for handling emergency calls in those instances where the North County customer dials "O" instead of "911".
- c. If a third party; i.e., LEC, is the primary service provider to a county, North County will negotiate separately with such third party with regard to the provision of 911 service to the county. All relations between such third party and North County are totally separate from this Agreement and USWC makes no representations on behalf of the third party.
  - d. If North County is the primary service provider to the county, North County and USWC will negotiate the specific provisions necessary for providing 911 service to the county and will include such provisions in an amendment to this Agreement.
  - e. North County will separately negotiate with each county regarding the collection and reimbursement to the county of applicable customer taxes for 911 service.
  - f. North County is responsible for network management of its network components in compliance with the Network Reliability Council Recommendations and meeting the network standard of USWC for the 911 call delivery.
  - g. The parties shall provide a single point of contact to coordinate all activities under this Agreement.
  - h. Neither Party will reimburse the other for any expenses incurred in the provision of E-911 services.
2. Performance Criteria. E-911 Data Base accuracy shall be as set forth below:
- a. Accuracy of ALI (Automatic Location Identification) data will be measured jointly by the PSAPs (Public Safety Answering Points)

and USWC in a format supplied by USWC. The reports shall be forwarded to North County by USWC when relevant and will indicate incidents when incorrect or no ALI data is displayed.

- b. Each discrepancy report will be jointly researched by USWC and North County. Corrective action will be taken immediately by the responsible party.
- c. Each party will be responsible for the accuracy of its customer records. Each party specifically agrees to indemnify and hold harmless the other party from any claims, damages, or suits related to the accuracy of customer data provided for inclusion in the E-911 Data Base.
- d. The additional parameters by which the Parties will utilize the 911 or E-911 database will be the subject of further discussion between the parties.

## **XXI. REFERRAL ANNOUNCEMENT**

When an end user customer changes from USWC to North County, or from North County to USWC, and does not retain their original telephone number, the Party formerly providing service to the end user will provide a transfer of service announcement on the abandoned telephone number. Each Party will provide this referral service consistent with its tariff. This announcement will provide details on the new number that must be dialed to reach this customer.

## **XXII. COORDINATED REPAIR CALLS**

1. North County and USWC will employ the following procedures for handling misdirected repair calls;
  - a. North County and USWC will provide their respective customers with the correct telephone numbers to call for access to their respective repair bureaus.
  - b. Customers of North County shall be instructed to report all cases of trouble to North County. Customers of USWC shall be instructed to report all cases of trouble to USWC.
  - c. To the extent the correct provider can be determined, misdirected repair calls will be referred to the proper provider of Basic Exchange Telecommunications Service.
  - d. North County and USWC will provide their respective repair contact numbers to one another on a reciprocal basis.
  - e. In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these 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.

### **XXIII. NETWORK INTERCONNECTION AND UNBUNDLED ELEMENT REQUEST**

- A. Any request for interconnection or access to an unbundled Network Element that is not already available as described herein shall be treated as a Network Interconnection and Unbundled Element Request (NIUER). USWC shall use the NIUER Process to determine technical feasibility of the requested interconnection or Network Elements and, for those items found to be feasible, to provide the terms and timetable for providing the requested items.
- B. A NIUER shall be submitted in writing and shall, at a minimum, include: (a) a technical description of each requested Network Element or interconnection; (b) the desired interface specification; (c) each requested type of interconnection or access; (d) a statement that the interconnection or Network Element will be used to provide a telecommunications service; and (e) the quantity requested.
- C. Within 15 business days of its receipt, USWC shall acknowledge receipt of the NIUER and in such acknowledgment advise North County of any missing information, if any, necessary to process the NIUER. Thereafter, USWC shall promptly advise North County of the need for any additional information that will facilitate the analysis of the NIUER.
- D. Within 30 calendar days of its receipt of the NIUER and all information necessary to process it, USWC shall provide to North County a preliminary analysis of the NIUER. The preliminary analysis shall specify: (a) USWC's conclusions as to whether or not the requested interconnection or access to an unbundled Network Element is technically feasible; and (b) any objections to qualification of the requested Network Element or interconnection under the Act.
  - 1. If USWC determines during the 30 day period that a NIUER is not technically feasible or that the NIUER otherwise does not qualify as a Network Element of interconnection that is required to be provided under the Act, USWC shall advise North County as soon as reasonably possible of that fact, and USWC shall promptly, but in no case later than ten days after making such a determination, provide a written report setting forth the basis for its conclusion.
  - 2. If USWC determines during the thirty day period that the NIUER is technically feasible and otherwise qualifies under the Act, it shall notify North County in writing of such determination within ten days.
  - 3. As soon as feasible, but in any case within 90 days after USWC notifies North County that the NIUER is technically feasible, USWC shall provide to North County a NIUER quote which will include, at a minimum, a description of each interconnection and Network Element, the quantity to be provided, any interface specifications, and the applicable rates (recurring and nonrecurring) including the separately stated amortized

development costs of the interconnection or the network elements and any minimum volume and term commitments required to achieve amortization of development costs. An initial payment for development cost is appropriate only where North County is the only conceivable customer or where requested quantity is insufficient to provide amortization.

- E. If USWC has indicated minimum volume and term commitments, then within 30 days of its receipt of the NIUER quote, North County must either agree to purchase under those commitments, cancel its NIUER, or seek mediation or arbitration.
- F. If North County has agreed to minimum volume and term commitments under the preceding paragraph, North County may cancel the NIUER or volume and term commitment at any time, but in the event of such cancellation North County will pay USWC's reasonable development costs incurred in providing the interconnection or network element, to the extent that those development costs are not otherwise amortized.
- G. If either Party believes that the other Party is not requesting, negotiating or processing any NIUER in good faith, or disputes a determination, or quoted price or cost, it may seek arbitration or mediation under §252 of the Act. North County is not required to use this section as the exclusive method of seeking access to interconnection or Network Elements.

#### **XXIV. AUDIT PROCESS**

"Audit" shall mean the comprehensive review of:

- A. data used in the billing process for services performed and facilities provided under this Agreement; and
- B. data relevant to provisioning and maintenance for services performed or facilities provided by either of the Parties for itself or others that are similar to the services performed or facilities provided under this Agreement for interconnection or access to unbundled elements.

The data referred to in subsection (B), above, shall be relevant to any performance standards that are adopted in connection with this Agreement, through negotiation, arbitration or otherwise.

This Audit shall take place under the following conditions:

- A. Either Party may request to perform an Audit.
- B. The Audit shall occur upon 30 business days written notice by the requesting Party to the non-requesting Party.
- C. The Audit shall occur during normal business hours.

- D. There shall be no more than one Audit requested by each Party under this Agreement in any 12-month period.
- E. The requesting Party may review the non-requesting Party's records, books and documents, as may reasonably contain information relevant to the operation of this Agreement.
- F. The location of the Audit shall be the location where the requested records, books and documents are retained in the normal course of business.
- G. All transactions under this Agreement which are over 24 months old will be considered accepted and no longer subject to Audit.
- H. Each Party shall bear its own expenses occasioned by the Audit, provided that the expense of any special data collection shall be born by the requesting Party.
- I. The Party requesting the Audit may request that an Audit be conducted by a mutually agreed-to independent auditor. Under this circumstance, the costs of the independent auditor shall be paid for by the Party requesting the Audit.
- J. In the event that the non-requesting Party requests that the Audit be performed by an independent auditor, the Parties shall mutually agree to the selection of the independent auditor. Under this circumstance, the costs of the independent auditor shall be shared equally by the Parties.
- K. The Parties agree that if an Audit discloses error(s), the Party responsible for the error(s) shall, in a timely manner, undertake corrective action for such error(s).

All information received or reviewed by the requesting Party or the independent auditor in connection with the Audit is to be considered Proprietary Information as defined by this Agreement. The non-requesting Party reserves the right to require any non-employee who is involved directly or indirectly in any Audit or the resolution of its findings as described above to execute a nondisclosure agreement satisfactory to the non-requesting Party. To the extent an Audit involves access to information of other competitors, North County and USWC will aggregate such competitors' data before release to the other Party, to insure the protection of the proprietary nature of information of other competitors. To the extent a competitor is an affiliate of the party being audited (including itself and its subsidiaries), the Parties shall be allowed to examine such affiliates' disaggregated data, as required by reasonable needs of the audit.

## **XXV. AUDIOTEXT AND MASS ANNOUNCEMENT SERVICES**

The Parties agree that access to the audiotext, mass announcement and information services of each Party should be made available to the other Party upon execution of an agreement defining terms for billing and compensation of such calls. Services included in this category include 976 calls, whether flat rated or usage sensitive, intra-LATA 900 services and other intra-LATA 976-like services. Such calls will be routed over the Local Interconnection Trunks.

North County and USWC will work together in good faith to negotiate and execute the agreement for billing and compensation for these services within 90 days of the execution of this Agreement. The Parties agree that their separate agreement on audiotext and mass announcement services will include details concerning the creation, exchange and rating of records, all of which will occur without any explicit charge between the Parties, as well as a process for the handling of uncollectables so that the originating Party does not have any responsibility for uncollectables.

Until such time that such an agreement is executed, North County may choose to block such calls, or North County will agree to back-bill and compensate retroactively for such calls once the subsequent agreement is executed retroactive to the effective date of this Agreement.

A. Usage Sensitive Compensation.

All audiotext and mass announcement calls shall be considered toll calls for purposes of reciprocal compensation between the Parties. Compensation will be paid based on the compensation for toll calls referenced in this Agreement with respect to reciprocal compensation between the Parties, except that such compensation shall be paid by the Party terminating the call, rather than the Party originating the call.

B. Billing and Collection Compensation.

Billing and collection compensation will be dealt with in the agreement referenced in this section.

## **XXVI. LOCAL INTERCONNECTION DATA EXCHANGE FOR BILLING**

There are certain types of calls or types of interconnection that require exchange of billing records between the Parties, including, for example, alternate billed and Toll Free Service calls. The Parties agree that all call types must be routed between the networks, accounted for, and settled among the parties. Certain calls will be handled via the Parties' respective operator service platforms. The Parties agree to utilize, where possible and appropriate, existing accounting and settlement systems to bill, exchange records and settle revenue.

- A. The exchange of billing records for alternate billed calls (e.g., calling card, bill-to-third number, and collect) will be distributed through the existing CMDS processes, unless otherwise separately agreed to by the Parties.
- B. Inter-Company Settlements ("ICS") revenues will be settled through the Calling Card and Third Number Settlement System ("CATS"). Each Party will provide for its own arrangements for participation in the CATS processes, through direct participation or a hosting arrangement with a direct participant.
- C. Non-ICS revenue is defined as collect calls, calling card calls, and billed to third number calls which originate on one service provider's network and terminate on another service provider's network in the same Local Access Transport Area ("LATA"). The Parties agree to negotiate and execute an Agreement within 30

days of the execution of this Agreement for settlement of non-ICS revenue. This separate arrangement is necessary since existing CATS processes do not permit the use of CATS for non-ICS revenue. The Parties agree that the CMDS system can be used to transport the call records for this traffic.

- D. Both Parties will provide the appropriate call records to the intraLATA Toll Free Service Provider, thus permitting the Service Provider to bill its subscribers for the inbound Toll Free Service. No adjustments to bills via tapes, disks or NDM will be made without the mutual agreement of the Parties.

## **XXVII. SIGNALING ACCESS TO CALL-RELATED DATABASES**

1. When North County is purchasing local switching from USWC, USWC will provide access via the STP to call related databases used in AIN services. The Parties agree to work in the industry to define the mediated access mechanisms for SCP access. Access to the USWC SMS will be provided to CLEC to create, modify, or update information in the call related databases, equivalent to the USWC access.
2. USWC will offer unbundled signaling via LIS-Common Channel Signaling Capability (CCSAC). CCSAC service utilizes the SS7 network and provides access to call-related databases that reside at USWC's SCPs, such as the Line Information Database (LIDB) and the 800 Database. The access to USWC's SCPs will be mediated via the STP Port in order to assure network reliability.
3. CCSAC includes:
  - a. Entrance Facility - This element connects North County's signaling point of interface with the USWC serving wire center (SWC). North County may purchase this element or it may self-provision the entrance facility. If the entrance facility is self-provisioned, North County would need to purchase collocation and an expanded interconnection channel termination.
  - b. Direct Link Transport (DLT) - This element connects the SWC to the USWC STP. North County may purchase this element or self-provision transport directly to the STP. If North County provides the link to the STP, it must purchase collocation and an expanded interconnection channel termination at the STP location.
  - c. STP Port - This element provides the switching function at the STP. One STP Port is required for each DLT Link. The Port provides access to the Service Control Point (SCP).
4. Access to Advanced Intelligent Network (AIN) functions is available only through the STP.

5. USWC will provide access to Service Management Systems (SMS) through its Service Creation Environment (SCE) on an equivalent basis as USWC provides to itself. SMS allows North County to create modify, or update information in call related databases. Currently, the SCE process is predominantly manual.
6. The pricing for CCSAC service is provided in Appendix A.

## **XXVIII. INTERCONNECTION TO LINE INFORMATION DATA BASE (LIDB)**

### **1. Description of Line Information Data Base (LIDB).**

Line Information Data Base (LIDB) stores various line numbers and Special Billing Number (SBN) data used by operator services systems to process and bill calls. The operator services system accesses LIDB data to provide origination line (calling number), billing number and termination line (called number) management functions. LIDB is used for calling card validation, fraud verification, preferred IC association with the calling card, billing or service restrictions and the sub-account information to be included on the call's billing record.

### **2. Interfaces.**

Bellcore's GR-446-CORE defines the interface between the administration system and LIDB including specific message formats. (Bellcore's TR-NWP-000029, Section 10)

### **3. LIDB Access.**

- a. All LIDB queries and responses from operator services systems and end offices are transmitted over a CCS network using a Signaling System 7 (SS7) protocol (TR-NWT-000246, Bell Communications Research Specification of Signaling System 7).
- b. All LIDB queries and responses from the Public Packet Switched Network (PPSN) nodes are transmitted over one or more PPSN as TR-TSY000301 describes. The application data needed for processing LIDB data are formatted as TCAP messages. TCAP messages may be carried as an application level protocol network using SS7 protocols for basic message transport.
- c. The SCP node provides all protocol and interface support. CLEC SS7 connections will be required to meet Bellcore's GR905, TR954 and USWC's Technical Publication 77342 specifications.
- d. Non-USWC companies will submit LIDB updates through the exchange carrier service center and the LSS service bureau. These two centers enter information into USWC's service order process interface system, SOPI.

- e. It is currently USWC's policy to allow LIDB access to non-USWC companies through regional STPs.
4. Pricing for LIDB access shall be determined on a case-by-case basis.

## **XXIX. CONSTRUCTION CHARGES**

Commission Order No. 59872 directed MFS and USWC to address construction charges as follows: "We agree with MFS that requiring a reseller or purchaser of unbundled elements to pay up-front construction charges which are not payable by an end-user who requests service from USWC could hamper competition. Therefore, if the tariff for a specific service would pass construction costs up-front to an end user, it is appropriate to charge MFS up-front for the construction. If another CLEC receives a benefit from the construction, MFS is entitled to recover contribution from the CLEC for a share of the construction costs. If construction costs are not tarified for payment up-front, the construction costs should be considered as part of the forward-looking economic costs of providing a service." The Parties to this Agreement agree to comply with this Commission decision.

## **XXX. RESALE**

### **A. Description**

1. USWC Basic Exchange Telecommunications Service (as defined in Section III) will be available for resale from USWC pursuant to the Act and will reference terms and conditions (except prices) in USWC tariffs, where applicable. Appendix A lists services which are available for resale under this Agreement, and is attached and incorporated herein by this reference.
2. Certain USWC services are not available for resale under this Agreement. USWC's Telecommunication Services which are not available for resale are identified in Appendix A.
3. Certain USWC services shall be available for resale at prices absent a wholesale discount. Such services include residence exchange service, private line, special access and switched access services, and packages of services comprised of services available for resale separately. These services are listed in Appendix A.
4. North County may contest the legality of any resale restrictions in a USWC retail tariff through a complaint filed with the State Commission.

### **B. Scope**

1. Basic Exchange Telecommunications Service may be resold only to the same class of customer to which USWC sells local Basic Exchange Telecommunications Service. For example:

- a) Residence service may not be resold to business customers;
  - b) Basic Exchange Telecommunications Service may not be resold as a substitute for switched access service.
  - c) Centrex and similar services may be resold only to those end user customers eligible to purchase such services directly under the applicable USWC tariff.<sup>4</sup>
2. USWC shall bill North County and North County is responsible for all applicable charges for the resold services. North County shall be responsible for all charges associated with services that North County resells to an end user.

**C. Ordering and Maintenance.**

1. North County, or North County's agent, shall act as the single point of contact for its end users' service needs, including without limitation, sales, service design, order taking, provisioning, change orders, training, maintenance, trouble reports, repair, post-sale servicing, billing, collection and inquiry. North County shall make it clear to its end users that they are customers of North County for resold services. North County's end users contacting USWC will be instructed to contact North County; however, nothing in this Agreement shall be deemed to prohibit USWC from discussing its products and services with North County's customers who call USWC for any reason.
2. North County shall transmit to USWC all information necessary for the installation (billing, listing and other information), repair, maintenance and post-installation servicing according to USWC's standard procedures, as described in the USWC resale operations guide that will be provided to North County. When USWC's end user or the end user's new service provider discontinues the end user's service in anticipation of moving to another service provider, USWC will render its closing bill to end user customer effective with the disconnection. Should North County's end user customer, a new service provider or North County request service be discontinued to the end user, USWC will issue a bill to North County for that portion of the service provided to North County. USWC will notify North County by FAX, EDI, or other processes when end user moves to another service provider. North County shall issue disconnect orders to USWC, which shall be coordinated with new connect orders issued by the new service provider
3. Resold services shall be installed and repaired in a manner consistent with USWC's effective tariffs with the same quality and timeliness that USWC provides to its own end users.

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<sup>4</sup> The Parties agree to this provision pursuant to Commission Decision No. 59872.

4. North County shall provide USWC and USWC shall provide North County with points of contact for order entry, problem resolution and repair of the resold services.
5. Prior to placing orders on behalf of the USWC customer, North County shall be responsible for obtaining and have in its possession a Letter of Authorization or Agency (LOA) from the end user. North County shall make LOAs available to USWC upon request.

Prior to placing orders that will disconnect a line from another reseller's account North County is responsible for obtaining all information needed to process the disconnect order and re-establish the service on behalf of the end user. If North County is displaced by another reseller or service provider, North County is responsible for coordination with the other reseller or service provider. Should an end user dispute or a discrepancy arise regarding the authority of North County to act on behalf of the end user, North County is responsible for providing written evidence of its authority to USWC within three (3) business days. If there is a conflict between the end user designation and North County's written evidence or its authority, USWC shall honor the designation of the end user and change the end user back to the previous service provider. If North County does not provide the LOA within three (3) business days, or if the end user disputes the authority of the LOA, then North County must, by the end of the third business day:

- a) notify USWC to change the end user back to the previous reseller or service provider, and
  - b) provide any end user information and billing records North County has obtained relating to the end user to the previous reseller, and
  - c) notify the end user and USWC that the change has been made, and
  - d) remit to USWC a slamming charge as provided in Appendix A as compensation for the change back to the previous reseller or service provider.
6. North County shall designate the Primary Interexchange Carrier (PIC) assignments on behalf of its end users for interLATA services and intraLATA services when intraLATA presubscription is implemented.

#### **D. North County Responsibilities**

1. North County must send USWC complete and accurate end-user listing information for Directory Assistance, Directory, and 911 Emergency Services using the established processes of USWC. North County must provide to USWC accurate end-user information to ensure appropriate listings in any databases in which USWC is required to retain and/or

maintain end-user information. USWC assumes no liability for the accuracy of information provided by North County.

2. North County may not reserve blocks of USWC telephone numbers, except as allowed by tariffs.
3. North County is liable for all fraud associated with service to its end-users and accounts. USWC takes no responsibility, and will make no adjustments to North County's account in cases of fraud. The Parties will cooperate in the prevention and investigation of fraudulent use of resold services.
4. This Agreement does not address the resale of USWC provided calling cards.
4. North County will provide a three year forecast within ninety (90) days of signing this Agreement. The forecast shall be updated and provided to USWC on a quarterly basis in as specified in Appendix B. The initial forecast will provide:
  - The date service will be offered (by city and/or state)
  - The type and quantity of service(s) which will be offered
  - North County's anticipated order volume
  - North County's key contact personnel
5. In the event USWC terminates the provisioning of any resold services to North County for any reason, North County shall be responsible for providing any and all necessary notice to its end users of the termination. In no case shall USWC be responsible for providing such notice.

#### **E. Rates and Charges**

1. Resold services as listed in Appendix A are available for resale at the applicable resale tariff rates or at the rates or at the wholesale discount levels set forth in Appendix A.
2. If the resold services are purchased pursuant to Tariffs and the Tariff rates change, charges billed to North County for such services will be based upon the new Tariff rates less the applicable wholesale discount as agreed to herein. The new rate will be effective upon the Tariff effective date.
3. A Customer Transfer Charge (CTC) as specified in Appendix A applies when transferring any existing account or lines to North County.
4. A Subscriber Line Charge (SLC) will continue to be paid by North County without discount for each local exchange line resold under this Agreement. All federal and state rules and regulations associated with SLC as found in the applicable tariffs also apply.

5. North County will pay to USWC the PIC change charge without discount associated with North County end user changes of inter-exchange or intraLATA carriers.
6. North County agrees to pay USWC when its end user activates any services or features that are billed on a per use or per activation basis (e.g., continuous redial, last call return, call back calling, call trace, etc.). USWC shall provide North County with detailed billing information (per applicable OBF standards, if any) as necessary to permit North County to bill its end users such charges.
7. To the extent such charges apply to USWC's retail customers, special construction charges, line extension charges, and land development agreements may apply to North County, as detailed in individual state tariffs regarding end user obligations for construction charges. Specifically, special construction charges will be applicable where, at the request of North County on behalf of its customers, USWC constructs a greater quantity of facilities than that which USWC would otherwise construct or normally utilize.
8. Nonrecurring charges will be billed at the applicable Tariff rates, subject to true-up as provided in this Agreement.
9. As part of the resold line, USWC provides operator services, directory assistance, and IntraLATA long distance with standard USWC branding. At the request of North County and where technically feasible USWC will rebrand operator services and directory assistance in North County's name, provided the costs associated with such rebranding are paid by North County. North County will have the option of obtaining such services on an unbranded basis, at no additional cost for "unbranding" the service.
10. USWC will address all North County requests for ancillary resale systems, programs, and initiatives on an individual case basis.

**F. Directory Listings**

As part of each resold line, USWC will accept at no charge one primary listing for each main telephone number belonging to North County's end user customer based on end user information provided to USWC by North County. USWC will place North County's listings in USWC's directory listing database for directory assistance purposes and will make listings available to directory publishers and to other third parties. Additional terms and conditions with respect to directory listings are described in Section XV, Directory Listings, herein.

**G. Deposit**

1. USWC may require North County to make a suitable deposit to be held by USWC as a guarantee of the payment of charges. Any deposit required of an existing reseller is due and payable within ten days after the requirement is imposed. The amount of the deposit shall be the

estimated charges for the resold service which will accrue for a two-month period. Interest on the deposit shall be accumulated by USWC at a rate equal to the federal discount rate, as published in the Wall Street Journal from time to time.

2. When the service is terminated, or when North County has established satisfactory credit, the amount of the initial or additional deposit, with any interest due, will, at North County's option, either be credited to North County's account or refunded. Satisfactory credit for a reseller is defined as twelve consecutive months service as a reseller without a termination for nonpayment and with no more than one notification of intent to terminate Service for nonpayment.

#### **H. Payment**

1. Amounts payable under this Agreement are due and payable within thirty (30) days after the date of USWC's invoice.
2. A late payment charge of 1.5% applies to all billed balances which are not paid by the billing date shown on the next bill. To the extent North County pays the billed balance on time, but the amount of the billed balance is disputed by North County, and, it is later determined that a refund is due North County, interest shall be payable on the refunded amount in the amount of 1.5% per month.
3. USWC may discontinue processing orders for the failure by North County to make full payment for the resold services provided under this Agreement within thirty (30) days of North County's receipt of bill.
4. USWC may disconnect for the failure by North County to make full payment for the resold services provided under this Agreement within sixty (60) days of North County's receipt of bill.
5. Collection procedures and the requirements for deposit are unaffected by the application of a late payment charge.
6. In the event USWC terminates the provisioning of any resold services to North County for any reason, North County shall be responsible for providing any and all necessary notice to its end users of the termination. In no case shall USWC be responsible for providing such notice.
7. Where USWC fails to bill North County for services provided to North County on a resale basis for a period longer than 100 days after such service was provided and North County can demonstrate that it cannot reasonably bill and collect from its customers, then the Parties will equitably adjust USWC's invoice to North County. If late billing or disputes over billing are frequent, either Party may seek Commission intervention.

#### **XXXI. UNBUNDLED ACCESS/ELEMENTS**

## **A. General Terms**

1. USWC agrees to provide the following unbundled network elements which are addressed in more detail in later sections of this agreement: 1) local loop, 2) local and tandem switches (including all vertical switching features provided by such switches, 3) interoffice transmission facilities, 4) network interface devices, 5) signaling and call-related database facilities, 6) operations support systems functions, and 7) operator and directory assistance facilities.
2. The Commission, in Decision No. 59872, directed USWC and MFS to delete USWC's proposed Paragraph 2 and, thus, allow carriers to purchase Unbundled Elements and combine them into a service to be offered for resale. The Parties to this Agreement will comply with this Commission Decision.
3. USWC will not restrict the types of telecommunications services North County may offer through unbundled elements, nor will it restrict North County from combining elements with any technically compatible equipment the North County owns. USWC will provide North County with all of the functionalities of a particular element, so that North County can provide any telecommunications services that can be offered by means of the element. USWC agrees to perform and North County agrees to pay for the functions necessary to combine requested elements in any technically feasible manner either with other elements from USWC's network, or with elements possessed by North County. However, USWC need not combine network elements in any manner requested if not technically feasible, but must combine elements ordinarily combined in its network in the manner they are typically combined.

## **B. Description of Unbundled Elements**

### **1. Tandem Switching**

USWC will provide a tandem switching element on an unbundled basis. The tandem switch element includes the facilities connecting the trunk distribution frames to the switch, and all the functions of the switch itself, including those facilities that establish a temporary transmission path between two other switches. The definition of the tandem switching element also includes the functions that are centralized in tandems rather than in separate end office switches, such as call recording, the routing of calls to operator services, and signaling conversion functions.

### **2. Transport**

USWC will provide unbundled access to shared transmission facilities between end offices and the tandem switch. Further, USWC will provide unbundled access to dedicated transmission facilities between its central offices or between such offices and those of competing carriers. This includes, at a minimum, interoffice facilities between end offices and

serving wire centers (SWCs), SWCs and IXC POPs, tandem switches and SWCs, end offices or tandems of USWC, and the wire centers of USWC and requesting carriers. USWC will also provide all technically feasible transmission capabilities, such as DS1, DS3, and Optical Carrier levels (e.g. OC-3/12/48/96) that North County could use to provide telecommunications services.

3. Digital Cross Connect System.

USWC will provide North County with access to mutually agreed upon digital cross-connect system (DCS) points.

4. Unbundled Loops

a. Service Description

i. An Unbundled Loop establishes a transmission path between the USWC distribution frame (or equivalent) up to, and including, USWC's network interface device (NID). For existing loops, the inside wire connection to the NID will remain intact.

ii. Basic Unbundled Loops are available as a two-wire or four-wire, point-to-point configuration suitable for local exchange type services within the analog voice frequency range of 300 to 3000 Hz. For the two-wire configuration, North County is requested to specify loop start, ground start or loop reverse battery options. The actual loop facilities that provide this service may utilize various technologies or combinations of technologies. Basic Unbundled Loops provide an analog facility to North County.

(a) To the extent North County requires an Unbundled Loop to provide ISDN, HDSL, ADSL or DS1 service, such requirements will be identified on the order for Unbundled Loop Service. Conditioning charges will apply, as required, to condition such loops to ensure the necessary transmission standard.

(b) Specific channel performance options for the loops can be ordered by identifying the Network Channel (NC)/Network Channel Interface (NCI) for the functions desired. USWC will provide North County with the available NC/NCI codes and their descriptions.

b. Unbundled Loops are provided in accordance with the specifications, interfaces and parameters described in the appropriate Technical Reference Publications. USWC's sole

obligation is to provide and maintain Unbundled Loops in accordance with such specifications, interfaces and parameters. USWC does not warrant that Unbundled Loops are compatible with any specific facilities or equipment or can be used for any particular purpose or service. Transmission characteristics may vary depending on the distance between North County's end user and USWC's end office and may vary due to characteristics inherent in the physical network. USWC, in order to properly maintain and modernize the network, may make necessary modifications and changes to the network elements in its network on an as needed basis. Such changes may result in minor changes to transmission parameters. Changes that affect network interoperability require advance notice pursuant to Section XIX, Notice of Changes, herein.

- c. Facilities and lines furnished by USWC on the premises of North County's end user and up to the NID or equivalent are the property of USWC. USWC must have access to all such facilities for network management purposes. USWC's employees and agents may enter said premises at any reasonable hour to test and inspect such facilities and lines in connection with such purposes or upon termination or cancellation of the Unbundled Loop Service to remove such facilities and lines. The Parties agree to explore issues surrounding the extension of Unbundled Loops beyond the NID.
- d. Unbundled Loops include the facilities between the USWC distribution frame up to and including USWC's NID located at North County's end user premise. The connection between the distribution frame and North County facilities is accomplished via channel terminations that can be ordered in conjunction with either Collocation or Unbundled Interoffice Transport Service.
- e. Ordering and Maintenance.
  - i. For the purposes of loop assignment, tracking, and dispute resolution, USWC will require a Letter of Authorization for each existing USWC end user for which North County has requested reassignment of the loop serving that end user.
  - ii. If there is a conflict between an end user (and/or its respective agent) and North County regarding the disconnection or provision of Unbundled Loops, USWC will honor the latest dated Letter of Authorization designating an agent by the end user or its respective agent. If the end user's service has not been disconnected and Unbundled Loop Service is not yet established, North County will be responsible to pay the nonrecurring charge as set forth herein. If the end user's service has been disconnected and the end user's service

is to be restored with USWC, North County will be responsible to pay the applicable nonrecurring charges as set forth in USWC's applicable tariff, to restore the end user's prior service with USWC.

- iii. North County is responsible for its own end user base and will have the responsibility for resolution of any service trouble report(s) from its customers. USWC will work cooperatively with North County to resolve trouble reports when the trouble condition has been isolated and found to be within a portion of USWC's network. North County must provide to USWC switch-based test results when testing its customer's trouble prior to USWC performing any repair functions. The Parties will cooperate in developing mutually acceptable test report standards. USWC shall provide North County with Maintenance of service charges in accordance with applicable time and material charges in USWC tariffs will apply when the trouble is not in USWC's network.
- iv. North County will be responsible to submit to USWC a disconnect order for a Unbundled Loop that is relinquished by the end user due to cessation of service. Unbundled Loop facilities will be returned to USWC when the disconnect order is complete. In the event of transfer of the end user's service from one provider to another, the new provider will issue a request for transfer of service, resulting in the appropriate disconnect/reconnection of service.
- v. The installation due date is a negotiated item. For related orders, new connects will be physically worked within the same calendar day.
- vi. When ordering Unbundled Loops, North County is responsible for obtaining or providing facilities and equipment that are compatible with the service.
- vii. North County will have responsibility for testing the equipment, network facilities and the Unbundled Loop facility. If USWC performs tests of the Unbundled Loop facility at North County's request, and the fault is not in the USWC facilities, a charge shall apply.
- viii. North County will be responsible for providing battery and dial tone to its connection point two days prior to the due date on the service order.
- ix. The following procedures shall apply to Unbundled Loops ordered with the option of Basic Testing at Coordinated Time:

- (a) On each Unbundled Loop order, North County and USWC will agree on a cutover time at least 48 hours before that cutover time. The cutover time will be defined as a 30 minute window within which both the North County and USWC personnel will make telephone contact to complete the cutover.
  - (b) Within the appointed 30 minute cutover time, the North County person will call the USWC person designated to perform cross-connection work and when the USWC person is reached in that interval such work will be promptly performed. If the North County person fails to call or is not ready within the appointed interval, and if North County had not called to reschedule the work at least 2 hours prior to the start of the interval, USWC and North County will reschedule the work order and North County will pay the non-recurring charge for the Unbundled Loops scheduled for the missed appointment. In addition, non-recurring charges for the rescheduled appointment will apply. If the USWC person is not available or not ready at any time during the 30 minute interval, North County and USWC will reschedule and USWC will waive the non-recurring charge for the Unbounded Loops scheduled for that interval. The standard time expected from disconnection of service on a line to the connection of the Unbundled Loop to the North County Collocation Service is 5 minutes. If USWC causes a line to be out of service due solely to its failure for more than 15 minutes, USWC will waive the non-recurring charge for that Unbundled Loop. 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 North County. In addition, if North County has ordered INP as a part of the Unbundled Loop installation, USWC will coordinate implementation of INP with the Unbundled Loop installation; provided, separate INP installation charges will apply.
- x. North County and USWC will work cooperatively to develop forecasts for Unbundled Loop service. USWC requests an eighteen month forecast of Unbundled Loop service. The forecast will include the specific serving Wire Center that will be requested, plus the specific quantity of

each service desired. The forecast will be updated quarterly, and will be treated as North County confidential information.

- f. Appendix A contains the rate information for Unbundled Loops.
- g. If applicable, the New Interconnection/Unbundled Element Request Process will apply as detailed in Section XXIII of this Agreement.
- h. For issues regarding Construction Charges, see Section XXIX of this Agreement.

5. Local Switching Elements

The switching network element includes facilities that are associated with the line (e.g., the line card), facilities that are involved with switching the call, and facilities used for custom routing. USWC will provide the local switching element to North County pursuant to the Network Interconnection/Unbundled Element Request Process described in Section XXIII herein.

6. Network Interface Device (NID)

a. Service Description.

A device wired between a telephone protector and the inside wiring to isolate the customer's equipment from the network at the subscriber's premises. It is a device for the termination of inside wire that is available in single and multiple pair configurations.

- b. North County may connect its loops, via its own NID, to the USWC NID.
- c. Any costs associated with North County connecting its NID to USWC's NID, will be the responsibility of North County.
- d. Connecting North County's loop directly to the USWC NID is prohibited.
- e. If North County purchases an unbundled loop, North County may provide its own NID or have USWC provide the NID.
- f. The price for access to the NID will be provided on a case-by-case basis.

7. Additional Unbundled Elements

USWC shall provide nondiscriminatory access to, and where appropriate, development of additional unbundled network elements not covered in this Agreement in response to specific requests therefor, pursuant to the

New Interconnection/Unbundled Element Request Process detailed in Section XXIII of this Agreement.

## XXXII. SERVICE STANDARDS

### A. Definitions

When used in this Section, the following terms shall have the meanings indicated.

1. "Specified Performance Commitment" means the commitment by USWC to meet the Performance Criteria for any Specified Activity during the Specified Review Period.
2. "Specified Activity" means any of the following activities:
  - a) The installation by USWC of Unbundled Loops for North County ("Unbundled Loop Installation");
  - b) USWC's provision of Interim Number Portability ("INP Installation") to North County;
  - c) The repair of USWC service provided to North County ("Out of Service Repairs"); or
  - d) The installation by USWC of interconnection trunks for the mutual exchange of local exchange traffic with North County ("LIS Trunk Installation")
3. "Performance Criteria" means, with respect to a Specified Review Period (i.e., a calendar month or quarter), the performance by USWC for the specified activities for North County will meet or exceed the average performance by USWC for the total universe of specified activities.

B. Failure to Meet the Performance Criteria. If during a Specified Review Period, USWC fails to meet the performance criteria, USWC will use its best efforts to meet the Performance Criteria for the next Specified Review Period. If USWC fails to meet the performance criteria for two consecutive periods, the Parties agree, in good faith, to attempt to resolve such issues through negotiation or non-binding arbitration. This paragraph shall not be construed to waive either Party's right to seek legal or regulatory intervention as provided by state or federal law. North County may seek regulatory or other legal relief including requests for specific performance of USWC's obligations under this Agreement.

C. Limitations. USWC's failure to meet or exceed any of the Performance Criteria cannot be as a result, directly or indirectly, of a Delaying Event. A "Delaying Event" means (a) a failure by North County to perform any of its obligations set forth in this Agreement, (b) any delay, act or failure to act by a Customer, agent of subcontractor of North County or (c) any Force Majeure Event. If a Delaying Event prevents USWC from performing a Specified Activity, then such Specified

Activity shall be excluded from the calculation of USWC's compliance with the Performance Criteria.

- D. Records. USWC shall maintain complete and accurate records, for the Specified Review Period of its performance under this Agreement for each Specified Activity and its compliance with the Performance Criteria. USWC shall provide to North County such records in a self-reporting format. The Parties agree that such records shall be deemed "Proprietary Information".

### **XXXIII. IMPLEMENTATION SCHEDULE**

Within 6 months from the date of final approval of this Agreement, the Parties agree to make a good faith effort to complete each of the following interconnection arrangements:

- a) Two-way trunk groups, as listed in Section VI, Paragraph G(2) herein, necessary for the mutual exchange of traffic.
- b) E-911 Trunking and database access;
- c) SS7 Interconnection and Certification;
- d) Directory Listings Arrangements and Directory Assistance Interconnection;
- e) Access to Unbundled Loops in at least one wire center;
- f) Completion of Physical Collocation arrangements in at least one USWC wire center.
- g) Completion of inter-carrier billing arrangements necessary for the joint provision of switched access services and for reciprocal traffic exchange.

The Parties have agreed to commence discussion of these and other implementation issues by November 1, 1996 to facilitate the above implementation schedule.

### **XXXIV. MISCELLANEOUS TERMS**

#### **A. General Provisions**

1. Each Party shall use its best efforts to comply with the Implementation Schedule.
2. 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 North County's network and to terminate the traffic it receives in that standard format or the proper address on its network. Such facility shall be designed based upon the description and forecasts provided under this Agreement. 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.

3. Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to either Party's 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, if practicable, at the earliest practicable time.
4. Each Party is solely responsible for the services it provides to its Customers and to other Telecommunications Carriers.
5. The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

#### **B. Most Favored Nation Terms and Treatment**

The Parties agree that the provisions of Section 252(i) of the Act shall apply, including state and federal interpretive regulations in effect from time to time.

#### **C. Letter of Authorization**

Where so indicated in specific sections of this Agreement, North County is responsible to have a Letter of Authorization. North County is solely responsible to obtain authorization from its end user for the handling of the disconnection of the end user's service with USWC, the provision of service by North County, and the provision of Unbundled Loops and all other ancillary services. Should a dispute or discrepancy arise regarding the authority of North County to act on behalf of the end user, North County is responsible for providing written evidence of its authority to USWC.

#### **D. Payment**

1. Amounts payable under this Agreement are due and payable within thirty (30) days after the date of invoice.
2. Unless otherwise specified, any amount due and not paid by the due date stated above shall be subject to a late charge equal to either i) 0.03 percent per day compounded daily for the number of calendar days from the payment due date to and including, the date of payment, that would result in an annual percentage rate of 12% or ii) the highest lawful rate,

whichever is less. If late payment charges for services are not permitted by local jurisdiction, this provision shall not apply.

#### **E. Taxes**

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

#### **F. Intellectual Property**

1. Each Party hereby grants to the other Party the limited, personal and nonexclusive right and license to use its patents, copyrights and trade secrets but only to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to interconnection and access to telecommunications facilities and services, and for no other purposes. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trademarks.
2. The rights and licenses under Section F. 1. above are granted "AS IS" and the other Party's exercise of any such right and license shall be at the sole and exclusive risk of the other Party. Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding (hereinafter "claim") by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision of any facilities by either Party under this Agreement constitutes infringement, or misuse or misappropriation of any patent, copyright, trade secret, or any other proprietary or intellectual property right of any third party.
3. North County shall not, without the express written permission of USWC, state or imply that; 1) North County is connected, or in any way affiliated with USWC or its affiliates, 2) North County is part of a joint business association or any similar arrangement with USWC or its affiliates, 3) USWC and its affiliates are in any way sponsoring, endorsing or certifying North County and its goods and services, or 4) with respect to North County advertising or promotional activities or materials, that the resold goods and services are in any way associated with or originated

from USWC or any of its affiliates. Nothing in this paragraph shall prevent North County from truthfully describing the network elements it uses to provide service to its customers.

**G. Severability**

The Parties recognize that the FCC is promulgating rules addressing issues contained in this Agreement. In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect under law or regulation, the parties will negotiate in good faith for replacement language. If replacement language cannot be agreed upon, either party may seek regulatory intervention, including negotiations pursuant to Sections 251 and 252 of the Act.

**H. Responsibility for Environmental Contamination.**

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

**I. Responsibility of Each Party**

Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations or, (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

**J. Referenced Documents**

All references to Sections, Exhibits, and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, North County practice, USWC practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) or such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) or each document incorporated by reference in such a technical reference, technical publication, North County practice, USWC practice, or publication of industry standards (unless North County elects otherwise). Should there be any inconsistency between or among publications or standards, North County shall elect which requirement shall apply.

**K. Publicity and Advertising**

Neither party shall publish or use any advertising, sales promotions or other publicity materials that use the other party's logo, trademarks or service marks without the prior written approval of the other party.

**L. Executed in Counterparts**

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

**M. Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

**N. Entire Agreement**

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

**O. Joint Work Product.**

This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

**P. Disclaimer of Agency**

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

**Q. Survival**

The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

**R. Effective Date**

This Agreement shall become effective pursuant to Sections 251 and 252 of the Act.

**S. Amendment of Agreement**

North County and USWC may mutually agree to amend this Agreement in writing. Since it is possible that amendments to this Agreement may be needed to fully satisfy the purposes and objectives of this Agreement, the Parties agree to work cooperatively, promptly and in good faith to negotiate and implement any such additions, changes and corrections to this Agreement.

**T. Indemnity**

1. Each of the Parties agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the indemnifying Party's performance, breach of Applicable Law, or status of its employees, agents and subcontractors; or for failure to perform under this Agreement, regardless of the form of action.
2. The indemnification provided herein shall be conditioned upon:

- a. The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.
- b. The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense.
- c. In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

#### **U. Limitation of Liability**

1. Except as otherwise provided in the indemnity section, no Party shall be liable to the other Party for any Loss, defect or equipment failure caused by the conduct of the other Party, the other Party's agents, servants, contractors or others acting in aid or concert with the other Party.
2. Except for Losses alleged or made by a Customer of either Party, in the case of any Loss arising from the negligence or willful misconduct of both Parties, each Party shall bear, and its obligations under this Section shall be limited to, that portion (as mutually agreed to by the Parties) of the resulting expense caused by its (including that of its agents, servants, contractors or others acting in aid or concert with it) negligence or willful misconduct.
3. Except for indemnity obligations, each Party's liability to the other Party for any Loss relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to the total amount that is or would have been charged to the other Party by such negligent or breaching Party for the service(s) or function(s) not performed or improperly performed.
4. In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation to indemnify, defend and hold the other Party harmless against any amounts payable to a third party, including any losses, costs, fines, penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees) and Consequential Damages of such third party. Nothing contained in this section shall limit either Party's liability to the other for (i)

willful or intentional misconduct (including gross negligence); (ii) bodily injury, death or damage to tangible real or tangible personal property proximately caused by such Party's negligent act or omission or that of their respective agents, subcontractors or employees nor shall anything contained in this section limit the Parties' indemnification obligations, as specified above.

**V. Term of Agreement**

This Agreement shall be effective for a period of 2 1/2 years, and thereafter the Agreement shall continue in force and effect unless and until a new agreement, addressing all of the terms of this Agreement, becomes effective between the Parties. The Parties agree to commence negotiations on a new agreement no later than two years after this Agreement becomes effective.

**W. Controlling Law**

This Agreement was negotiated by the Parties in accordance with the terms of the Act and the laws of the state where service is provided hereunder. It shall be interpreted solely in accordance with the terms of the Act and the applicable state law in the state where the service is provided.

**X. Cancellation Charges**

Except as provided pursuant to a Network Element Network Interconnection and Unbundled Element Request, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

**Y. Regulatory Approval**

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC. In the event the Commission rejects any portion of this Agreement, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification to the rejected portion.

**Z. Compliance**

Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement.

**AA. Compliance with the Communications Law Enforcement Act of 1994 ("CALEA")**

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

facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

**BB. Independent Contractor**

Each Party shall perform services hereunder as an independent contractor and nothing herein shall be construed as creating any other relationship between the Parties. Each Party and each Party's contractor shall be solely responsible for the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to their employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts. Each party has sole authority and responsibility to hire, fire and otherwise control its employees.

**CC. Force Majeure**

Neither party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event") In the event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

**DD. Dispute Resolution**

The Parties agree, in good faith, to attempt to resolve any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents ("Dispute") through negotiation or non-binding arbitration. This paragraph shall not be construed to waive the Parties' rights to seek legal or regulatory intervention as provided by state or federal law.

**EE. Commission Decision**

This Agreement shall at all times be subject to such review by the Commission or FCC as permitted by the Act. If any such review renders the Agreement inoperable or creates any ambiguity or requirement for further amendment to the Agreement, the Parties will negotiate in good faith to agree upon any necessary amendments to the Agreement.

**FF. Nondisclosure**

1. All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps,

financial reports, and market data, (i) furnished by one Party to the other Party dealing with customer specific, facility specific, or usage specific information, other than customer information communicated for the purpose of publication of directory database inclusion, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated orally and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information.

2. Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.
3. Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only in connection with this Agreement. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.
4. Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:
  - a. was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party; or
  - b. is or becomes publicly known through no wrongful act of the receiving Party; or
  - c. is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
  - d. is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
  - e. is disclosed to a third person by the disclosing Party without similar restrictions on such third person's rights; or
  - f. is approved for release by written authorization of the disclosing Party; or

- g. is required to be made public by the receiving Party pursuant to applicable law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.
5. Effective Date Of This Section. Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement.

## **GG. Notices**

Any notices required by or concerning this Agreement shall be sent to the Parties at the addresses shown below:

USWC  
Director Interconnection Services  
1801 California, Suite 2340  
Denver, CO 80202

North County  
Head of Operations  
3802 Rosecrans St.  
Suite 485  
San Diego, CA 92110

Each Party shall inform the other of any changes in the above addresses.

## **HH. Assignment**

Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party provided that each Party may assign this Agreement to a corporate affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

## **II. Warranties**

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**JJ. Default**

If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other provision of this Agreement, and such default or violation shall continue for thirty (30) days after written notice thereof, the other Party may seek legal and/or regulatory relief. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

**KK. No Third Party Beneficiaries**

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

**LL. True-Up of Interim Rates**

Certain of the rates set forth in this Agreement are interim in nature, in accordance with the Commission's Order, dated October 29, 1996, Decision No. 59872. The interim rates include the rates that are shaded on Appendix A attached hereto. The rates set forth herein for reciprocal compensation that are not shaded on Appendix A are not interim and will not be subject to true-up, and shall remain in effect for the entire term of this Agreement. The rates which are interim are included within a Commission consolidated cost study proceeding in which the Commission will determine permanent rates for those items. Upon the establishment of permanent rates for those items, the rates set forth in this Agreement shall be modified to the permanent rates on a going-forward basis. Further, there shall be a revenue true-up for the period during which those said interim rates were in place whereby the difference between the said interim rates and the permanent rates shall be calculated and exchanged between the Parties.

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

**North County Communications Corporation**

**U S WEST Communications, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Name Printed/Typed

\*\*

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**\*\* Signed as ordered by the arbitrator/commission in Docket No. 96A-28T. Signature does not indicate agreement with all aspects of the arbitrator/commissions' decision, nor does it waive any of U S WEST's rights to seek judicial review of all or part of the agreement, or to reform the agreement as the result of successful judicial review.**

**APPENDIX A  
U S WEST AND NORTH COUNTY INTERCONNECTION RATES  
ARIZONA**

**INTERCONNECTION - LOCAL EXCHANGE**

**Local Call Termination**

	<b>Agreed Price</b>
End Office - Per Minute of Use	\$0.004000
Tandem Switch - Per Minute of Use (Note 1) (includes End Office Call Termination and Tandem Transport)	\$0.006000

Note 1: The above local tandem call termination rate includes tandem transmission, based on an assumed transport mileage of 10 miles. Should the average tandem transmission mileage experienced by the Parties exceed 10 miles, the Parties agree to adjust the tandem call termination rate based on the tandem transmission rates set forth below.

**Entrance Facility**

	<b>Agreed Price Recurring</b>	<b>Agreed Price Nonrecurring</b>
DS1, Electrical	\$89.42	\$531.65
DS3, Electrical	\$357.16	\$630.65

**Direct Trunked Transport**

	<b>Agreed Price Fixed</b>	<b>Agreed Price Per Mile</b>
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$35.98	\$0.65
DS1 - Over 8 to 25	\$35.99	\$0.94
DS1 - Over 25 to 50	\$36.00	\$1.75
DS1 - Over 50	\$36.00	\$1.59
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$243.17	\$13.32
DS3 - Over 8 to 25	\$246.15	\$15.90
DS3 - Over 25 to 50	\$250.66	\$22.91
DS3 - Over 50	\$249.26	\$22.49

**Multiplexing, per arrangement**

	<b>Agreed Price Recurring</b>	<b>Agreed Price Nonrecurring</b>
DS3 to DS1	\$196.85	\$394.50

**Local Transit Traffic Rate**

	<b>Agreed Price</b>
Tandem Switching, per MOU	\$0.001338

	Agreed Price Fixed	Agreed Price Per Mile
Tandem Transmission		
0 Mile	None	None
Over 0 - 8 Miles	\$0.000329	\$0.000006
Over 8 - 25 Miles	\$0.000329	\$0.000005
Over 25 - 50 Miles	\$0.000330	\$0.000008
Over 50 Miles	\$0.000330	\$0.000007

<b>INTERCONNECTION - EXCHANGE ACCESS</b>	<b>Agreed Price</b>
--	---------------------

**Call Termination, Transport, and Transit** Per Switched Access Tariff

<b>COMMON CHANNEL SIGNALLING ACCESS SERVICE</b>
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	Agreed Price Recurring	Agreed Price Nonrecurring
<b>Entrance Facility</b>		
DS1	\$89.42	\$531.65
DS3	\$357.16	\$630.65

	Agreed Price Fixed	Agreed Price Per Mile
<b>Direct Link Transport</b>		
DS0 - 0 Miles	None	None
DS0 - Over 0 to 8	\$18.76	\$0.07
DS0 - Over 8 to 25	\$18.76	\$0.09
DS0 - Over 25 to 50	\$18.78	\$0.11
DS0 - Over 50	\$18.77	\$0.09
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$35.98	\$0.65
DS1 - Over 8 to 25	\$35.99	\$0.94
DS1 - Over 25 to 50	\$36.00	\$1.75
DS1 - Over 50	\$36.00	\$1.59

	Agreed Price Fixed	Agreed Price Per Mile
<b>Direct Link Transport</b>		
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$243.17	\$13.32
DS3 - Over 8 to 25	\$246.15	\$15.90
DS3 - Over 25 to 50	\$250.66	\$22.91
DS3 - Over 50	\$249.26	\$22.49

	Agreed Price Recurring	Agreed Price Nonrecurring
<b>CCS Link -- First Link</b>	None	\$475.77
<b>CCS Link -- Each additional Link</b>	None	\$68.27

**STP Port -- Per Port** \$208.57 None

	Agreed Price Recurring	Agreed Price Nonrecurring
<b>Multiplexing</b>		
DS1 to DS0	\$200.07	None
DS3 to DS1	\$196.85	None

**PHYSICAL AND VIRTUAL COLLOCATION**

<b>Common Elements</b>	Interim Price	
	Recurring	Nonrecurring
Quote Preparation Fee	None	\$1,500.00
Entrance Facility - Per cable (Note 3)	\$1.58	\$1,232.62
2-wire DS0 EICT	\$1.33	\$100.00 (Note 4)
4-wire DS0 EICT	\$1.68	\$100.00 (Note 4)
DS1 EICT	\$8.55	\$200.00
DS3 EICT	\$29.96	\$300.00
DS1 EICT - regeneration (Note 5)	\$12.60	
DS3 EICT - regeneration (Note 5)	\$82.63	

	Agreed Price Recurring	Agreed Price Nonrecurring
<b>Cable Splicing</b>		
Per setup	None	\$97.67
Per Fiber Spliced	None	\$12.21
48 Volt Power, per ampere, per month	\$18.61	None
48 Volt Power Cable		
20 Ampere Capacity - Recurring	\$0.10	\$64.45
40 Ampere Capacity - Recurring	\$0.15	\$87.41
60 Ampere Capacity - Recurring	\$0.17	\$98.45
Equipment Bay, Per Shelf	\$7.21	None

	Agreed Price Regular Hours	Agreed Price After Hours
Inspector per 1/2 Hour	\$26.99	\$35.06
Training per 1/2 Hour	\$23.90	None
Engineering per 1/2 Hour	\$23.31	\$31.19
Installation per 1/2 Hour	\$26.99	\$35.06

Maintenance per 1/2 Hour \$23.90 \$31.80

**Physical Collocation (Note 6)**

	Agreed Price Recurring	Agreed Price Nonrecurring
Cage/Hard Wall Enclosure	ICB	ICB
Rent (w/ Maintenance) - per square foot - Zone 1	\$2.75	None
Rent (w/ Maintenance) - per square foot - Zone 2	\$2.26	None
Rent (w/ Maintenance) - per square foot - Zone 3	\$2.06	None

Note 3: Pricing is pursuant to Commission Decision No. 59872.

Note 4: Pricing is pursuant to Commission Decision No. 59872. DS0 EICT NRC not to apply to unbundled loops where a separate unbundled loop NRC applies.

Note 5: If required. No NRC applies to regeneration ordered concurrently with an associated EICT element.

Note 6: Zones per NECA-4 Tariff

**ANCILLARY SERVICES**

	Agreed Price
<b>Directory Assistance</b>	
Price per Call -- Facilities-Based Providers	\$0.34
<b>Listings</b>	
Primary Listings, Directory Assistance, White Pages	No Charge
<b>E911</b>	
LEC and AECs recover costs from PSAP	No Charge

	Agreed Cost Recurring
<b>Interim Number Portability</b>	
Without Transport	
Per Number Ported - First Path	\$2.76
Per Number Ported - Additional Path	\$1.69
With Transport	
Per Number Ported - First Path	\$4.19
Per Number Ported - Additional Path	\$3.11

	Agreed Cost Nonrecurring
<b>Additional Charges</b>	
Service Establishment, per switch, per route	\$41.29

Service Establishment - additional number ported or changes to existing numbers, per number ported \$8.94

Additional and Consecutive Numbers -- additional number ported on same account name and consecutive numbers, per number ported \$6.64

<b>Assignment of Numbers</b>	<b>Agreed Price</b>
Assignments per industry guidelines	No Charge

<b>Busy Line Verification</b>	
Per Call	\$0.72

<b>Busy Line Interrupt</b>	
Per Call	\$0.87

	<b>Interim Price</b>	
	<b>Recurring</b>	<b>Nonrecurring</b>
<b>Unbundled Loops (Note 7)</b>		
Weighted Area Average	\$21.76	

Without testing, first loop per service order	\$90.79
With Basic Testing, first loop per service order	\$145.05
With Basic Testing at Designated Time, first loop per service order	\$194.22
Without testing, additional loop per service order	\$20.00
With Basic Testing, additional loop per service order	\$30.00
With Basic Testing at Designated Time, additional loop per service order	\$30.00

Note 7: U.S. WEST opposes the establishment of deaveraged loop prices until Retail prices are deaveraged. North County supports deaveraged loop prices immediately.

**APPENDIX A**

**COMMISSION IMPOSED RESALE  
WHOLESALE RATES  
ARIZONA**

U S WEST need not make the following services available for Resale:

Enhanced services including Voice Mail

U S WEST shall make the following services available for Resale:

All telecommunications services.

U S WEST shall make the following services available for Resale without additional "Wholesale" discount:

Switched Access Tariff

Special Access Tariff

Residence Exchange Tariff

U S WEST shall make the following services available for Resale at a 17% "Wholesale" avoided cost discount (i.e. Wholesale price is 83% of Retail price, where Retail is the offered tariff or contract price):

All services not included in the immediately preceding list of services to be resold at zero discount.

All contract arrangements, including "off-tariff" contract pricing for the services whose tariff prices do not otherwise qualify for Wholesale discounts.

APPENDIX A  
RESALE  
NONRECURRING CHARGES  
ARIZONA

Description	Interim Price
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**Customer Transfer Charge**

Business, per end user	\$56.60
Residence, per end user	\$54.13
ISDN, per end user	\$57.15

**APPENDIX B  
ENGINEERING REQUIREMENTS  
TRUNK FORECAST FORMS**

**INTERCONNECTION CHECKLIST  
MEET POINT**

**DATE OF MEETING:**

**Interconnector Information**

Name:	
Address:	
City, State, Zip:	
Technical Contact Person:	
Technical Contact Person Telephone #:	
USWC Negotiator:	
USWC Negotiator Telephone #:	
<b>Desired U S WEST Central office</b>	
CLLI:	
Central Office address:	
City, State:	
Meet Point Address:	

**Equipment**

Manufacture/ model#	Quantity	

**Cable Makeup**

Number of cables:	
Number of fibers per cable:	
Distance from USWC to Meet Point	
Distance from North County to Meet Point	
Service Requirements	

	Year 1	Year 2	Year 3
DS3			
DS1			

**Remarks:**

**Please attach a sketch of the requested meet point arrangement:**

**Appendix B -- PAGE 2  
INTERCONNECTION CHECKLIST  
ADDITIONAL TRUNKING**

**Interconnector Information**

Name:	
Address:	
City, State, Zip:	
Technical Contact Person:	
Technical Contact Person Telephone #:	
USWC Negotiator:	
USWC Negotiator Telephone #:	
<b>Desired Central office (TANDEM)</b>	
CLLI:	
Central Office address:	
City, State:	
Meet Point Address:	

**Service Requirements**

	Year 1	Year 2	Year 3
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			

**Remarks:**

**Please attach a sketch of the agreed upon meet point arrangement**

**Appendix C**

**PHYSICAL COLLOCATION AGREEMENT**

**BETWEEN**

**US WEST COMMUNICATIONS**

**AND**

**NORTH COUNTY COMMUNICATIONS CORPORATION**

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## PHYSICAL COLLOCATION AGREEMENT

THIS PHYSICAL COLLOCATION AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ by and between US WEST COMMUNICATIONS, INC. a Colorado corporation ("USWC"), and NORTH COUNTY COMMUNICATIONS CORPORATION, a California corporation, its successors and assigns ("Interconnector").

### WITNESSETH

WHEREAS, USWC is an incumbent local exchange carrier having a statutory duty to provide for "physical collocation" of "equipment necessary for interconnection or access to unbundled network elements" at its Premises, U.S.C. 251(c)(6); and

WHEREAS, the Interconnector wishes to physically locate certain of its equipment within the Premises (as defined herein) and connect with USWC; and

NOW THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, USWC and the Interconnector (the "parties") agree as follows:

### ARTICLE I - PREMISES

1.1 Right to Use. Subject to this Agreement, USWC grants to Interconnector the right to use the premises described on Exhibit C ("Premises"), attached and incorporated herein, within real property at \_\_\_\_\_ in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_.

1.2 Relocation. Notwithstanding Section 1.1, in the event that it is necessary for the Premises to be moved within the structure in which the Premises is located ("Physical Collocation Site") or to another USWC Physical Collocation Site, at the Interconnector's option, the Interconnector shall move its facilities to the new Premises. The Interconnector shall be responsible for the preparation of the new Premises if such relocation arises from circumstances beyond the reasonable control of USWC, including condemnation or government order or regulation that makes the continued occupancy of the Premises or Physical Collocation Site impossible. Otherwise USWC shall be responsible for any such preparation and shall bear all costs associated with the relocation.

If the Interconnector requests that the Premises be moved within the Physical Collocation Site or to another USWC Physical Collocation Site, USWC shall permit the Interconnector to relocate the Premises, subject to availability of space and associated requirements. The Interconnector shall be responsible for all applicable charges associated with the move, including the reinstallation of its equipment and facilities and the preparation of the new Premises.

In either such event, the new Premises shall be deemed the "Premises" hereunder and the new Physical Collocation Site (where applicable) the "Physical Collocation Site."

1.3 The Premises. USWC agrees, at the Interconnector's sole cost and expense as set forth herein, to prepare the Premises in accordance with working drawings and specifications entitled \_\_\_\_\_ and dated \_\_\_\_\_, which documents, marked Exhibit C, are attached and incorporated herein. The preparation shall be arranged by USWC in compliance with all applicable codes, ordinances, resolutions, regulations and laws. In return for the Interconnector's agreement to make the payments required by Section 2.1 hereof, USWC agrees to pursue diligently the preparation of the Premises for use by the Interconnector.

## ARTICLE II - EFFECTIVENESS AND REGULATORY APPROVAL

2.1 Submission to State Commission. The Agreement is prepared as a component of the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996, between USWC and North County ("Interconnection Agreement"), and the parties intend to submit the Agreement and other elements of the Interconnection Agreement to state commissions for approval under the provisions of 47 U.S.C. § 252. This Agreement is conditioned upon the approval of this Agreement and the Interconnection Agreement. After execution of this Agreement, the parties shall submit it and the applicable Interconnection Agreement to the State commission in the State in which the Premises is located for approval, and shall defend the Agreement and support any reasonable effort to have this Agreement so approved, including the supplying of witnesses and testimony if a hearing is held.

2.2 Failure to Receive Approval. If this Agreement does not receive such unqualified approval, this Agreement shall be void upon written notice of either party to the other after such regulatory action becomes final and unappealable. Thereafter Interconnector may request to begin negotiations again under 47 U.S.C. 251. Alternatively, the parties may both agree to modify this Agreement to receive such approval, but neither shall be required to agree to any modification. Any agreement to modify shall not waive the right of either party to pursue any appeal of the ruling made by any reviewing regulatory commission or to seek arbitration of any of the terms of this Agreement or any of the terms of the Interconnection Agreement.

2.3 Preparation Prior to Regulatory Approval. At the written election of the Interconnector, USWC shall begin preparing the Premises for the Interconnector prior to receiving the approval required by Section 2.1 hereof. Except as specified in the Interconnection Agreement, the evidence of such election shall be the delivery to USWC of a letter requesting that USWC begin preparations, payment of 50 percent of the non-recurring charge for preparing the Premises for use by North County, and the promise of North County to pay the balance of the non-recurring charges as provided in this Agreement. Payment to USWC of the remaining non-recurring charges due under this Agreement shall be due one month after the Interconnector's equipment is installed at the Premises, interconnected with USWC and operational as described in Section 3.2 below. Upon such an election, this Agreement shall become effective but only insofar as to be applicable to Premises preparation. If the Agreement does not become fully effective as contemplated by this Article due in any part to USWC not fulfilling its obligation under 2.1 preceding, the Interconnector shall be entitled to a refund of all payments made to USWC for preparation.

## ARTICLE III - TERM

3.1 Commencement Date. This Agreement shall be a term agreement, beginning on the "Commencement Date" and ending on a date five years afterwards. The "Commencement Date" shall be the first day after the Interconnector's equipment becomes operational as described in Section 3.2. At the end of the term and unless the parties agree to an extension or a superseding arrangement, this Agreement shall automatically convert to a month-to-month Agreement.

3.2 Occupancy. Unless there are unusual circumstances, USWC will notify the Interconnector that the Premises is ready for occupancy within five (5) days after USWC completes preparations described in Section 2.3. The Interconnector must place operational telecommunications equipment in the Premises and connect with USWC's network within one hundred fifty (150) days after receipt of such notice; provided, however, that such one hundred fifty day period shall not begin until regulatory approval is obtained under Article II and, further, that USWC may extend beyond the one hundred fifty days upon a demonstration by the Interconnector of a best efforts to meet that deadline and circumstances beyond its reasonable control that prevented the Interconnector from meeting that deadline. If the Interconnector fails to do so, this Agreement is terminated on the thirtieth (30<sup>th</sup>) day after USWC provides to the Interconnector written notice of such failure and the Interconnector does not place operational telecommunications equipment in the Premises and connect with USWC's network by such thirtieth day. In any such event, the Interconnector shall be liable in an amount equal to the unpaid balance of the preparation charges due. For purposes of this Section, the Interconnector's telecommunications equipment is considered to be operational and interconnected when connected to USWC's network for the purpose of providing service.

#### **ARTICLE IV - PREMISES CHARGES**

4.1 Monthly Charges. Beginning on the Commencement Date, Interconnector shall pay to USWC monthly fees as specified in Exhibit A.

4.2 Billing. Billing for Monthly Charges shall occur on or about the 25th day of each month, with payment due thirty (30) days from the bill date. USWC may change its billing date practices upon providing ninety (90) days written notice to the Interconnector. Each USWC bill must identify the Premises location by CLLI and/or address and must separately identify any non-contiguous Premises within the Physical Collocation Site. Further, USWC must specify separately for each Premises CLLI and/or address and for any non-contiguous Premises each rate element individually along with the quantity purchased by the Interconnector at that (those) Premises and the individual rate charged for each element along with the dates for which such charges apply. USWC shall promptly adjust Interconnector's account in each instance of misbilling identified and demonstrated by the Interconnector.

4.3 Nonrecurring Charges.

- (a) The one-time charge for preparing the Premises for use by the Interconnector as well as all other one-time charges associated with the Interconnector's request shall be exactly as stated in Exhibit B.

- (b) USWC will contract for and perform the procurement, construction and preparation activities underlying the Monthly Fees and Nonrecurring Charges, using the same or consistent practices that are used by USWC for other construction and preparation work performed in the Physical Collocation Site and shall make every possible effort to obtain all necessary approvals and permits, where applicable, promptly. USWC will obtain more than one trade subcontractor submission to the extent available when the initial trade subcontractor bid, proposal or quotation associated with an ICB pursuant to Exhibit B exceeds ten-thousand dollars (\$10,000.00). It is understood and agreed that any such request for additional subcontractor submissions will likely add to the time necessary to provide physical collocation and, for that reason, Interconnector reserves the right to authorize USWC to forgo such additional bids but will only do so in writing. USWC will permit the Interconnector to inspect all supporting documents for the Monthly Fees and Nonrecurring Charges. Any dispute regarding such USWC charges will be subject to the dispute resolution provisions hereof. Notwithstanding the above, the Interconnector may directly contract with any supplier, vendor, subcontractor, or contractor that USWC approves for such work (including but not limited to the procurement and installation of cages) and may, at Interconnector's election, be solely responsible for any and all payments due to such supplier, vendor, subcontractor or contractor for such procurement, construction and preparation activities. Where Interconnector exercises this right, Interconnector shall pay to USWC only those amounts associated with labor hours of USWC personnel necessary for such USWC personnel to observe and approve such work at the Premises within the Physical Collocation Site.
- (c) Nonrecurring Charges associated with the point-of-termination bay shall be applied to the Interconnector by USWC only where the Interconnector requests in writing that USWC supply such point-of-termination bay. Otherwise, the Interconnector shall be responsible for purchasing such point-of-termination bays and for arranging their installation by a vendor, subcontractor or contractor approved by USWC to perform such work.

4.4 Preparation. USWC will begin preparation on execution of this Agreement and upon receipt of written notice from Interconnector as described in Section 2.3.

4.5 Pre-Preparation Access. USWC shall permit the Interconnector to have access to the Premises for the purpose of inspection once physical collocation site preparation activities have begun. Interconnector agrees to limit the number of such inspections to three per Premises except where such inspection exposes a non-conformance with the Interconnector's requirements as stated in its initial request or this Agreement.

4.6 Breach Prior to Commencement Date. If the Interconnector materially breaches this Agreement by purporting to terminate this Agreement after USWC has begun preparation of the Premises then, in addition to any other remedies that USWC might have, the Interconnector shall be liable in the amount equal to the non-recoverable costs less estimated net salvage. Non-recoverable costs include the non-recoverable cost of equipment and

material ordered, provided or used; subcontractor charges paid by USWC for work performed on behalf of Interconnector; the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided and used; labor for work done on behalf of Interconnector for preparation; transportation and any other associated costs. USWC shall provide Interconnector with a detailed invoice showing the costs it incurred associated with preparation. Further, at the Interconnector's election, USWC shall provide to the Interconnector all materials that it determined to be unsalvageable. Should the costs incurred by USWC be used for the provision of a collocation arrangement for a third party, such costs shall be refunded to the Interconnector.

4.7 Space Preparation Fee True-Up. For all work performed by USWC and by vendors, subcontractors and contractors hired by USWC in order to prepare the Premises pursuant to the Interconnector's written request and pursuant to 4.3 preceding, USWC shall within ninety (90) days of the completion of the Premises preparation work perform a true-up of all USWC, vendor, subcontractor and contractor bill amounts associated with any ICB pricing performed pursuant to Exhibit B. If the resulting total cost is less than that paid by the Interconnector, then USWC shall within thirty (30) days refund to the Interconnector the difference between the actual cost and the payment that the Interconnector had previously submitted to USWC. Alternatively, if the total cost exceeds that previously paid by the Interconnector, then the Interconnector shall submit payment to USWC for the difference within thirty (30) days for its receipt of the bill for such an amount. Nothing in either case releases USWC from its obligation to make best-faith efforts to achieve the lowest-available cost for the preparation work that it proves is necessary or releases USWC from its obligation to allow the Interconnector to inspect such documents pursuant to 4.3 preceding.

## **ARTICLE V - INTERCONNECTION CHARGES**

Charges for interconnection and collocation shall be set forth in Exhibits A and B.

## **ARTICLE VI - DEMARCATION POINT**

6.1 Cable Entrances. The Interconnector shall use a dielectric fiber optic cable as a transmission medium to the Premises, or other transmission media as it determines is necessary in order to provide services for which it has legal and regulatory authority. The Interconnector shall be permitted at least two (2) cable entrance routes into the Premises whenever two entrance routes are used by USWC at that Physical Collocation Site.

6.2 Demarcation Point. USWC and the Interconnector shall designate the point(s) of interconnection within the Physical Collocation Site as the point(s) of physical demarcation between the Interconnector's network and USWC's network, with each being responsible for maintenance and other ownership obligations and responsibilities on its side of that demarcation point. USWC and the Interconnector anticipate that the demarcation point will be within the point-of-termination bay which the Interconnector may elect to provide and install pursuant to 4.3 preceding. Where no point of termination bay is elected by the Interconnector, the point(s) of interconnection shall be specified in Exhibit D.

## ARTICLE VII - USE OF PREMISES

7.1 Nature of Use. The Premises are to be used by the Interconnector for purposes of locating equipment and facilities within USWC's Physical Collocation Sites to connect with USWC services or facilities and other Interconnectors. USWC shall permit Interconnector to place, maintain and operate on Premises any equipment, pursuant to the FCC's regulations on the types of equipment required to be collocated. Consistent with the nature of the Premises and the environment of the Premises, the Interconnector shall not use the Premises for office, retail, or sales purposes. No signs or marking of any kind by the Interconnector shall be permitted on the Premises or on the grounds surrounding the Premises.

7.2 Administrative Uses. The Interconnector may use the Premises for placement of equipment and facilities only. The Interconnector's employees, agents and contractors shall be permitted access to the Premises at all reasonable times, provided that the Interconnector's employees, agent and contractors comply with USWC's policies and practices pertaining to fire, safety and security. The Interconnector agrees to comply promptly with all laws, ordinances and regulations affecting the use of the Premises. Upon the expiration of the Agreement, the Interconnector shall surrender the Premises to USWC in the same condition as when first occupied by the Interconnector except for ordinary wear and tear.

7.3 Threat to Network or Facilities. Interconnector equipment or operating practices representing a significant demonstrable technical threat to USWC's network or facilities, including the Premises, are strictly prohibited.

7.4 Interference or Impairment. Notwithstanding any other provision hereof, the characteristics and methods of operation of any equipment or facilities placed in the Premises shall not interfere with or impair service over any facilities of USWC or the facilities of any other person or entity located in the Physical Collocation Site; create hazards for or cause damage to those facilities, the Premises, or the Physical Collocation Site; impair the privacy of any communications carried in, from, or through the Physical Collocation Site; or create hazards or cause physical harm to any individual or the public. Any of the foregoing events would be a material breach of this Agreement if, after USWC's submission to Interconnector of written notice of such interference or impairment, Interconnector did not promptly work to eliminate the interference or impairment.

7.5 Interconnection to Others. The Interconnector may directly connect to other Interconnectors' facilities within the Physical Collocation Site. USWC agrees to provide to Interconnector, upon its receipt of the Interconnector's written request, any facilities necessary for such interconnection wherever such facilities exist or can be made available and USWC shall provide any such facilities pursuant to 4.3 preceding and Exhibits A and B. Further, USWC agrees to provide to the Interconnector, upon its receipt of the Interconnector's written request, unbundled network transmission elements at rates specified in Exhibits A and B, and USWC will facilitate interconnection of the Interconnector's collocation equipment to other services offered in USWC's tariffs or other Agreements (e.g., Synchronous Service Transport service). For the purposes of Interconnection to Others, where the other Interconnector's Interconnection Agreement differs from this Agreement, the less restrictive terms and

conditions relating to such direct interconnection and the lower charges identified in the two Agreements for such direct interconnection shall apply to both Interconnectors for all Interconnection between those two Interconnectors. Interconnector agrees to continue to pay to USWC all applicable Monthly Charges for space, power and for all other interconnection circuits at the Premises.

7.6 Personality and its Removal. Subject to the Article, the Interconnector may place or install in or on the Premises such fixtures and equipment as it shall deem desirable for the conduct of business. Personal property, fixtures and equipment placed by the Interconnector in the Premises shall not become a part of the Premises, even if nailed, screwed or otherwise fastened to the Premises, but shall retain their status as personality and may be removed by Interconnector at any time. Any damage caused to the Premises by the removal of such property shall be promptly repaired by Interconnector at its expense.

7.7 Alterations In no case shall the Interconnector or any person purporting to be acting through on or behalf of the Interconnector make any rearrangement, modification, improvement, addition, repair, or other alteration to the Premises or the Physical Collocation Site without the advance written permission and direction of USWC. USWC shall make best efforts to honor any reasonable request for a modification, improvement, addition, repair, or other alteration proposed by the Interconnector, provided that USWC shall have the right to, for reasons that it specifies in writing, reject or modify any such request except as required by state or federal regulators. The cost of any such specialized alterations shall be paid by Interconnector in accordance with the terms and conditions identified in Article IV herein.

## **ARTICLE VIII - STANDARDS**

8 Minimum Standards. This Agreement and the physical collocation provided hereunder is made available subject to and in accordance with the (i) Bellcore Network Equipment Premises System (NEBS) Generic Requirements (GR-63-CORE and GR-1089-CORE), as may be amended at any time and from time to time, and any successor documents, except to the extent that USWC deviates from any such requirements for its equipment and the facilities and services that it uses and provides or to the extent that USWC allows other Interconnectors to deviate from any such requirements; and, (ii) any statutory and/or regulatory requirements in effect at the execution of this Agreement or that subsequently become effective and then when effective. The Interconnector shall strictly observe and abide by each. USWC shall publish and provide to the Interconnector its Reference Handbook for Collocation to provide Interconnector with guidelines and USWC's standard operating practices for collocation. USWC agrees that the material terms and conditions of collocation are not contained in such a technical publication, nor can USWC change the terms and conditions of this Agreement by changing that technical publication; however, any revision made to address situations potentially harmful to USWC's network or the Premises or Physical Collocation Site, or to comply with statutory and/or regulatory requirements shall become effective immediately and the Interconnector agrees to take steps to comply with such revisions immediately upon its receipt of USWC's written notification of the change.

## **ARTICLE IX - RESPONSIBILITIES OF THE INTERCONNECTOR AND USWC**

9.1 Contact Number. The Interconnector and USWC are responsible for providing to each other personnel contact numbers for their respective technical personnel who are readily accessible 24 hours a day, 7 days a week, 365 days a year.

9.2 Trouble Status Reports. The Interconnector is responsible for promptly providing trouble report status when requested by USWC. Likewise, USWC is responsible for promptly providing trouble report status when requested by Interconnector.

9.3 Cable Extension. The Interconnector is responsible for bringing its cable to entrance manhole(s) or other appropriate sites designated by USWC (e.g., utility poles or controlled environmental vaults), and for leaving sufficient cable length in order for USWC to fully extend the Interconnector-provided cable to the Premises. In the alternative, at the Interconnector's option, USWC shall provide interconnection facilities, i.e., unbundled network transmission elements, from an Interconnector-designated location (e.g., the Interconnector's Node) to the Premises within the Physical Collocation Site. Nothing in this paragraph shall preclude the Interconnector from obtaining unbundled network transmission elements from USWC at any Premises within a Physical Collocation Site for primary or redundant interconnection.

9.4 Regeneration. Regeneration on intra-building connections will be provided by USWC, when requested. The price for regeneration shall be pursuant to Exhibit B.

9.5 Removal. The Interconnector is responsible for removing any equipment, property or other items that it brings into the Premises or any other part of the Physical Collocation Site. If the Interconnector fails to remove any equipment, property, or other items from the Premises or Physical Collocation Site within thirty (30) days after discontinuance of use, USWC may perform the removal and may charge the Interconnector for any materials used in any such removal, and the time spent on such removal at the then-applicable hourly rate for administrative work pursuant to the TA96 factor approach identified on Exhibit B.

9.6 Interconnector's Equipment and Facilities. The Interconnector is solely responsible for the design, engineering, testing, performance, and maintenance of the equipment and facilities used by the Interconnector in the Premises. The Interconnector will be responsible for servicing, supplying, repairing, installing and maintaining the following facilities within the Premises:

- (a) its cable(s);
- (b) its equipment;
- (c) required point of termination cross connects;
- (d) point of termination maintenance, including replacement fuses and circuit breaker restoration, to the extent that such fuses and circuit breakers are not controlled by USWC and only if and as required; and
- (e) the connection cable and associated equipment which may be required within the Premises to the point(s) of interconnection. USWC does not assume any such responsibility unless contracted to perform such work on behalf of the Interconnector.

9.7 Verbal Notifications Required. The Interconnector is responsible for immediate verbal notification to USWC of significant outages or operations problems which could impact or degrade USWC's network, switches, or services, and for providing an estimated clearing time for restoration. In addition, written notification must be provided within twenty-four (24) hours. Likewise, USWC is responsible for providing immediate verbal notification to the Interconnector of problems with USWC's network or operations which could impact or degrade Interconnector's network, switches, or services, and provide an estimated clearing time for restoration. Further, USWC shall provide written notification to Interconnector within the same twenty-four (24) hour interval. For the purposes of this paragraph, written notification may be given by electronic mail so long as the notifying party provide the required verbal notification to the other.

9.8 Service Coordination. The Interconnector is responsible for coordinating with USWC to ensure that services are installed in accordance with the service request. Likewise, USWC is obligated to coordinate with Interconnector to ensure the services are installed in accordance with the service request and fulfill the service request in a timely, effective manner.

9.9 Testing. The Interconnector is responsible for testing, to identify and clear a trouble when the trouble has been isolated to an Interconnector-provided facility or piece of equipment. If USWC testing is also required, it will be promptly provided as part of its obligation to provide to Interconnector network interconnection.

## **ARTICLE X - QUIET ENJOYMENT**

Subject to the other provisions hereof, USWC covenants that it has full right and authority to permit the use of the Premises by the Interconnector and that, so long as the Interconnector performs all of its obligations herein, the Interconnector may peaceably and quietly enjoy the Premises during the term hereof.

## **ARTICLE XI - ASSIGNMENT**

The Interconnector shall not assign or otherwise transfer this Agreement, neither in whole nor in part, or permit the use of any part of the Premises by any other person or entity, without the prior written consent of USWC. Any purported assignment or transfer made without such consent may be made void by USWC at its option.

## **ARTICLE XII - CASUALTY LOSS**

12.1 Damage to Premises. If the Premises are damaged by fire or other casualty, and

- (i) the Premises are not rendered untenable in whole or in part, USWC shall repair the same at its expense (as hereafter limited) and the Monthly Charges shall not be abated, or
- (ii) the Premises are rendered untenable in whole or in part and such damage or destruction can be repaired within ninety (90) days, USWC has the option to

repair the Premises at its expense (as hereafter limited) and all Monthly Charges shall be proportionately abated while Interconnector was deprived of the use and the interconnection. If the Premises cannot be repaired within ninety (90) days, or USWC opts not to rebuild, then this Agreement shall (upon notice to the Interconnector within thirty (30) days following such occurrence) terminate as of the date of such damage. However, USWC must provide to Interconnector comparable substitute interconnection and collocation arrangements at another mutually-agreeable Physical Collocation Site without penalty or nonrecurring charges assessed against the Interconnector.

Any obligation on the part of USWC to repair the Premises shall be limited to repairing, restoring and rebuilding the Premises as originally prepared for the Interconnector and shall not include any obligation to repair, restore, rebuild or replace any alterations or improvements made by the Interconnector or by USWC on request of the Interconnector; or any fixture or other equipment installed in the Premises by the Interconnector or by USWC on request of the Interconnector.

12.2 Damage to Premises. In the event that the Premises shall be so damaged by fire or other casualty that closing, demolition or substantial alteration or reconstruction thereof shall, in USWC's opinion, be advisable, then, notwithstanding that the Premises may be unaffected thereby, USWC, at its option, may terminate this Agreement by giving the Interconnector ten (10) days prior written notice within thirty (30) days following the date of such occurrence.

### ARTICLE XIII - LIMITATION OF LIABILITY

13.1 Limitation. With respect to any claim or suit for damages arising in connection with the mistakes, omissions, interruptions, delays or errors, or defects in transmission occurring in the course of furnishing service hereunder, the liability of USWC, if any shall be as described in the Interconnection Agreement in effect between the parties.

Each party shall be indemnified and held harmless by the other against claims and damages by any third party arising from provision of the other party's services or equipment except those claims and damages directly associated with the provision of services to the other party which are governed by the provisioning party's applicable tariffs.

Neither party shall have any liability whatsoever to the customers of the other party for claims arising from the provision of the other party's service to its customers, including claims for interruption of service, quality of service or billing disputes.

The liability of either party for its willful misconduct, if any, is not limited by this Agreement.

13.2 Third Parties. The Interconnector acknowledges and understands that USWC may provide space in or access to the Physical Collocation Site to other persons or entities ("Others"), which may include competitors of the Interconnector; that such space may be close to the Premises, possibly including space adjacent to the Premises and/or with access to the outside of the Premises; and that any in-place optional cage around the Premises is a permeable boundary that will not prevent the Others from observing or even damaging the

Interconnector's equipment and facilities. In addition to any other applicable limitation, USWC shall have no liability with respect to any action or omission by any Other, except in instances involving negligence or willful actions by USWC or its agents or employees. The Interconnector shall save and hold USWC harmless from any and all costs, expenses, and claims associated with any such acts or omission by any Other.

#### **ARTICLE XIV - SERVICES, UTILITIES, MAINTENANCE AND FACILITIES**

14.1 Operating Services. USWC, at its sole cost and expense, shall maintain for the Physical Collocation Site customary Premises services, utilities (excluding telephone facilities), including janitor and, where applicable, elevator services, 24 hours a day, 365 days a year. The Interconnector shall be permitted to have a single-line business telephone service for the Premises subject to applicable USWC tariffs.

14.2 Utilities. USWC will provide negative DC and AC power, back-up power, heat, air conditioning and other environmental support necessary for the Interconnector's equipment, in the same manner that it provides such support items for its own equipment within that Premises.

14.3 Maintenance. USWC shall maintain the exterior of the Premises and grounds, and all entrances, stairways, passageways, and exits used by the Interconnector to access the Premises.

14.4 Legal Requirements. USWC agrees to make, at its expense, all changes and additions to the Premises required by laws, ordinances, orders or regulations of any municipality, county, state or other public authority including the furnishing of required sanitary facilities and fire protection facilities.

#### **ARTICLE XV - DISPUTE RESOLUTION**

For disputes arising out of this Agreement, the parties agree that they will follow the procedures as set forth in Section XXXIV of the Interconnection Agreement executed between the parties.

#### **ARTICLE XVI - SUCCESSORS BOUND**

Without limiting Article XI hereof, the conditions and agreements contained herein shall bind and inure to the benefit of USWC, the Interconnector and their respective successors and, except as otherwise provided herein, assigns.

#### **ARTICLE XVII - CONFLICT OF INTEREST**

The Interconnector represents that no employee or agent of USWC has been or will be employed, retained, paid a fee, or otherwise has received or will receive any personal compensation or consideration from the Interconnector, or any of the Interconnector's employees or agents in connection with the arranging or negotiation of this Agreement or

associated documents. USWC represents that no employee or agent of the Interconnector has been or will be employed, retained, paid a fee, or otherwise has received or will receive any personal compensation or consideration from USWC, or any of USWC's employees or agents in connection with the arranging or negotiation of this Agreement or associated documents.

**ARTICLE XVIII - NON-EXCLUSIVE REMEDIES**

No remedy herein conferred upon is intended to be exclusive of any other remedy in equity, provided by law, or otherwise, but each shall be in addition to every other such remedy.

**ARTICLE XIX - NOTICES**

Except as may be specifically permitted in this Agreement, any notice, demand, or payment required or desired to be given by on party to the other shall be in writing and shall be valid and sufficient if dispatched by registered or certified mail, return receipt requested, postage prepaid, in the United States mail, or via professional overnight courier, or by facsimile transmission; provided, however, that notices sent by such registered or certified mail shall be effective on the third business day after mailing and those sent by facsimile transmission shall only be effective on the date transmitted if such notice is also sent by such registered or certified mail no later than the next business day after transmission, all addressed as follows:  
If to USWC:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to the Interconnector:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party hereto may change its address by written notice given to the other party hereto in the manner set forth above.

**ARTICLE XX - COMPLIANCE WITH LAWS**

The Interconnector and all persons acting through or on behalf of the Interconnector shall comply with the provisions of the Fair Labor Standards Act, the Occupational Safety and Health Act, and all other applicable federal, state, county, and local laws, ordinances, regulations and codes (including identification and procurement of required permits, certificates, approvals and inspections) in its performance hereunder.

**ARTICLE XXI - INSURANCE**

Interconnector agrees to maintain, at Interconnector's expense during the entire time that Interconnector and its equipment occupies Premises: (i) General Liability Insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury or property damage, (ii) Employer's Liability in an amount not less than five hundred thousand dollars (\$500,000.00) per occurrence, (iii) Worker's Compensation in an amount not less than that prescribed by statutory limits, and (iv) Umbrella/Excess Liability coverage in an amount of five million dollars (\$5,000,000.00) excess of coverage specified above.

Each policy shall be underwritten by an insurance company having a BEST insurance rating of B+VII or better, and which is authorized to do business in the jurisdiction in which the Premises is located.

Interconnector shall furnish USWC with certificates of insurance which evidence the minimum levels of insurance set forth herein and which name USWC as an additional insured. The Interconnector shall arrange for USWC to receive at least thirty (30) days advance written notice from the Interconnector's insurance companies of cancellation and shall notify USWC in writing to achieve its approval should the Interconnector later elect to self-insure.

#### **ARTICLE XXII - US WEST'S RIGHT OF ACCESS**

USWC, its agents, employees, and other USWC-authorized persons shall have the right to enter the Premises at any reasonable time to examine its conditions, make repairs required to be made by USWC hereunder, and for any other purpose determined to be necessary by USWC in complying with the terms of this Agreement and providing telecommunications services at the Physical Collocation Site. USWC may access the Premises at any time for purposes of averting any threat of harm imposed by the Interconnector or its equipment or facilities upon the operation of USWC equipment, facilities and/or personnel located outside of the Premises. If routine inspections are required, they shall be conducted at a mutually agreeable time. USWC agrees to minimize and to limit any and all instances in which access by its employees, agents or other persons whom it authorizes takes place and agrees not to allow any party which is suspected of any previous instance of wrongdoing of any kind or who has been subject to any form of discipline by USWC at any time in the past to enter Premises. USWC will, in all instances, provide to Interconnector written notification of its access to Premises any time that such access occurs without advance notice to the Interconnector and such written notification shall contain a brief explanation of the reason for such access as well as the name(s) and title(s) of such persons and USWC shall provide to Interconnector such written notice within twenty-four (24) hours of the time when such access took place.

#### **ARTICLE XXIII - OTHER COLLOCATION AGREEMENTS**

The parties agree that the provisions of Section 252(i) of the Act shall apply, including state and federal interpretive regulations in effect from time to time.

#### **ARTICLE XXIV - MISCELLANEOUS**

24.1 Exhibits. The following Exhibits are attached hereto and made part hereof:

Exhibit A, The Schedule of All Interstate and Intrastate Monthly Recurring Charges

Exhibit B, The Schedule of All Interstate and Intrastate Nonrecurring Charges

Exhibit C, Working Drawings and Specifications Entitled \_\_\_\_\_

Exhibit D, Point of Interconnection \_\_\_\_\_

24.2 Variations. In the event of variation or discrepancy between any duplicate originals hereof, including exhibits, the original Agreement shall control.

24.3 Governing Law. This Agreement shall be governed by the laws of the State in which the Premises are located, without regard to the choice of law principles thereof.

24.4 Joint and Several. If Interconnector constitutes more than one person, partnership, corporation, or other legal entities, the obligation of all such entities under this Agreement is joint and several.

24.5 Future Negotiations. USWC may refuse requests for additional space at the Physical Collocation Site or in any other USWC site if the Interconnector is in material breach of this Agreement. In such event, the Interconnector hereby releases and shall hold USWC harmless

24.6 Severability. With the exception of the requirements, obligations, and rights set forth in Article II hereof, if any of the provisions hereof are otherwise deemed invalid, such invalidity shall not invalidate the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid provision(s), and the rights and obligations of USWC and the Interconnector shall be construed accordingly.

24.7 Paragraph Headings and Article Numbers. The headings of the articles paragraphs herein are inserted for convenience only and are not intended to affect the meaning or interpretation of this agreement.

24.8 Entire Agreement. Recognizing that this Agreement is component of a Interconnection Agreement, this Agreement with the attached schedules and exhibits, and referenced documentation and materials attached hereto set forth the entire understanding of the parties with respect to physical collocation and supersedes all prior agreements, arrangements and understandings relating to this subject matter and may not be changed except in writing by the parties. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein, and there are no other oral or written understandings or agreements between the parties relating to the subject matter hereof except as may be referenced herein.

24.9 No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

24.10 Binding Effect. (a) This Agreement is binding upon the parties hereto, their respective executors, administrators, heirs, assigns and successors in interest; (b) all

obligations by either party which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding its expiration or termination and until they are satisfied in full or by their nature.

24.11 Force Majeure. Neither party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually-severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Condition"). If any Force Majeure Condition occurs, the party delayed or unable to perform shall give prompt notice to the other party and shall take all reasonable steps to correct the force Majeure Condition. During the pendency of such Condition, the duties of the parties under this agreement affected by the Force Majeure Condition shall be abated and shall resume without liability thereafter.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed and delivered this Agreement as of the day and year first above written.

U S WEST COMMUNICATIONS, INC.:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

INTERCONNECTOR:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit A

The Schedule of All Interstate and Intrastate Monthly Recurring Charges

To be provided by the Parties

Exhibit B

The Schedule of All Interstate and Intrastate Nonrecurring Charges

To be provided by the Parties

Exhibit C

Working Drawings and Specifications Entitled

To be provided by the Parties

Exhibit D

Point of Interconnection

To be provided by the Parties

ORDER NO.

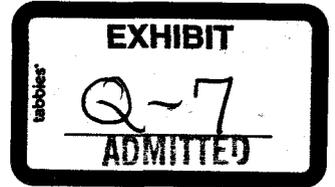
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ENTERED

FEB 18 2011

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ARB 918



In the Matter of

QWEST CORPORATION

Petition for Arbitration and Approval of an  
Interconnection Agreement with  
NORTH COUNTY COMMUNICATIONS  
CORPORATION OF OREGON.

ORDER

DISPOSITION: ARBITRATOR'S DECISION ADOPTED

**I. INTRODUCTION**

Qwest Corporation (Qwest) is an incumbent local exchange carrier (ILEC) that provides telecommunications services in Oregon. North County Communications Corporation (North County) is a wireline competitive local exchange carrier (CLEC). North County and Qwest are parties to an interconnection agreement signed in 1997. Due to developments in telecommunications technology over the last decade, in August of 2009 Qwest filed with the Public Utility Commission of Oregon (Commission) a petition for arbitration and approval of a new interconnection agreement (ICA) with North County. After informal negotiations regarding the proposed ICA failed, an Arbitrator conducted an arbitration hearing on August 18, 2010, and issued a decision resolving the issues raised in the arbitration on January 21, 2011. On February 3, 2011, North County filed comments challenging the Arbitrator's decision on three points. In this Order, we adopt the Arbitrator's decision.

**II. DISCUSSION**

**A. Legal Standard**

Per OAR 860-016-0030, a Commission arbitration award must ensure that the requirements of sections 251 and 252 of the Telecommunications Act of 1996 (the Act)<sup>1</sup> and any valid applicable Federal Communications Commission regulations under

<sup>1</sup> Pub. L. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C. §§ 151-615.

those sections are met, and that any arbitration award is consistent with this Commission's policies. The award must also establish a schedule for implementation of the adopted interconnection agreement.

**B. Issues**

**1. Signaling**

The parties' primary dispute concerned North County's continued use of multifrequency (MF) signaling, instead of the more modern Signaling System No. 7 (SS7) signaling used by Qwest. Qwest argued that MF signaling was outdated and created billing and other difficulties for Qwest. To accommodate North County's continued use of MF signaling, Qwest proposed to permit North County to terminate traffic using MF signaling, but required North County to renegotiate with Qwest before terminating any traffic to Qwest. The arbitrator adopted Qwest's argument, concluding that Qwest had adequately demonstrated the billing and tracking difficulties posed by MF signaling. The arbitrator relied in part on Qwest's citation to *Western Radio v. Qwest Corp.*, 51 Comm. Reg. (P & F) 202 (Or. Dist. Ct. 2010), in which the court held that requiring an ILEC to interconnect with a CLEC using an outdated technology was contrary to the purposes of the Act.<sup>2</sup>

In its Comments, North County first notes that SS7 signaling is known as a lesser-quality service relative to Voice Over Internet Protocol (VoIP) service, and argues that Qwest discriminates against North County by prohibiting North County from using VoIP interconnection.<sup>3</sup> We reject this argument. North County did not request interconnection with Qwest using VoIP; it requested interconnection using MF signaling. We decline to address North County's new argument that Qwest should permit interconnection using VoIP.

North County next argues that Qwest is discriminating against North County because existing Qwest agreements with other CLECs provide for MF signaling interconnection. North County states that Qwest misread North County's discovery requests, and refused to disclose information regarding other CLECs in Oregon that may be using MF trunks in addition to other signaling interconnection.<sup>4</sup> As Qwest noted, however, North County is the only CLEC in Oregon attempting to interconnect with Qwest using only MF signaling.<sup>5</sup> Given this difference, we do not find evidence in the record supporting North County's argument that Qwest's restriction on terminating calls to Qwest with MF technology is discriminatory.

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<sup>2</sup> Arbitrator's Decision (Decision) at 4.

<sup>3</sup> North County Comments to Arbitrator's Decision (North County Comments) at 1.

<sup>4</sup> North County Comments at 2.

<sup>5</sup> Qwest Post-Hearing Brief at 2.

## 2. *Billing Methodology*

To accommodate North County's use of MF signaling while protecting itself from arbitrage and the tracking difficulties that result from MF signaling, Qwest's proposed ICA imposes a cap on billable minutes. The arbitrator concluded that Qwest had adequately demonstrated the need for a cap.<sup>6</sup>

North County argues that the cap is arbitrary and capricious, and that it violates federal statutes and regulations, as well as Oregon laws and rules requiring North County to receive reciprocal compensation for the termination of traffic. To support this argument, North County does not cite any Oregon laws or rules, but instead cites *United States v. Causby*, 328 U.S. 256 (1946), a case involving the taking of property under the Fifth Amendment.<sup>7</sup> We conclude that North County does not adequately support its legal argument with relevant citations to state or federal law, and we reject the argument on that basis. We also note that Qwest stated in briefs and testimony that its proposed cap was based on actual usage in Oregon and allowed for additional traffic based on past usage patterns before the cap would be reached.<sup>8</sup> We conclude that Qwest's proposed cap is not arbitrary or capricious.

## 3. *VNXX*

In its proposed ICA, Qwest included language on VNXX traffic that Qwest stated was intended to implement this Commission's ruling on VNXX. The arbitrator concluded that North County had not demonstrated that Qwest's proposed language contradicted anything in our rulings or law, and approved of the proposed language.<sup>9</sup>

In its Comments, North County again argues that a specific definition of VNXX created by Qwest should not be adopted for the ICA, and that instead, the ICA should simply state that the parties agree to abide by this Commission's orders and regulations. As the Decision noted, North County does not demonstrate that anything in Qwest's definition contradicts our rules or orders. Qwest notes in its testimony that the definition of its proposed ICA is "language that was worked out with the OPUC staff and therefore can be considered entirely consistent with this Commission's definition of VNXX."<sup>10</sup> We agree, and we see no error in Qwest's use of specific language. We adopt the Arbitrator's decision on this issue.

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<sup>6</sup> Decision at 5-6.

<sup>7</sup> North County Comments at 2.

<sup>8</sup> See, e.g., Qwest Post-Hearing Brief at 3.

<sup>9</sup> Decision at 7.

<sup>10</sup> Qwest Exhibit 10, Albersheim Rebuttal Testimony, at 14.

III. CONCLUSION

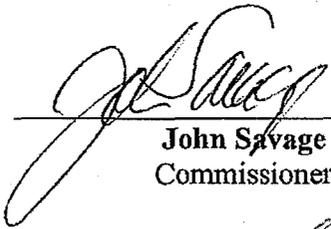
The Commission has reviewed the Arbitrator's decision and the comments filed by North County. The Arbitrator's decision complies with the requirements of the Act, applicable FCC regulations, and relevant state law and regulations and should be approved. OAR 860-016-0030(11).

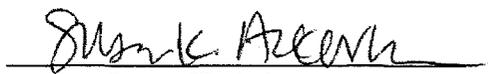
ORDER

IT IS ORDERED that:

1. The Arbitrator's decision in this docket, attached to and made part of this order as Appendix A, is adopted.
2. Within 14 days after this order issues, Qwest must prepare an interconnection agreement complying with the terms of the order and serve it on North County. North County shall either sign and file the agreement, or file objections to it, within 10 days of service. OAR 860-016-0030(12).

Made, entered, and effective FEB 18 2011

  
 \_\_\_\_\_  
 John Savage  
 Commissioner

  
 \_\_\_\_\_  
 Susan K. Ackerman  
 Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order to a court pursuant to applicable law.

ISSUED: January 21, 2011

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ARB 918

In the Matter of

QWEST CORPORATION

Petition for Arbitration and Approval of an  
Interconnection Agreement with  
NORTH COUNTY COMMUNICATIONS  
CORPORATION OF OREGON.

ARBITRATOR'S DECISION

**I. INTRODUCTION**

North County Communications Corporation (North County) and Qwest Corporation (Qwest) are parties to an interconnection agreement signed in 1997. In August of 2009, Qwest filed with the Public Utility Commission of Oregon (Commission) a petition for arbitration and approval of a new interconnection agreement with North County, to address changes in technology since the parties' existing agreement was signed. After several months of informal negotiations, the parties moved forward with formal arbitration, culminating in an arbitration hearing. In this ruling, I resolve the issues raised in the parties' arbitration.

**II. PROCEDURAL HISTORY**

Qwest is an incumbent local exchange carrier (ILEC) that provides telecommunications services in Oregon. North County is a wireline competitive local exchange carrier (CLEC). North County and Qwest are parties to an interconnection agreement (ICA) in Oregon signed on November 20, 1997, that has been in "evergreen" status since 2000.<sup>1</sup>

Qwest filed its petition for arbitration in this docket on August 3, 2009. The parties jointly requested a series of stays to pursue informal negotiations. After Qwest requested that the Commission move forward with formal arbitration proceedings, North County asked for the opportunity to brief the threshold question of whether this Commission has jurisdiction over the parties' dispute. On May 5, 2010, I issued a ruling denying North County's motion to dismiss Qwest's petition for lack of jurisdiction, and on June 21, 2010, the Commission issued an order affirming my ruling.

<sup>1</sup> See North County Communications Corporation and U S West Communications, Inc. [now Qwest] Arbitrated Interconnection Agreement for the State of Oregon [Existing Agreement] at § XXXIV.V p. 73.

The parties submitted issue statements, pre-filed direct testimony, and exhibits. On July 8, 2010, the Commission conducted a hearing, at which the parties presented direct and cross-examination testimony. The parties submitted simultaneous closing briefs on September 21, 2010. Qwest filed a notice of supplemental authority on October 19, 2010. North County moved to strike Qwest's notice, and on October 29, 2010, I denied North County's motion to strike.

### III. DISCUSSION

#### A. Legal Standard

Under the Telecommunications Act of 1996 (the Act),<sup>2</sup> either party to a negotiation regarding an interconnection agreement may petition this Commission to arbitrate any open issues. See 47 U.S.C. § 252(b)(1). In resolving open issues, this Commission must ensure that its resolution and any conditions that it imposes on the parties meet the requirements of sections 251 and 252 of the Act and any valid applicable Federal Communications Commission (FCC) regulations under those sections, and that any arbitration award is consistent with this Commission's policies. See OAR 860-016-0030(9).

#### B. Background

Qwest argues that since the parties signed their existing agreement in 1997, significant technological advancements and changes in Qwest's processes and products have rendered the existing agreement outdated. Primarily, Qwest argues that North County's use of multifrequency (MF) signaling is archaic, and that while Qwest is willing to accommodate MF signaling for traffic terminating to North County, North County must use Signaling System No. 7 (SS7) signaling if it wishes to begin terminating traffic with or through Qwest. Qwest offers its revised standard negotiation template as the basis for its proposed interconnection agreement in this docket, with accommodations to one section of the template to allow North County to terminate traffic using MF signaling.<sup>3</sup> Qwest notes that the accommodations in its proposed template are intended to assist North County, and that in general, Qwest is not required to accede to every CLEC demand for what is essentially an inferior method of interconnection.<sup>4</sup>

North County does not offer specific language to replace the language proposed by Qwest, but argues generally that Qwest's proposed interconnection agreement would force North County to scrap its existing network in favor of an unnecessary technological update and an untested agreement. North County states that nothing in any law or regulation allows Qwest to dictate North County's technology choices, and that the difficulties Qwest cites in retaining the parties' existing agreement are either false or exaggerated. North County also states that Qwest

<sup>2</sup> Pub. L. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C. §§ 151-615.

<sup>3</sup> Qwest Post-Hearing Brief at 4. Qwest notes that its current template is based on terms developed in a docket that extended over nearly six years, with revisions and input from the Administrative Law Judge, Commission, and CLECs. See UM 823.

<sup>4</sup> Qwest Post-Hearing Brief at 4, citing *Western Radio v. Qwest Corp.*, 51 Comm. Reg. (P & F) 202 (Or. Dist. Ct., 2010); *Verizon Md. Inc. v. Core Communications, Inc.*, 631 F.Supp.2d 690, 700 (D. Md. 2009).

has not justified changing the terms of the parties' existing agreement, and advocates for keeping the existing agreement.<sup>5</sup>

### C. Issues

#### 1. Signaling

##### a. Parties' Positions

##### i. Qwest

Qwest argues that SS7 signaling is more efficient, more reliable, and more flexible than MF signaling, and that SS7 allows carriers to more accurately track traffic, and therefore more accurately bill for traffic, using the appropriate jurisdictional basis.<sup>6</sup> Qwest states that MF signaling's limitations in its ability to record call information were causing numerous billing disputes between the parties.<sup>7</sup> Qwest states that it is not practical or reasonable to expect Qwest to re-engineer its automated billing systems to deal with one customer's older technology, but that Qwest nevertheless agrees to manually generate data for North County in this case, with added protections to ensure that Qwest is not over-billed.<sup>8</sup>

To accommodate North County's desire to continue using MF signaling, in its proposed ICA Qwest offers language stating that the parties agree that: (1) North County currently terminates traffic from Qwest using multi-frequency (MF) signaling but does not send traffic to Qwest; and (2) should North County wish to originate traffic to Qwest, at that time the parties will negotiate an amendment to their ICA that will include requirements for use of SS7 signaling in the mutual exchange of traffic. Per the proposed agreement, unless a later amendment is mutually negotiated, North County may not send traffic to Qwest for termination or for Qwest to send to other carriers connected to Qwest.<sup>9</sup>

##### ii. North County

North County argues that it should not be prevented from using outbound MF signaling, and that forcing it to convert to SS7 would be prohibitively expensive and unreasonable. North County notes that it designed its entire network based on what was allowed in the existing agreement, and that MF signaling is in fact more reliable and less prone to widespread failure than SS7 signaling.<sup>10</sup> North County specifically argues that section 7.2.1.1 of Qwest's proposed ICA arbitrarily restricts North County's ability to provide outbound services, and that nothing in the Act or any law or regulation limits North County's ability to provide service to outbound customers.<sup>11</sup>

<sup>5</sup> Hearing Transcript, Lesser – ReE, at 145.

<sup>6</sup> Qwest Post-Hearing Brief at 6, citing Qwest Exhibit 8, Linse Direct Testimony, at 15.

<sup>7</sup> Hearing Transcript, Albersheim – X, at 90; see also Qwest/11 Summary of Billing Issues.

<sup>8</sup> Qwest Exhibit 10, Albersheim Rebuttal Testimony, at 7.

<sup>9</sup> Qwest Revised List of Disputed Issues, June 16, 2010, at 1, Sections 7.1.1, 7.2.1.1.

<sup>10</sup> Hearing Transcript, Lesser Direct, at 5-6.

<sup>11</sup> North County List of Disputed Issues, June 20, 2010, at 2.

North County cites to section 251(i) of the Act, stating that a local exchange carrier “shall make available any interconnection, service, or network element provided under an [approved] agreement to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement,” and cites to a ruling from the FCC noting that section 251(i) has been described as a “primary tool” for preventing discrimination against carriers under section 251.<sup>12</sup> North County states that other interconnection agreements exist that permit MF signaling, and while no other CLEC actually uses MF signaling, the fact that the agreements permit such use indicates that Qwest is discriminating against North County.<sup>13</sup>

b. *Resolution*

I adopt Qwest’s argument on this issue. Qwest presented exhibits and testimony regarding the billing and tracking difficulties posed by North County’s continued use of MF signaling. Qwest’s accommodation of MF signaling, by permitting North County to terminate calls from Qwest but requiring renegotiation should North County wish to originate calls, is a reasonable solution that permits the parties to continue interconnecting without exposing Qwest to undue risk.

Qwest’s citation to *Western Radio v. Qwest Corp.*, 51 Comm. Reg. (P & F) 202 (Or. Dist. Ct., 2010), is persuasive. As the court in *Western Radio* notes, “ILECs are required to provide interconnection to requesting carriers ‘that is at least equal in quality to that provided by the local exchange carrier itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection . . .’” *Western Radio* at 22, citing 47 U.S.C. § 251(c)(2)(C). Courts interpreting section 251(c)(2)(C) have concluded that the Act does not require an ILEC “to interconnect with requesting carriers through facilities that were of lesser-quality than that which it interconnected with other carriers.” *Western Radio* at 23, discussing *Verizon Md. Inc. v. Core Commc’ns, Inc.*, 631 F. Supp. 2d 690, 700 (D. Md. 2009) (emphasis added). While North County may request interconnection, it may not force Qwest to continue using MF signaling, an outdated technology, to do so.<sup>14</sup> Qwest’s accommodation of North County’s desire to continue using MF signaling is reasonable, and fulfills Qwest’s requirements under section 251 of the Act.

I find that Qwest’s amendments to its template agreement reasonably accommodate the needs of both parties. I approve sections 7.1.1 and 7.2.1.1 of Qwest’s proposed ICA, as filed with its Petition for Arbitration.<sup>15</sup>

<sup>12</sup> North County Post-Hearing Brief, citing 11 F.C.C.R. 15499, 1296.

<sup>13</sup> Hearing Transcript, North County Closing, at 153.

<sup>14</sup> The court in *Western Radio* went on to note that “[r]equiring Qwest to provide interconnection through outdated technologies is contrary to the purpose of the Act because it could stifle competition, result in lower-quality services, and hinder the development of new technologies.” *Western Radio* at 25-26.

<sup>15</sup> See Petition for Arbitration and proposed Interconnection Agreement, filed August 3, 2009.

## 2. *Billing Methodology*

### a. *Parties' Positions*

#### i. *Qwest*

Qwest states that section 7.8 of its proposed agreement is intended to require North County to produce accurate bills, since Qwest is not able to verify traffic with MF signaling.<sup>16</sup> To accommodate the use of MF signaling, Qwest proposes a cap on billable minutes. The cap, based on North County's historical traffic with an added buffer to allow for growth, is intended to protect Qwest from arbitrage, particularly from companies that choose to opt into the proposed agreement. Qwest explains that the cap is important because Qwest is blind to any North County-originated local calls that North County routes through another service provider using MF signaling; as a result, Qwest had no reasonable ability to determine if all minutes billed by North County were in fact properly compensable.<sup>17</sup> In its closing brief, Qwest clarifies that the cap would be applied on an average basis, to avoid cutting off compensable minutes that exceeded one DS1 line's cap, when on an average basis the lines' minutes were below the cap. Qwest also notes that due to a calculation error, the cap listed in its proposed ICA as 10,000 minutes of use per in-service DS1 should have read 240,000 minutes of use per in-service DS1.

#### ii. *North County*

North County argues that Qwest's proposed cap unlawfully discriminates against North County by taking a deduction off of North County's invoices. North County notes that no other CLEC has a similar cap on minutes, and argues as a result that the cap is discriminatory. North County also argues that the cap is arbitrary, and that Qwest came up with the number randomly, without support or evidence. North County notes that if North County used a million minutes on one line, the proposed cap would effectively discount 76 per cent of the time that North County could bill for that line.<sup>18</sup>

### b. *Resolution*

I agree with North County that Qwest's proposed cap would operate to cut off compensation if one DS1 line exceeded the cap, even if the averaged minutes for all DS1 lines were below the cap. However, with Qwest's proposed modification, that issue is removed. With modifications to Qwest's proposed language to clarify that the cap is to be applied on an averaged basis, I find that Qwest adequately demonstrated through testimony and evidence that its cap is necessary to prevent arbitrage from other CLECs and to permit North County to use MF signaling without exposing Qwest to undue risk as a result. As Qwest noted at the hearing, no other CLEC has such a cap, because no other CLEC interconnects with Qwest using MF signaling.<sup>19</sup> I approve of Qwest's proposed language in section 7.8 of its proposed

<sup>16</sup> Qwest Post-Hearing Brief, at 7.

<sup>17</sup> Qwest Ex. 10, Albersheim Rebuttal Testimony, at 9; Qwest Ex. 13, Linse Rebuttal Testimony, at 10.

<sup>18</sup> Hearing Transcript, 105, 152-153; see also North County List of Disputed Issues at 2.

<sup>19</sup> Hearing Transcript, 96-97.

interconnection agreement, as filed with its Petition for Arbitration, with the following modifications:

- (1) Section 7.8.1.2 will strike out "10,000" and replace with "240,000";
- (2) Section 7.8.1.2 will clarify that the cap is to be applied on an averaged basis.

3. *Relative Use Factor*

a. *Parties' Positions*

i. *Qwest*

Qwest states that Exhibit H to its proposed ICA contains the standard language for calculation of the relative use factor (RUF). Per Exhibit H, five categories of traffic are Qwest's responsibility, while seven categories of traffic are the CLEC's responsibility. Included in minutes that are the CLEC's responsibility are all ISP-bound and VNXX minutes of use (MOU) that Qwest sends to the CLEC, and all VNXX MOU that transit Qwest's network and are terminated to the CLEC. Exhibit H further states that data used for the calculation of the RUF "will be the average of the most recent three (3) months' usage determined not to be an anomaly."

In its testimony and post-hearing brief, Qwest explains that typically, the initial sharing of costs between parties is set at 50/50 for a period of three months, after which either party may seek recalculation based on the actual relative use between the parties. In this instance, Qwest proposes assigning 99 per cent of the cost to Qwest and one per cent to North County, so long as the parties file billing percentages that give Qwest 100 per cent ownership of the transport facilities.<sup>20</sup>

With regard to ISP-bound traffic, Qwest notes that this Commission has determined that such traffic should not be attributed to the originating carrier when calculating the relative use factor. Therefore, Qwest argues that language in Exhibit H attributing to the CLEC all ISP-bound and VNXX traffic is appropriate.<sup>21</sup>

ii. *North County*

North County states that the RUF is intended to allocate the amount of traffic flowing out to each carrier, and that under both the existing and proposed agreements, 100 percent of the flow of traffic is from Qwest to North County (indeed, Qwest's proposed agreement requires renegotiation should North County wish to originate traffic). As a result, North County argues that relative use of the companies' circuits is 100 percent Qwest and 0 percent North County, and the RUF should reflect that reality.

<sup>20</sup> Qwest Post Hearing Brief at 11.

<sup>21</sup> Qwest Ex. 10, Albersheim Rebuttal Testimony, at 13-14.

b. *Resolution*

Neither party submitted data regarding the parties' historical relative use, to demonstrate what the sharing of costs should be under Qwest's proposed Exhibit H. I agree with North County that Qwest has failed to justify its proposed RUF of 99 percent costs to Qwest and one percent costs to North County. However, North County has failed to contest the RUF calculation in Exhibit H, other than to state that the parties' RUF should simply reflect the actual flow of traffic between the parties. Absent evidence from either party that the distribution of costs should be something other than 99/1, this initial sharing of costs is favorable to North County. In addition, if the actual usage between the parties is determined to be 100/0, North County may seek recalculation of the sharing of costs to reflect that usage after three months.

North County has not demonstrated that Exhibit H is contrary to Commission rulings or law. I approve of Qwest's language in sections 7.3.1.1.3.1 and 7.3.2.2.1 of its proposed interconnection agreement, as filed with its Petition for Arbitration, modified to assign 1 percent of the cost to North County and 99 percent to Qwest for the initial three month period.

4. *VNXX Traffic*

a. *Parties' Positions*

i. *Qwest*

Qwest states that its proposed language on VNXX traffic properly implements this Commission's requirements regarding VNXX traffic.<sup>22</sup>

ii. *North County*

North County states that VNXX should be defined "exactly the same way as it is defined by the Commission," and that there is no need for Qwest to supply its own definition of VNXX in the proposed agreement.<sup>23</sup>

b. *Resolution*

North County has not presented evidence or argument that anything in Qwest's proposed language contradicts Commission rulings or law. I approve of Qwest's proposed language in Section 7.2.1.2 of its proposed interconnection agreement, as filed with its Petition for Arbitration.

<sup>22</sup> Qwest Post Hearing Brief at 5.

<sup>23</sup> North County Post Hearing Brief at 7.

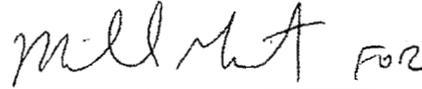
5. ***Remaining Issues: AudioText, Automatic Number Identification***

North County raised the issues of audiotext and automatic number identification during the course of this proceeding, but did not address either issue in its post-hearing brief. With regard to these remaining issues, I conclude that North County did not provide sufficient briefing and argument for me to properly consider their position. North County may file comments with the Commission that more thoroughly address their objections to Qwest's proposed language. Absent more thorough comments, I find in favor of Qwest on these issues.

**IV. ARBITRATOR'S DECISION**

1. The proposed interconnection agreement between Qwest Corporation and North County Communications Corporation of Oregon, filed by Qwest Corporation with its Petition for Arbitration on August 3, 2009, is approved, as modified by this decision.
2. Either party may file comments regarding this decision within 10 days of service of the decision. OAR 860-016-0030(10). The Commission will accept or reject the decision within 30 days. OAR 860-016-0030(11).

Dated at Salem, Oregon, this 21<sup>st</sup> day of January, 2011.



Shani M. Pines  
Arbitrator

# MEMORANDUM

August 9, 2006



**Dockets:** UT-051450 (Staff Investigation),  
UT-061112, UT-061114, UT-061119,  
UT-061120, and UT-061134

**Company Names:** Qwest Corporation  
Verizon Northwest Inc.  
United Telephone Company of the Northwest, d/b/a Embarq  
Washington Exchange Carrier Association  
CenturyTel of Washington, Inc., d/b/a CenturyTel

**Staff:** Tim Zawislak, Regulatory Analyst  
Jing Roth, Regulatory Consultant  
Bob Williamson, Utilities Engineer  
Roger Kouchi, Consumer Specialist  
Jonathan Thompson, Assistant Attorney General

## Recommendation

Accept this memo, close the related staff investigations in the dockets listed above, and open a new docket to address all Intercarrier Compensation issues simultaneously.

## Discussion

On July 1, 2006, annual access charge reports were due for Class A Companies and for the Washington Exchange Carrier Association (WECA). The companies and the last five dockets listed above were filed in order to be in compliance with WAC 480-120-399(1) and WAC 480-120-352(5), respectively.

The annual access charge reports now include generally minutes of use (MOU) data for intrastate switched access services including what are commonly known as Interim Terminating Access Charges (or "ITACs") for the support of universal service, as they may be authorized from time to time through WAC 480-120-540(1)(b).

The other staff investigation is related but more isolated on the issue of Phantom Traffic.

## Scope of Consideration

The commission may wish to consider whether any company's intrastate switched access charges (including any ITACs) are appropriate and the reports in the last five dockets may assist in that endeavor. Additionally, because intercarrier compensation reform activities have recently been reinvigorated at the federal level (with the Missoula Plan being filed at the Federal Communications Commission or "FCC" on July 24, 2006),

and many of the reform areas touch upon intrastate access issues, the commission may wish to open a new docket to more completely and comprehensively address all of these issues (including Phantom Traffic) while seeking input from the industry and the public along the way of a more accessible and open intercarrier compensation reform process.

### **Analysis**

The annual access charge reports reveal that overall intrastate access MOU are down from the prior year. WECA's minutes of use are down by about 5 percent and Statewide totals including Class A Companies are down by about 7 percent. Attachments 1 and 2 illustrate how demand has changed over the last three years for WECA members and for Local Exchange Companies (LECs) on a Statewide basis, respectively.

Aggregate numbers are provided in each case because individual numbers have been reported on a confidential basis pursuant to WAC 480-07-160.

The possible reason(s) for the decline in minutes of use may be speculated as follows:

- Wireless substitution for toll calling which diverts minutes within the MTA
- Wireline competition in the form of facilities based or broadband VoIP services
- Phantom traffic resulting from issues related to Docket UT-051450 (including tandem switched transport and transit service issues) that should be addressed by any intercarrier compensation reform solution.

Staff does not recommend any specific further action in these dockets at this time until the results of the Federal Communications Commission's (FCC's) proceeding on intercarrier compensation reform is completed. However, staff is open and willing to address any concerns the commission may have before that reform commences.

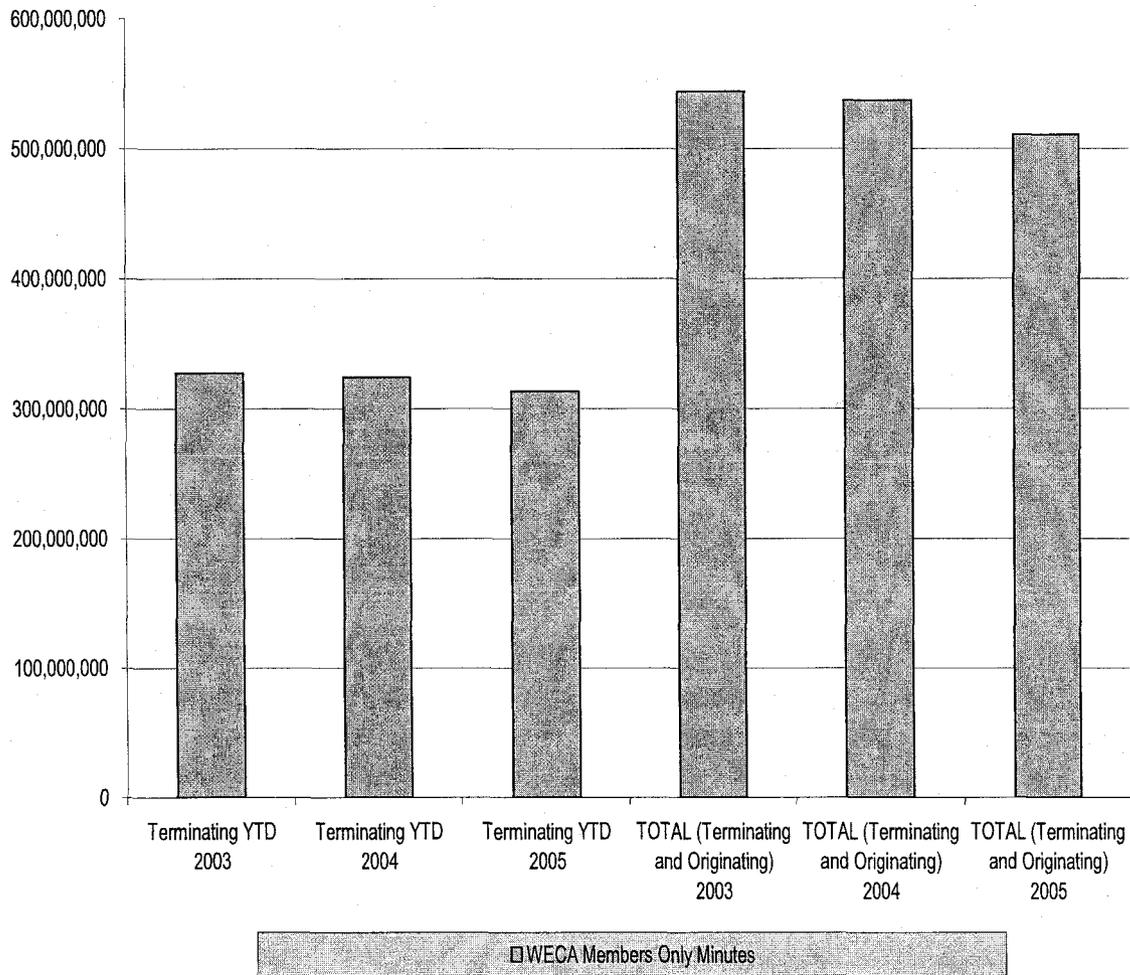
It may be more appropriate at this time to open a new docket in order to more completely and comprehensively address all of these issues simultaneously while seeking input from the industry and the public (including other stakeholders) along the way.

### **Conclusion**

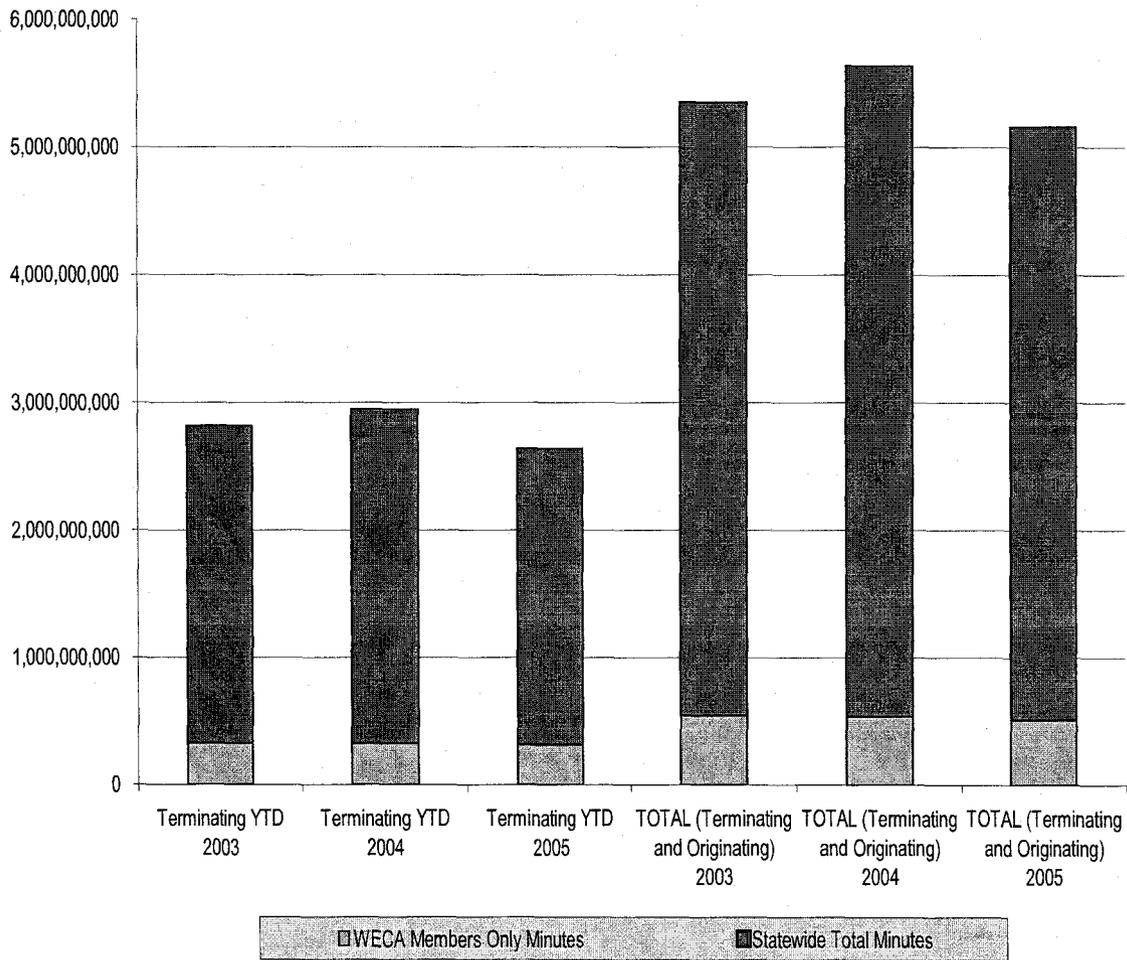
Staff recommends that the commission accept this memo, close the related staff investigations in the dockets listed above, and open a new docket to address all intrastate Intercarrier Compensation issues simultaneously.

Attachments (2)

**INTRASTATE SWITCHED ACCESS MINUTES OF USE**



**INTRASTATE SWITCHED ACCESS MINUTES OF USE**

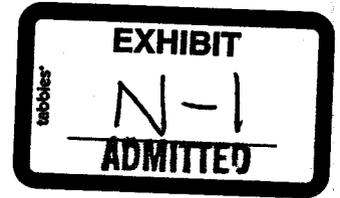




**Qwest**

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**Tina Colvin**  
Staff Paralegal



January 5, 2011

Anthony McNamer, Esquire  
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920 SW Third  
Suite 200  
Portland, Oregon 97214

VIA ELECTRONIC DELIVERY

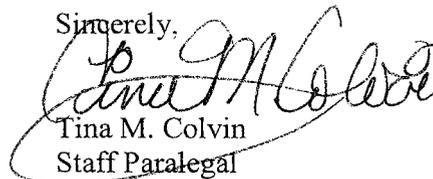
**Re: In The Matter of Qwest Corporation's Petition For Arbitration and Approval of Interconnection Agreement With North County Communications Corporation of Arizona Pursuant to Section 252(B) of The Communications Act of 1934 as Amended by The Telecommunications Act of 1996 and Applicable State Laws**  
**Docket No. T-01051B-09-0383/Docket No. T03335A-09-0383**

Dear Mr. McNamer:

Enclosed are Qwest Corporation's Responses to North County Communications Corporation's First Set of Data Requests, Nos. 1, 2, 3 and 4, and Qwest Corporation's Response to North County Communications Corporation's Second Set of Data Requests, No. 5.

If you have any questions regarding these responses, I can be reached at (303) 383-6677.

Sincerely,



Tina M. Colvin  
Staff Paralegal

Enclosures

cc: Norman Curtright, Esq.  
Reed Peterson

Arizona  
Docket No. T-01051B-09-0383 and Docket  
No. T-03335A-09-0383  
NCC 1-001

INTERVENOR: North County Communications

REQUEST NO: 001

Please provide a list of all current Qwest ICAs (including the party) where there is no express limitation on the use of MF technology. This includes any ICAs that have expired terms, but which Qwest is still operating under.

RESPONSE:

There are three agreements that do not contain limitations on MF technology. Two of these agreements are expired. The third agreement does not contain a Section 7, because the CLEC does not interconnect with Qwest.

State	Company	Status
Arizona	Budget PrePay Inc. (fka Budget Phone Inc.)	Expired 7-7-05 -Evergreen
Arizona	DIECA Communications Inc. dba Covad Communications Company	Expired 6-30-09 - Evergreen
Arizona	Matrix Telecom, Inc. dba Matrix Business Technologies	Active - No Section 7 Interconnection

Respondent: Renee Albersheim

Arizona  
Docket No. T-01051B-09-0383 and Docket  
No. T-03335A-09-0383  
NCC 1-002

INTERVENOR: North County Communications

REQUEST NO: 002

Please provide a list of all current Qwest ICAs (including the party) that do not have a per DSL cap on billable minutes. This includes any ICAs that have expired terms, but which Qwest is still operating under.

RESPONSE:

There are no current ICAs in Arizona with a cap on billable minutes, because no other party has asked to interconnect with Qwest using MF signaling. Therefore, the response to this data request is all current ICAs in Arizona, which are included in Attachment "A" to this response.

Respondent: Renee Albersheim

ARIZONA  
DOCKET NO. T-01051B-09-0383/T-03335A-09-0383  
NCC SET 1, NO. 002  
ATTACHMENT "A"

State	Company (shaded agreements are considered Adoptable based on Expiration Date)	Status / Expiration Date
Arizona	1-800-Reconex Inc. dba USTel	Expired - Evergreen
Arizona	360networks (USA) inc.	3/31/2009 - Evergreen
Arizona	AboveNet, Inc.	4/30/2012
Arizona	Access Point, Inc.	6/30/2011
Arizona	ACN Communication Services Inc.	Expired - Evergreen
Arizona	American Fiber Network Inc.	3/31/2009 - Evergreen
Arizona	Arizona Dialtone, Inc.	Expired - Evergreen
Arizona	AT&T Communications of the Mountain States, Inc.	6/4/2007 - Evergreen
Arizona	AZX Connect LLC	9/30/2008 - Evergreen
Arizona	Bandwidth.com CLEC, LLC	6/1/2011
Arizona	BLC Management, LLC dba Angles Communication Solutions	2/28/2012
Arizona	BridgeBand Communications Inc.	Expired - Evergreen
Arizona	Broadband Dynamics LLC	6/30/2009 - Evergreen
Arizona	Budget PrePay Inc. (fka Budget Phone Inc.)	Expired - Evergreen
Arizona	Bullseye Telecom Inc.	Expired - Evergreen
Arizona	Cbeyond Communications, LLC	3/1/2010 - Evergreen
Arizona	CCG Communications LLC	Expired - Evergreen
Arizona	Citynet Arizona LLC	Expired - Evergreen
Arizona	Clertech.com, Incorporated	9/30/2011
Arizona	Comcast Phone of Arizona, LLC dba Comcast Digital Phone	3/1/2010 - Evergreen
Arizona	CommPartners LLC	5/31/2009 - Evergreen
Arizona	Comtel Telecom Assets LP dba Excel Telecommunications	Expired - Evergreen
Arizona	Comtel Telecom Assets LP dba VarTec Telecom	Expired - Evergreen
Arizona	Cordia Communications Corp.	3/31/2009 - Evergreen
Arizona	Cox Arizona Telecom, L.L.C.	1/21/2013
Arizona	Curatel, LLC	10/1/2012
Arizona	Cypress Communications Operating Company Inc.	Expired - Evergreen
Arizona	DIECA Communications Inc. dba Covad Communications Company	6/30/2009 - Evergreen
Arizona	Digital Telecommunications, Inc.	7/31/2012
Arizona	DSLnet Communications, LLC	4/30/2012
Arizona	Electric Lightwave LLC	Expired - Evergreen
Arizona	EMC Telecom Corporation	11/30/2011

ARIZONA  
DOCKET NO. T-01051B-09-0383/T-03335A-09-0383  
NCC SET 1, NO. 002  
ATTACHMENT "A"

Arizona	EnTelegent Solutions, Inc.	6/30/2012
Arizona	Ernest Communications Inc.	7/1/2011
Arizona	Eschelon Telecom of Arizona, Inc.	12/8/2012
Arizona	First Communications LLC (fka New Access Communications LLC)	Expired - Evergreen
Arizona	Gila Local Exchange Carrier, Inc.	3/1/2010 - Evergreen
Arizona	Global Connection Inc. of America	Expired - Evergreen
Arizona	Global Crossing Local Services, Inc.	3/1/2011
Arizona	Globetel, Inc.	2/1/2010 - Evergreen
Arizona	Granite Telecommunications LLC	Expired - Evergreen
Arizona	Greenfly Networks, Inc. dba Clearly Communications	5/30/2012
Arizona	IDT America Corp.	Expired - Evergreen
Arizona	Integra Telecom of Arizona Inc.	Expired - Evergreen
Arizona	KMC Data, LLC	3/3/2008 - Evergreen
Arizona	Level 3 Communications LLC	6/29/2009 - Evergreen
Arizona	Lightyear Network Solutions LLC	Expired - Evergreen
Arizona	Looking Glass Networks Inc.	6/29/2009 - Evergreen
Arizona	Matrix Telecom, Inc. dba Matrix Business Technologies	8/31/2012
Arizona	MCC Telephony of the West, LLC	6/1/2011
Arizona	MCImetro Access Transmission Services LLC	10/18/2009 - Evergreen
Arizona	McLeodUSA Telecommunications Services, Inc. dba PAETEC Business Services	Expired - Evergreen
Arizona	Metropolitan Telecommunications of Arizona Inc.	Expired - Evergreen
Arizona	Mountain Telecommunications, Inc.	Expired - Evergreen
Arizona	National Brands Inc. (aka Sharenet Communications Company)	10/31/2008 - Evergreen
Arizona	Navigator Telecommunications, LLC	3/20/2009 - Evergreen
Arizona	Neutral Tandem Inc.	7/14/2013
Arizona	New Edge Network Inc. dba New Edge Networks	Expired - Evergreen
Arizona	New Rochelle Telephone Corp.	Expired - Evergreen
Arizona	NextG Networks of California Inc. dba NextG Networks West	7/31/2009 - Evergreen
Arizona	North County Communications Corporation of Arizona	Expired - Evergreen
Arizona	NorthStar Telecom Inc.	Expired - Evergreen
Arizona	OrbitCom Inc.	Expired - Evergreen
Arizona	Pacific Centrex Services Inc. - PCS1	Expired - Evergreen
Arizona	Pacific Telecom Communications Group, Inc.	4/1/2013

ARIZONA  
DOCKET NO. T-01051B-09-0383/T-03335A-09-0383  
NCC SET 1, NO. 002  
ATTACHMENT "A"

Arizona	Pac-West Telecomm, Inc.	6/8/2010 - Evergreen
Arizona	Peerless Network of Arizona, LLC	9/20/2012
Arizona	Pipertel Communications LLC	5/25/2008 - Evergreen
Arizona	POPP.com Inc.	12/8/2012
Arizona	Preferred Long Distance Inc.	4/28/2008 - Evergreen
Arizona	Prime Time Ventures LLC	Expired - Evergreen
Arizona	QuantumShift Communications, Inc., dba vCom Solutions	11/30/2011
Arizona	Qwest Communications Corporation	12/20/2007 - Evergreen
Arizona	Rural Network Services, Inc.	4/24/2008 - Evergreen
Arizona	SBC Long Distance LLC dba AT&T Long Distance	Expired - Evergreen
Arizona	Sprint Communications Company L.P.	Expired - Evergreen
Arizona	Talk America Inc.	Expired - Evergreen
Arizona	TCG Phoenix	6/3/2007 - Evergreen
Arizona	TelLogic dba Quality Telephone Inc.	Expired - Evergreen
Arizona	Telscape Communications Inc.	Expired - Evergreen
Arizona	Time Warner Cable Information Services (Arizona), LLC	1/21/2013
Arizona	Trans National Communications International Inc.	3/31/2009 - Evergreen
Arizona	Triarch Marketing Inc. dba Triarch Communications	2/18/2012
Arizona	tw telecom of arizona llc (fka Time Warner Telecom of Arizona LLC)	Expired - Evergreen
Arizona	Valley Connections L.L.C.	Expired - Evergreen
Arizona	ValuTel Communications Inc.	11/15/2008 - Evergreen
Arizona	Vilaire Communications Inc.	5/15/2009 - Evergreen
Arizona	Wholesale Carrier Services, Inc.	3/1/2011
Arizona	WiFiTel Local Network LLC	Expired - Evergreen
Arizona	XO Communications Services, Inc.	8/1/2011
Arizona	Ygnition Networks, Inc.	3/31/2009 - Evergreen
Arizona	Ymax Communications Corp.	10/1/2010 - Evergreen
Arizona	Zayo Bandwidth, LLC	6/30/2011

Arizona  
Docket No. T-01051B-09-0383 and Docket  
No. T-03335A-09-0383  
NCC 1-003

INTERVENOR: North County Communications

REQUEST NO: 003

Please provide a list of all current Qwest ICAs (including the party) that do not allocate VNXX minutes to the terminating party when calculating the relative use factor. This includes any ICAs that have expired terms, but which Qwest is still operating under.

RESPONSE:

Please see Attachment "A" for a list of agreements that do not allocate VNXX minutes to the terminating party. The bulk of these agreements do not even mention VNXX as they were created prior to the Commission's order in the Level 3 Arbitration in December, 2006. The two agreements created subsequent to the Commission order are Bill and Keep agreements, and therefore have no need of language regarding the allocation of VNXX minutes. The only agreement on the list that has not expired, and is therefore adoptable, is a Bill and Keep agreement.

Respondent: Renee Albersheim

ICAs containing no terms regarding VNXX	Agreement Effective	Agreement Expires
North County Telecommunications Corporation of Arizona	11/22/1997	Expired - Evergreen
Mountain Telecommunications, Inc.	8/27/1999	Expired - Evergreen
Integra Telecom of Arizona Inc.	6/30/2000	Expired - Evergreen
Electric Lightwave LLC	9/18/2000	Expired - Evergreen
McLeodUSA Telecommunications Services, Inc. dba PAETEC Business Services	12/14/2000	Expired - Evergreen
First Communications LLC (fka New Access Communications LLC)	8/10/2001	Expired - Evergreen
Arizona Dialtone, Inc.	11/8/2001	Expired - Evergreen
Comtel Telecom Assets LP dba VarTec Telecom	3/7/2002	Expired - Evergreen
SBC Long Distance LLC dba AT&T Long Distance	5/31/2002	Expired - Evergreen
Budget PrePay Inc. (fka Budget Phone Inc.)	10/28/2002	Expired - Evergreen
BridgeBand Communications Inc.	11/5/2002	Expired - Evergreen
Comtel Telecom Assets LP dba Excel Telecommunications	11/5/2002	Expired - Evergreen
New Edge Network Inc. dba New Edge Networks	12/25/2002	Expired - Evergreen
ACN Communication Services Inc.	7/20/2003	Expired - Evergreen
Cypress Communications Operating Company Inc.	10/20/2003	Expired - Evergreen
Citynet Arizona LLC	1/26/2004	Expired - Evergreen
IDT America Corp.	1/26/2004	Expired - Evergreen
WiTel Local Network LLC	1/26/2004	Expired - Evergreen
Sprint Communications Company L.P.	4/15/2004	Expired - Evergreen
Telscape Communications Inc.	4/21/2004	Expired - Evergreen
Granite Telecommunications LLC	5/3/2004	Expired - Evergreen
AT&T Communications of the Mountain States, Inc.	6/5/2004	Expired - Evergreen
Lightyear Network Solutions LLC	7/12/2004	Expired - Evergreen
Talk America Inc.	9/15/2004	Expired - Evergreen
1-800-Reconex Inc. dba USTel	10/18/2004	Expired - Evergreen
tw telecom of arizona llc (fka Time Warner Telecom of Arizona LLC)	10/18/2004	Expired - Evergreen
TelLogic dba Quality Telephone Inc.	11/8/2004	Expired - Evergreen
Qwest Communications Corporation	12/20/2004	Expired - Evergreen
Valley Connections L.L.C.	1/12/2005	Expired - Evergreen
NorthStar Telecom Inc.	1/22/2005	Expired - Evergreen
Bullseye Telecom Inc.	2/2/2005	Expired - Evergreen
Rural Network Services, Inc.	4/24/2005	Expired - Evergreen

Preferred Long Distance Inc.	4/28/2005	Expired - Evergreen
New Rochelle Telephone Corp.	5/11/2005	Expired - Evergreen
Metropolitan Telecommunications of Arizona Inc.	5/21/2005	Expired - Evergreen
Pipertel Communications LLC	5/25/2005	Expired - Evergreen
Prime Time Ventures LLC	6/21/2005	Expired - Evergreen
OrbitCom Inc.	1/23/2006	Expired - Evergreen
Global Connection Inc. of America	2/28/2006	Expired - Evergreen
CCG Communications LLC	3/7/2006	Expired - Evergreen
Pacific Centrex Services Inc. - PCS1	6/2/2006	Expired - Evergreen
DIECA Communications Inc. dba Covad Communications Company	9/30/2006	Expired - Evergreen
KMC Data, LLC	2/18/2007	Expired - Evergreen
Matrix Telecom, Inc. dba Matrix Business Technologies	10/14/2009	Expires 8/31/2012

Arizona  
Docket No. T-01051B-09-0383 and Docket  
No. T-03335A-09-0383  
NCC 1-004

INTERVENOR: North County Communications

REQUEST NO: 004

Please provide the name and contact information for Qwest's Lucent and Northern Telecom service representatives.

RESPONSE:

Qwest's Genband service representative contact is Darren Landry ([darren.landry@genband.com](mailto:darren.landry@genband.com)). Genband requests that any communications that NCC initiates regarding Northern Telecom be directed to its law department through Christina Gomez ([christina.gomez@genband.com](mailto:christina.gomez@genband.com)). Qwest's Lucent service representative contact is Eric Jaramillo ([eric.jaramillo@alcatel-lucent.com](mailto:eric.jaramillo@alcatel-lucent.com)), who also may engage Lucent's Legal Department.

Respondent: Philip Linse

Arizona  
Docket No. T-01051B-09-0383 and Docket  
No. T-03335A-09-0383  
NCC 2-005

INTERVENOR: North County Communications

REQUEST NO: 005

Please provide a list of list of all CLECs and ILECs that have MF  
interconnection trunks with Qwest?

RESPONSE:

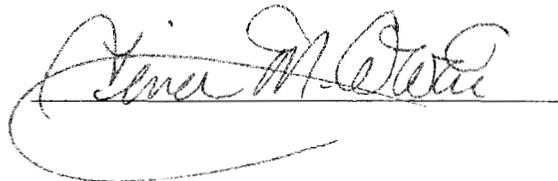
North County Communications is the only CLEC that has MF interconnection  
trunks with Qwest, and Arizona Telephone Co. is the only ILEC that has MF  
trunks with Qwest in Arizona.

Respondent: Philip Linse

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the foregoing Qwest Corporation's Responses to North County Communications Corporation's First Set of Data Requests, Nos. 1, 2, 3 and 4, and Qwest Corporation's Response to North County Communications Corporation's Second Set of Data Requests, No. 5, to be sent via electronic delivery only on January 5, 2011, to the following:

Anthony McNamer, Esquire  
McNamer & Company PC  
920 SW Third  
Suite 200  
Portland, Oregon 97214  
anthony@mcnamerlaw.com

A handwritten signature in black ink, appearing to read "Anthony McNamer", is written over a horizontal line. The signature is cursive and includes a large, sweeping flourish that extends to the left and then curves back under the line.

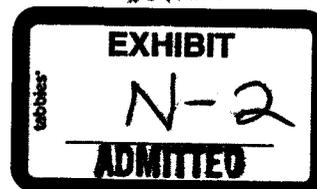
**ORIGINAL**



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DOCKET NO. T-01051B-09-0383  
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**BEFORE THE  
ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS:**

- KRISTEN K. MAYES - Chairman
- GARY PIERCE
- PAUL NEWMAN
- SANDRA D. KENNEDY
- BOB STUMP

**IN THE MATTER OF QWEST CORPORATION'S  
PETITION FOR ARBITRATION AND APPROVAL  
OF INTERCONNECTION AGREEMENT WITH  
NORTH COUNTY COMMUNICATIONS  
CORPORATION OF ARIZONA PURSUANT TO  
SECTION 252(B) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED BY THE  
TELECOMMUNICATIONS ACT OF 1996 AND  
APPLICABLE STATE LAWS.**

**DIRECT TESTIMONY OF TODD LESSER**

**DECEMBER 15, 2010**

Arizona Corporation Commission  
**DOCKETED**  
DEC 15 2010



DOCKET NOS. T-01051B-09-0383  
AND T-03335A-09-0383

**DIRECT TESTIMONY NORTH COUNTY  
COMMUNICATIONS CORPORATION OF  
ARIZONA (TODD LESSER)**

**DIRECT TESTIMONY OF TODD LESSER**

1  
2 **Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 **A:** My name is Todd Lesser. My business address is 3802 Rosecrans Street, No. 485, San  
4 Diego, California 92110. My telephone number is (619) 364-4750.

5  
6 **Q: WHAT ARE YOU TESTIFYING ABOUT?**

7 **A:** I am testifying about all aspects of North County's business, the Telecom Act, the relevant  
8 technology, and the proposed interconnection agreement ("ICA"). I'm effectively  
9 testifying about all relevant facts and issues.

10  
11 **Q: PLEASE DESCRIBE YOUR QUALIFICATIONS AND EXPERIENCE AS THEY  
12 RELATE TO THIS PROCEEDING.**

13 **A:** I am the President of North County Communications Corporation (hereinafter "NCC"),  
14 and I have held that position since 1995. NCC is a privately-held, facilities-based  
15 competitive local exchange carrier ("CLEC") in San Diego, California. NCC entered the  
16 Arizona market after the Arizona Corporation Commission ("ACC") granted NCC a  
17 Certificate of Public Convenience and Necessity ("CC&N") in December of 1999. I have  
18 substantial experience in telecommunications, including obtaining local interconnection  
19 with a number of Bell operating companies including Qwest, AT&T, and Verizon. I've  
20 worked in the telecommunications industry for approximately 27 years.

21  
22 **Q. HAVE YOU EVER TESTIFIED BEFORE?**

23 **A.** Yes, I have testified as a technical expert before the Illinois Commerce Commission, the  
24 West Virginia Public Utilities Commission, the California Public Utilities Commission,  
25 and the Federal Trade Commission. I have also testified as a fact witness and technical  
26 expert before the Washington Utilities and Transportation Commission and the Oregon  
27 Public Utilities Commission.

28  
DOCKET NOS. T-01051B-09-0383  
AND T-03335A-09-0383

- 2 -

DIRECT TESTIMONY NORTH COUNTY  
COMMUNICATIONS CORPORATION OF  
ARIZONA (TODD LESSER)

1 Q. DID YOU NEGOTIATE YOUR ICA WITH QWEST?

2 A. Yes.

3

4 Q. DOES IT CONTAIN A MANDATORY BINDING ARBITRATION CLAUSE?

5 A. No.

6

7 Q. QWEST FEELS THAT BINDING ARBITRATION IS NECESSARY IN THIS  
8 CASE EVEN THOUGH THE CONTRACT DOESN'T SAY IT. DO YOU AGREE  
9 WITH THIS STATEMENT?

10 A. No. This is basic contract law. A first-year law student could read the contract and see  
11 that the contract doesn't allow forced arbitration. I designed my whole network and  
12 business plan on this ICA. I expected the agreement to remain in effect and be modified  
13 as necessary, not to be changed arbitrarily and unilaterally because Qwest wants to make  
14 change. I would have never signed an agreement with Qwest that had a provision forcing  
15 arbitration.

16

17 Q. WHY NOT?

18 A. We are a small company. The cost of this arbitration in legal fees will eat up years of  
19 income. Frankly, we may end up going out of business in Arizona over this.

20

21 Q: PLEASE DESCRIBE THE TYPE OF INTERCONNECTION NCC HAS  
22 OBTAINED TO DEPLOY ITS LOCAL TELECOMMUNICATIONS SERVICES.

23 A: In deploying local telecommunications services to its customers, NCC has established  
24 interconnection with Qwest, AT&T and Verizon. Through my experience at NCC, I have  
25 knowledge of the interconnection practices and procedures of those carriers.

26

27

28

DOCKET NOS. T-01051B-09-0383  
AND T-03335A-09-0383

- 3 -

DIRECT TESTIMONY NORTH COUNTY  
COMMUNICATIONS CORPORATION OF  
ARIZONA (TODD LESSER)

1 hours in Washington, DC, Maryland, Virginia, and West Virginia. Pacific Bell had an  
 2 outage of three and a half million lines on the same day for a few hours. This was all  
 3 caused by one SS7 problem in Baltimore, Maryland, where a bad circuit board disabled  
 4 the whole network. SS7 has single points of failure. If your SS7 links or your STP fails,  
 5 your entire network goes down. With MF signaling, each call receives the call routing  
 6 direction on that specific trunk. If you have a problem with MF, only one trunk or T1  
 7 goes down – not your whole network. In fact, many carriers around the country use MF  
 8 signaling for 911 trunks even when the rest of their network is SS7. MF signaling is much  
 9 more reliable than SS7 signaling. If SS7 was so much more reliable than the first trunks  
 10 to be converted to SS7 would have been 911 trunks. I can't think of a more important  
 11 type of call than a 911 call. Qwest has admitted that it and most, if not all, carriers have  
 12 911 trunks that were MF.

13  
 14 **Q. IN THIRTEEN YEARS, HAS NORTH COUNTY EVER HAD AN OUTAGE WITH**  
 15 **QWEST WITH ITS MF TRUNKS?**

16 **A.** No.

17  
 18 **Q. DO MF CIRCUITS AND EQUIPMENT REQUIRE MORE MAINTENANCE?**

19 **A.** No. When you dial a telephone number at your house, the touch tones are in band  
 20 signaling. The interoffice MF trunks are just a different set of tones. In the 1960's there  
 21 were transistorized MF transmitters and receivers. Today, they are all done with Digital  
 22 Single Processors or DSPs. Those don't have issues. In fifteen years, NCC has never  
 23 had a DSP card go bad.

24  
 25 **Q. DOES MF LIMIT THE NUMBER OF CARRIERS OR THE SIZE OF THE**  
 26 **RECORDING CAPABILITY IN COMPARISON TO SS7?**

27 **A.** No. Whether the signaling for call set up is sent in band or out of band with SS7, you still  
 28 need to record it. In fact, SS7 has a lot more parameters to record.

1 Q. IS SS7 RECORDING MORE ACCURATE?

2 A. No. In fact, in one jurisdiction, we proved that the SS7 recordings were incorrect by  
3 swapping call detail recording from our central office switch. The SS7 recordings weren't  
4 recording all the calls because the instructions the monitor was given were not correct.  
5 CDR (Call Detail Recordings) from MF trunks are so simple, you don't have problems  
6 like that.

7  
8 TRACKING MINUTES

9 Q. DO YOU INTERCONNECT WITH VERIZON AND AT&T USING MF  
10 SIGNALING?

11 A. Yes.

12  
13 Q. DO VERIZON AND AT&T HAVE THE ABILITY TO TRACK THE MINUTES  
14 OF USE?

15 A. Yes.

16  
17 Q. QWEST ASSERTS THAT IT DOESN'T HAVE THE ABILITY TO TRACK  
18 USAGE FOR MF. IS THIS CORRECT?

19 A. No. It is a complete fabrication. AT&T and Verizon have the exact same central offices  
20 as Qwest. What Qwest is saying simply doesn't make sense. If it were unable to track  
21 MF usage, that would mean that it would never be able to track minutes when its entire  
22 network was MF and/or when it had long distance interexchange carriers ("IXCs")  
23 interconnect with Qwest by MF. So for decades they have been billing long distance  
24 carriers without having any ability to track usage? We have had, from Qwest, IXC trunk  
25 groups (Feature Groups B and D) that are MF. Qwest has always been able to bill us for  
26 originating and terminating traffic on those trunk groups. Local interconnections trunks  
27 are no different than IXC trunk groups. They use the exact same equipment. The only  
28 difference is the class of service on the trunks. Importantly, prior to Qwest's request to

1 enter into a new agreement, we never had a single billing issue. We've gone 13 years  
2 without one issue with billing, but now that they want to force a new, untested, agreement  
3 upon us all of the sudden there are billing issues.  
4

5 **Q. DOES QWEST HAVE THE ABILITY TO TRACK AND BILL CALLS MADE ON**  
6 **MF TRUNKS?**

7 **A.** Absolutely. We have had MF long distance trunks for years with Qwest. If someone  
8 dials our CIC code (i.e., incoming call) or if we make an outbound call on Qwest's  
9 network, Qwest tracks the calls and bills us for the usage. Moreover, if Qwest claims we  
10 are the only carrier with MF technology, then Qwest can simply subtract the total number  
11 of SS7 minutes from the total number of minutes and that simple formula will provide the  
12 number of MF minutes, and thus the number of minutes terminating to NCC.  
13

14 **Q. DO MF TRUNKS HAVE THE CAPABILITY TO PROVIDE CALLING PARTY**  
15 **INFORMATION?**

16 **A.** Yes. Although, for some unknown reason, Qwest won't let us send it to them on our local  
17 interconnection trunks like they do for our long distance trunks. To repeat, Qwest allows  
18 us to send calling party information on our long distance MF trunks. In addition, Qwest  
19 won't send us calling party information when it delivers calls to us.  
20

21 **Q. DOES QWEST HAVE THE TECHNICAL ABILITY TO GIVE YOU ANI ON MF**  
22 **TRUNK GROUPS?**

23 **A.** Yes. This is a simple Class of Service option on the trunk group. Qwest gives us ANI on  
24 our MF long distance trunks. Other ILECs have given us ANI on our local  
25 interconnection trunks. In fact, I recently turned up a trunk group with another carrier  
26 that gave us ANI over MF for local traffic.  
27  
28

1 Q. ARE ANY OTHER CARRIERS IN ARIZONA GIVING NCC ANI ON MF TRUNK  
2 GROUPS?

3 A. Yes, Neutral Tandem.  
4

5 Q. IS NEUTRAL TANDEM ABLE TO TRACK NCC'S OUTBOUND MINUTES?

6 A. Yes.  
7

8 Q. IN YOUR WASHINGTON ARBITRATION, QWEST STATED THAT THE ICA  
9 DEFINES ANI AS ONLY USING FEATURE GROUP D LONG DISTANCE  
10 TRUNKS. WHAT ARE YOUR THOUGHTS ON THIS?

11 A. First, ANI stands for "Automatic Number Identification." The definition wasn't that well  
12 worded in the agreement, but this is an industry standard term. The definition simply said  
13 ANI is used in Feature Group D signaling. It never said ANI can't be provided in other  
14 signaling formats. For example, you can get ANI on ISDN. ISDN isn't Feature Group D  
15 format. Under the existing agreement, Qwest delivers ANI if you have SS7. The way  
16 they are attempting to define it now would mean that you shouldn't get ANI over SS7  
17 local interconnection trunks; you should only get ANI over SS7 Feature Group D long  
18 distance trunks. Clearly, they are misinterpreting the definition.  
19

20 Q. DOES THIS DEFINITION DISPUTE TROUBLE YOU?

21 A. Absolutely. This is why the Commission shouldn't allow Qwest simply to scrap our  
22 existing agreement. Even if the Commission agrees with Qwest's position that certain  
23 things should be added, the new items should be added to our existing agreement. Qwest  
24 is unwilling to state all the material changes to the agreement or how they will interpret it  
25 differently from the existing agreement. I had a similar issue when I lost an arbitration  
26 with Verizon in Oregon over a definition. The language in our agreement was as clear as  
27 day: Verizon was required to pay for all traffic, including ISP traffic. The judge ruled that  
28 Verizon felt they should never have to pay for ISP traffic. Under the law, you are required

1 to have a meeting of the minds for there to be a contract. Since Verizon was able to  
2 fabricate a lack of meeting of the minds, the court found there was no contract and  
3 Verizon did not have to pay. I can't guess by reading Qwest's new agreement how they  
4 interpret every provision. Although, I know how they have interpreted our existing  
5 agreement for 13 years.

6  
7 **Q. WHAT DID QWEST SAY WHEN YOU ASKED THEM TO GIVE YOU ANI?**

8 **A.** They said our agreement doesn't require them to give it to us. In other words, they are  
9 creating a situation that causes a potential for billing problems.

10  
11 **Q. ARE YOU SAYING THAT IF THEY PROVIDED YOU WITH ANI ON YOUR**  
12 **INTERCONNECTION TRUNKS THAT YOU COULD GIVE THEM ALL THE**  
13 **INFORMATION THEY NEED TO VALIDATE THE BILLING AND ADDRESS**  
14 **ALL OF THEIR CONCERNS?**

15 **A.** Absolutely. It is a common practice in the industry to swap or provide EMI files if there  
16 is a billing dispute.

17  
18 **Q. WHAT WOULD IT COST THEM TO PROVIDE YOU THE ANI?**

19 **A.** Nothing. It is just a Class of Service change on our trunk group. They simply type a few  
20 commands into the computer.

21  
22 **Q: QWEST HAS TAKEN THE POSITION THAT THEY CAN ONLY TAKE PEG**  
23 **COUNTS OF MF TRAFFIC AND NOT ACTUAL USAGE, IS THAT TRUE?**

24 **A:** Absolutely not. Let me explain. A PEG counter is a simplistic way to count call totals.  
25 All Central Office ("Cos") on the Qwest network follow the Telcordia Document LATA  
26 Switching System Generic Requirements ("LSSGR"). One of those requirements is the  
27 switch has a Call Detail Recording ("CDR"). In other words, every outbound and  
28 inbound call that is made or received is electronically recorded with all the call details.

1 **Q. HAVE YOU INTERCONNECTED WITH ANOTHER CARRIER BY MF OVER**  
2 **LOCAL INTERCONNECTION TRUNKS AND SENT CALLING PARTY**  
3 **INFORMATION?**

4 **A.** Yes. Other carriers have provided us with the information, and we have provided the  
5 information to other carriers. They even had the same type of switch that Qwest has on  
6 their network.

7  
8 **Q. WHY WON'T QWEST PROVIDE IT TO YOU WHEN THEY HAVE THE**  
9 **CAPABILITY?**

10 **A.** This is a simple trunk configuration. I suspect they are doing it in an attempt to force us  
11 to switch to SS7. SS7 will significantly increase our cost in each market. Frankly, even  
12 if only our switch was SS7, the monthly fees to support SS7 would make us unprofitable.  
13 Qwest knows this. They want us to switch to SS7 because then they can charge us for the  
14 SS7 links and the queries. So by forcing us to switch to SS7, they give themselves  
15 another profit center.

16  
17 **Q. HAS QWEST PROVIDED ANY PROOF TO SUPPORT ITS STATEMENT THAT**  
18 **THE LUCENT AND NORTHERN TELECOM CENTRAL OFFICES CANNOT**  
19 **PROVIDE ANI ON INTERCONNECTION TRUNKS?**

20 **A.** No and we have asked. This is our third arbitration over this issue and they still haven't  
21 provided the name of a single individual at those companies to support these claims.

22  
23 **Q. HAVE OTHER CARRIERS THAT HAVE THE SAME CENTRAL OFFICES AS**  
24 **QWEST PROVIDED NCC WITH ANI OVER LOCAL INTERCONNECTION**  
25 **TRUNKS?**

26 **A.** Yes. Frontier, Verizon and Pymatuning Telephone Company have provided it to us.  
27  
28

CONVERSION TO SS7

1  
2 **Q. WHAT IS THE LIFESPAN OF YOUR CENTRAL OFFICES?**

3 **A.** The lifespan in the industry is generally 20 to 30 years for a central office.  
4

5 **Q. QWEST WOULD LIKE NCC TO SWITCH TO SS7. IS THAT FAIR?**

6 **A.** We agreed to interconnect by MF, and MF is still a supported industry standard. It isn't  
7 fair to make us throw away our equipment. Qwest has a lot more resources than we do.  
8 They knew the lifespan of central office switches when they signed the interconnection  
9 agreement. Just because they installed SS7-capable switches when they got rid of their  
10 older CO switches doesn't mean we should have to get rid of our switches. Our switches  
11 have many years of useful life left. Qwest operates under a double standard. It was fine  
12 to have MF in the agreement when they had MF only switches, but when we do, it is no  
13 longer fine. A perfect analogy is that new switches support SIP, G.729, GSM, and ISDN  
14 and lots of other standards. All of these are out of band signaling.

15 It would be like me telling Qwest that they have to replace all their Lucent #5ESS  
16 and Northern Telecom Switches to support SIP. SIP is a lot more "efficient" than Time  
17 Division Multiplexing ("TDM") used by MF and SS7 trunks. SIP even supports video.  
18 This is what Skype and AIM/iChat use. Many wireless carriers use GSM compression.

19 If we switched to SS7, we would never make the money back. If we don't switch  
20 under the proposed ICA, we won't be compensated by Qwest for interconnection. In  
21 either case, Qwest will force us out of business in Arizona. Indeed, the cost of this  
22 arbitration may force us out of business in Arizona.  
23

24 **Q. QWEST WANTS YOU TO AGREE TO CONVERT TO SS7 IF YOU START**  
25 **MAKING CALLS. IS THIS NECESSARY?**

26 **A.** Absolutely not. AT&T, Verizon and Neutral Tandem are able to bill us for outbound call  
27 on our MF trunk groups for local and long distance calls. Qwest is able to bill us on our  
28 long distance MF trunk groups. Saying they don't have the ability to do it for local calls

1 simply untrue. They would have you believe that tracking and recording MF is a lost art.  
2 With all due respect, they have service contracts with Lucent and Northern Telecom. If  
3 they can't figure out how to do it, their service providers surely can. They have the  
4 resources. Clearly AT&T, Verizon and hundreds if not thousands of rural phone  
5 companies in the U.S. know how to do it.  
6

7 **Q. WHAT WOULD THIS FORCED CONVERSION ENTAIL?**

8 A. We would be required to scrap our entire network well in advance of its useful lifespan.  
9 This is completely unreasonable and prohibitively expensive.  
10

11 **Q. HOW DOES THE NEW AGREEMENT FORCE YOU TO CONVERT TO SS7?**

12 A. If we don't, we cannot do any outbound traffic and Qwest can terminate an unlimited  
13 amount of calls on our network but has to pay only for the first 10,000 minutes.  
14

15 **Q. WOULD SS7 TRUNKS REQUIRE YOU TO GET A NEW SWITCH?**

16 A. Yes.  
17

18 **Q. IS QWEST REQUIRING THE RURAL ILECS TO CONVERT TO SS7 TO  
19 INTERCONNECT WITH THEM?**

20 A. No. Nothing in the Telecom Act allows them to dictate that the trunks be configured  
21 using SS7. Again, they are the ones who decided to change their trunks from the MF  
22 trunks we both were using when we interconnected. Now they want to force us to convert  
23 to their technology, and they claim that the change is imperative even though for almost  
24 14 years there were almost no issues with MF signaling. Indeed, Qwest's conversion to  
25 SS7 in their last central offices was completed only recently. So Qwest sought to require  
26 our conversion before their conversion was complete. In addition, I suspect by the way  
27 they answered the discovery questions (or more accurately, failed to answer the discovery  
28 questions) that they still have MF trunks on their network; they just added SS7 service.

1 As between Qwest using the resources it has to properly track MF, and North County  
2 being forced to either convert to SS7 or receive nothing for the provision of its services,  
3 equity dictates that Qwest should bear the burden of its technology choices. This is  
4 particularly true where, as here, a small CLEC built its system based on Qwest's prior  
5 requirements and a valid ICA drafted by Qwest.  
6

7 **Q. DOES QWEST STILL HAVE MF TRUNKS IN THEIR CENTRAL OFFICES?**

8 **A.** I don't know. Qwest has refused to answer the question.  
9

10 **Q. DOES QWEST HAVE MF INTERCONNECTION TRUNKS WITH ANY OF THE**  
11 **ILECS THEY INTERCONNECT WITH?**

12 **A.** I don't know. Qwest has refused to answer the question. They only mentioned one ILEC  
13 that exclusively has MF trunks.  
14

15 **Q. DO YOU KNOW IF QWEST HAS MF TRUNKS WITH ANY OTHER CLEC?**

16 **A.** I don't know. Qwest has refused to answer the question.  
17

18 **Q. SHOULD THAT ILEC BE PERMITTED TO INTERCONNECT WITH QWEST**  
19 **ON A TWO-WAY BASIS WHILE NCC IS PROHIBITED FROM**  
20 **INTERCONNECTING IN THE SAME FASHION?**

21 **A.** No. The Telecom Act prohibits Qwest from discriminating against CLECs.  
22

23 **Q. QWEST SAYS SS7 IS THE INDUSTRY STANDARD FOR INTERCONNECTION**  
24 **IS THIS CORRECT?**

25 **A.** No, it is simply one of several acceptable industry standards, as is MF. In fact, one of the  
26 new standards of interconnection between carriers is SIP. Qwest refuses to interconnect  
27 by SIP and Voice over Internet Protocol ("VoIP"). SIP would also address all of Qwest's  
28 concerns. We have the capability to interconnect by SIP. We would like to interconnect

1 using ISDN or SIP; however, Qwest refuses to interconnect using either of those  
2 standards. Again, Qwest is simply trying to force NCC to bear the burden of Qwest's  
3 technology choices. In fact, we just interconnected with Neutral Tandem a few months  
4 ago using MF.

5  
6 **Q. IS IT UNREALISTIC FOR NCC TO MAINTAIN ITS MF TECHNOLOGY AND**  
7 **NOT CONVERT TO "NEWER" TECHNOLOGY?**

8 **A.** While new technology may be introduced, Qwest doesn't get to dictate when the  
9 technology changes and to what. This is why the agreement required negotiations but not  
10 arbitration. We have a joke in the industry when we talk about computers and when  
11 someone says a computer is slow. We always respond: It is as fast as the day we bought  
12 it. It does the job it was designed to do. There is always new technology, but one party  
13 doesn't get to decide when to make the leap to change. I remember when we used to  
14 receive magnetic billing tapes from Qwest. We asked them to send them via the Internet,  
15 CD or even a floppy disk – floppy disks had been out for over 15 years by then – but they  
16 wouldn't do it. We had to go buy some antiquated mag tape reader that cost \$5,000. We  
17 would love to connect to Qwest with SIP. Most carriers in the country are moving to  
18 VoIP networks, but Qwest won't allow us to interconnect that way. I'm almost certain  
19 that Qwest's long distance network even has VoIP-to-VoIP circuits on it. We would love  
20 to have compression on our circuits. This would be a lot more efficient use of bandwidth,  
21 but they won't allow that either.

22  
23 **Q. DOES THE TELECOM ACT ALLOW QWEST TO DICTATE THE**  
24 **INTERCONNECTION STANDARD?**

25 **A.** No, just like NCC can't force Qwest to interconnect with us using SIP.

26  
27 **Q. HAVE YOU OFFERED ANY OTHER SOLUTIONS FOR QWEST?**

28 **A.** Yes, NCC offered to interconnect with them through a third party tandem provider such a

1 Neutral Tandem. The third party would connect to Qwest using SS7 and connect with us  
2 using MF. Everyone should be happy.

3  
4 **ARBITRARY BILLING CAP**

5 **Q. HOW MANY MINUTES COULD YOUR LINES SUPPORT PER MONTH?**

6 **A.** One million minutes per T1. So under Qwest's proposal, they could terminate millions of  
7 minutes on our networks and only pay for 10,000. The cap is just a completely fabricated  
8 and arbitrary cap to allow Qwest to use our network for free.

9  
10 **Q. ARE YOU ALLOWED TO BLOCK QWEST'S TRAFFIC?**

11 **A.** No. To maintain the ubiquity of the telephone network, all carriers are required to pass  
12 traffic.

13  
14 **Q. SO YOU WOULD HAVE TO TERMINATE THE MILLIONS OF MINUTES OF  
15 CALLS FROM QWEST'S CUSTOMERS?**

16 **A.** Yes.

17  
18 **Q. AND QWEST COULD CHARGE ITS CUSTOMERS FOR THOSE MILLIONS OF  
19 MINUTES AND PAY NCC FOR ONLY 400,000 MINUTES PER MONTH PER  
20 DS1?**

21 **A.** Yes.

22  
23 **Q. IS THERE ANY JUSTIFICATION FOR THIS RATE CAP?**

24 **A.** No. The Telecom Act says there is reciprocal compensation. It doesn't put a cap on it.  
25 Frankly, I think this would be unconstitutional for the Commission to order this. It would  
26 likely be a takings issue. A T1 can handle 1 million minutes. To put a cap lower than that  
27 makes no sense. Qwest doesn't limit the amount they will charge a residential or a  
28 business customer who has lines from them. If you make a hundred calls, you are billed

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1 for a hundred calls. If you make a thousand calls, you are billed for a thousand calls. If  
2 one of their customers makes a thousand calls to NCC, why should Qwest be allowed to  
3 bill their customer but not pay us?  
4

5 **USE FACTOR**

6 **Q. IS QWEST ATTEMPTING TO CHANGE THE RELATIVE USE FACTOR AND**  
7 **START BILLING YOU FOR CIRCUITS FOR TRAFFIC ORIGINATING FROM**  
8 **THEIR CUSTOMERS?**

9 **A.** Yes, in Oregon. We don't have any ISP traffic in Arizona. I don't believe this matter  
10 should be in the ICA because it is completely illogical. Relative Use Factor is used to  
11 allocate the amount of traffic flowing between carriers - e.g., if 20% of the total traffic  
12 comes from NCC to Qwest and 80% comes from Qwest to NCC, then the cost of the  
13 relevant circuits is split 20/80 because that's how much each carrier's customers are using  
14 the circuits. Right now essentially 100% of the flow of traffic is from Qwest to NCC.  
15 Thus, all of the circuits are solely being used by Qwest's customers dialing out to NCC's  
16 customers. What Qwest is attempting to do is simply fabricate a way to arbitrarily modify  
17 the formula so that it does not have anything to do with the relative use. Qwest is  
18 attempting to "count" calls from Qwest's customers to NCC's ISP customers, if it had any  
19 in Arizona, as inbound calls to Qwest. To repeat, Qwest customers would be using the  
20 circuits to call NCC's ISP customers. Qwest wants to change the formula so these calls  
21 are "counted" as if NCC's customers are making calls to Qwest.

22 The FCC ISP order already sets a rate that is below voice traffic for reciprocal  
23 compensation. There is simply no justification to have NCC pay for the circuit when a  
24 Qwest customer calls one of our customers. AT&T and Verizon - the two largest carriers  
25 in the country - don't calculate circuits this way; the Arizona Commission shouldn't allow  
26 Qwest to do this either.  
27  
28

1 **Q: WHY WOULD QWEST WANT TO DO THIS?**

2 **A:** It's simply a way to arbitrarily change the formula so they make more money. But the  
3 change has no basis in reality. It is Qwest's customers who are using the circuits. The  
4 relative use of the circuits is 100% Qwest and 0% NCC. NCC's customers are not using  
5 the circuit.

6  
7 **Q. DOES IT MATTER THAT ISP CALLS ARE CONSIDERED INTERSTATE IN**  
8 **NATURE?**

9 **A.** No. First, the calls are intra-state in fact. They are all between Qwest customers in  
10 Arizona and NCC customers in Arizona. Second, if Qwest believes that ISP calls should  
11 not be used in calculating the RUF, then when you take those calls out, the relative use of  
12 the circuits is still 100% Qwest and 0% NCC.

13  
14 **Q. DOES QWEST EVEN ATTEMPT TO ARGUE THAT THEIR PROPOSED RUF**  
15 **FACTOR IS MEANT TO REFLECT ACTUAL RELATIVE USE?**

16 **A.** No. They have admitted that less than 1% of outbound traffic is from NCC, yet they want  
17 to pretend that their outbound traffic is really inbound traffic. There is no justification for  
18 that fabrication other than to allow Qwest to take money from NCC. Verizon and AT&T  
19 don't bill us the way Qwest is attempting to do it under their proposed agreement. The  
20 industry standard is for the carrier that originates the calls to pay for the circuit to deliver  
21 those calls. This is the way Verizon, AT&T, and every other ILEC I have dealt with does  
22 it. The proposed language should be rejected in its entirety, and the RUF should be based  
23 on actual inbound and outbound calls.

24

25

**VNXX**

26 **Q: QWEST STATES THERE IS NO ISSUE REGARDING VNXX, IS THAT**  
27 **ACCURATE?**

28 **A:** No. It is unclear if Qwest's definition of VNXX is the same as the Arizona Commission's

1 definition. To the extent Qwest's ban on "VNXX" traffic is broader than a ban by the  
 2 Commission, Qwest's request should be denied. Qwest's definition of VNXX traffic  
 3 should mirror the Commission's definition of VNXX traffic and any associated rules that  
 4 the Commission sets. It doesn't seem necessary to put a Qwest definition for VNXX in  
 5 the ICA. If the Commission does wish to use Qwest's definition, it should be noted that  
 6 Qwest currently offers Remote Call Forwarding ("RCF"), and Qwest and NCC agreed in  
 7 Oregon and Washington that RCF is not VNXX traffic.

8  
 9 **Q: DOES NCC HAVE ANY VNXX TRAFFIC IN ARIZONA?**

10 **A:** No.

11  
 12 **CNAM**

13 **Q: IS QWEST DISCRIMINATING AGAINST NCC AS A CLEC IN OTHER WAYS?**

14 **A:** Yes. They are refusing to purchase our CNAM data. In other words, when one of our  
 15 customers calls a Qwest customer, our customer's name won't show up on the caller ID.  
 16 This is one of the main reasons we don't send outbound calls over our interconnection  
 17 trunks in Arizona and/or convert to SS7. We use other carriers to route the calls to Qwest.  
 18 Many business customers want their name displayed on the caller ID displays of the  
 19 people they call. NCC requested that Qwest buy NCC's data under the same terms and  
 20 conditions Qwest was selling us its data, but Qwest refused. What I find is even more  
 21 shocking is Qwest appears to make a distinction between its obligation to purchase  
 22 CNAM data from ILECs versus the obligation to purchase from CLECs.

23  
 24 **PROPOSED ICA**

25 **Q: WHY DIDN'T YOU JUST SIGN THEIR PROPOSED ICA?**

26 **A:** We are in a Catch-22 situation. If we sign the agreement Qwest proposed, we would be  
 27 out of business due to the immediate increase in expenses or loss of income. If we don't  
 28 sign it, Qwest forces us into a costly arbitration that will probably force us out of business.

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1 in Arizona. Qwest is using its size and unlimited resources to bully a small CLEC into  
2 submission (or put it out of business entirely).  
3

4 **Q. DID QWEST TELL YOU WHY THEY WANTED A NEW ICA?**

5 A. Yes. They said they were updating the terms.  
6

7 **Q. DID YOU QUESTION THEM ON THIS?**

8 A. Yes, it didn't make sense to me. We've been operating under our agreement for 13 years  
9 without any problems. We've designed the entire NCC network based on the terms of the  
10 longstanding agreement. It's obvious that Qwest's new agreement contains significant  
11 substantive changes that burden North County to the benefit of Qwest. If that were not the  
12 case, Qwest would not be trying to replace our long-standing agreement with this new  
13 untested agreement.  
14

15 **Q. DID QWEST INITIALLY DISCLOSE THE MATERIAL CHANGES TO THE  
16 ICA?**

17 A. No. I asked them to tell me all the material differences between the current ICA that we  
18 have had for 13 years and the new proposed one they wanted to use and they refused.  
19

20 **Q. WOULD THEY TELL YOU WHAT WAS WRONG WITH THE EXISTING ICA?**

21 A. No. In fact, I wanted to work off our agreement but they refused.  
22

23 **Q. WHY DO YOU THINK QWEST IS DOING THIS?**

24 A. I simply don't know. They are not telling me the whole story. Our ICA has passed the  
25 test of time. They have refused to explain why the ICA must be scrapped and changed. I  
26 assume the obvious: that the new agreement is very long, very dense, and likely contains  
27 significant changes that cannot be easily identified. They want to force this untested and  
28 complex agreement upon North County and reap greater benefits from it.

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1 Under contract law, the parties must have a meeting of the minds for their  
2 agreement to be binding. NCC lost an arbitration with Verizon in Oregon over that very  
3 issue. We felt the ICA clearly required Verizon to pay for ISP traffic. Verizon later  
4 disagreed, and the arbitrator ruled that because we didn't have a meeting of the minds on  
5 that point, the ICA wasn't a contract.

6 In addition, this new ICA is over 300 pages. Qwest won't even tell me why they  
7 wanted to change each provision or how they are interpreting each new provision. They  
8 have worked with us for 13 years. To say that they don't know how this new ICA will  
9 affect us is disingenuous.

10  
11 **Q. DID YOU EVER TRY TO WORK ON YOUR EXISTING ICA TO SEE WHAT**  
12 **CHANGES QWEST WANTED?**

13 **A.** Yes. Qwest refused.

14  
15 **Q. WHAT DID YOU DO THEN?**

16 **A.** Our existing agreement was written by Qwest. You can see the version numbers on the  
17 bottom of it. The new agreement they are proposing didn't just appear out of nowhere. I  
18 asked them for the redline version of our existing agreement and all the versions between  
19 the existing agreement and the proposed agreement.

20  
21 **Q. DID QWEST PROVIDE THIS TO YOU?**

22 **A.** No.

23  
24 **Q. WHAT DID YOU DO WHEN THEY REFUSED?**

25 **A.** I asked them to make a list of all the material changes to our existing agreement and to list  
26 all the reasons why they want to change it. They refused to do it and said that they would  
27 just request arbitration if I didn't look at their new agreement. They are a multi-billion  
28 dollar company, and they could easily tell by the amount of billing we do what our size

1 was. They assumed we'd just buckle rather than spend money fighting, and they have  
2 refused to provide us information with which we could adequately digest the 300-plus  
3 page agreement they're forcing upon us.  
4

5 **Q. ARE THERE THINGS YOU DON'T LIKE IN THE EXISTING ICA THAT YOU**  
6 **HAVE HAD TO DEAL WITH?**

7 **A.** Yes. Qwest charges NCC for call records where Verizon and AT&T give them to NCC  
8 for free. I believe the Commission should investigate the rates they are charging.  
9 Charging thousands of dollars a month to run a report that any tandem does automatically  
10 seems excessive. They won't give NCC ANI on MF trunks. They are interpreting the  
11 ICA to say that NCC has to pay for the installation of circuits to carry their customer's  
12 calls to NCC. They are interpreting the ICA to charge for MUX's even when the traffic is  
13 coming from Qwest, and the ICA allows for DS3 interconnection. These charges are  
14 currently being disputed by NCC. These are just a few things that I have had to deal with  
15 because I signed an agreement and am bound by it. If the Commission is going to look at  
16 these things, then they should look at that and also why Qwest should be able to  
17 discriminate against NCC on CNAM and LIDB. I believe that Qwest's purchasing my  
18 CNAM is an OSS (Operational Support System) function or issue. NCC customers can't  
19 make third party charges on the Qwest network because of this. NCC's caller ID names  
20 won't display on Qwest caller ID boxes. NCC customers can't receive collect calls from  
21 the Qwest network. This discriminatory impact is unacceptable and unlawful.  
22

23 **Q. DOES NEUTRAL TANDEM CHARGE YOU AN INSTALLATION FEE OR**  
24 **MONTHLY FEE FOR THE CIRCUITS?**

25 **A.** No. Frankly it is the responsibility of the tandem provider to connect up to the end  
26 offices. Otherwise, it is simply another end office.  
27  
28

1 **Q. HOW HAS THIS ARBITRATION AFFECTED NCC?**

2 A. It is hurting us financially. We are a small company. We cannot afford to arbitrate a new  
3 agreement, and we cannot afford to replace our entire network to suit Qwest's recent  
4 whims. We have an agreement that has worked for 13 years, which is the same as the  
5 agreements in place with AT&T and Verizon. Those companies use the same equipment  
6 as Qwest. There is absolutely no reason to replace or modify the existing agreement,  
7 generally, or the signaling and billing requirements, specifically. We bill Qwest a  
8 relatively small amount per month in reciprocal compensation. This hardly justifies us  
9 scrapping our network or even the cost of this arbitration. Frankly, I am really  
10 disappointed that this Commission is allowing this arbitration to proceed.

11  
12 **Q. DO YOU BELIEVE THE PROPOSED ICA IS UNLAWFUL, PREJUDICIAL, OR  
13 OTHERWISE INCONSISTENT WITH PUBLIC POLICY?**

14 A. The new ICA is completely prejudicial. The whole reason for the changes is to benefit  
15 Qwest and prejudice NCC. The SS7 requirement benefits Qwest and prejudices NCC.  
16 The fabricated RUF has nothing to do with reality and makes up a formula that benefits  
17 Qwest and prejudices NCC. The apparent application of the VNXX factor as discussed  
18 by Qwest benefits Qwest and prejudices NCC. Moreover, there is nothing in the law that  
19 allows Qwest to unilaterally determine the technology. There is nothing that allows  
20 Qwest to fabricate a RUF that does not reflect actual relative use. There is nothing in the  
21 law that allows Qwest to apply the VNXX factor inequitably. All of these things are  
22 against the public policy that CLECs and ILECs be treated equally and that ILECs be  
23 prohibited from using their size and resources to harm CLECs.

24  
25 **Q. WHAT ARE YOU ASKING THIS COMMISSION TO DO?**

26 A. I am asking for them to stand up for what is right. If this was a civil court and I signed an  
27 agreement without mandatory arbitration, I would not be required to arbitrate a resolution  
28 The Commission shouldn't allow Qwest to bully its competitors. Look how many CLEC

1 have gone out of business since the Telecom Act of 1996. Qwest isn't stupid. They  
2 didn't arbitrarily change the words in the agreement. All the changes they are making are  
3 for their sole benefit. They obviously are not making changes that help CLECs or  
4 increase the amounts Qwest pays CLECs. And they are not negotiating in good faith  
5 when they fail to disclose the reasons why they are changing sections. Look how much  
6 we are fighting over just the few areas that we've been able to uncover. This document is  
7 over 300 pages long. There are probably lots of areas that have hidden negative  
8 consequences for NCC. I am sure there will be many conflicts over interpretation. We  
9 have worked through all the issues in the current ICA. It is a known quantity. The only  
10 thing we know about the proposed ICA is that Qwest has made significant changes solely  
11 for its benefit and refuses to identify or explain those changes. Qwest knew what it was  
12 doing when it proposed the agreement 13 years ago. So the Commission should reject the  
13 proposed ICA in its entirety. Specifically, the Commission should not allow Qwest to: (1  
14 mandate SS7; (2) place a cap on the number of billable minutes; (3) set an arbitrary RUF  
15 that doesn't reflect actual usage; (4) define VNXX differently than the Commission; and  
16 (5) treat NCC differently than NCC treats Qwest in relation to CNAM.

17  
18 **Q. TO RECAP, WHAT WOULD HAPPEN IF THE COMMISSION SAID YOU HAD**  
19 **TO CONVERT TO SS7?**

20 **A.** We would instantly no longer be profitable and in a short time go out of business.

21  
22 **Q. WHAT WOULD HAPPEN IF THE COMMISSION ALLOWED THE**  
23 **ARBITRARY CAP ON BILLABLE MINUTES?**

24 **A.** We would likely become immediately unprofitable and it would permanently prevent us  
25 from ever being profitable without converting our entire network to SS7. It would allow  
26 Qwest a free ride on our network. They could bill their customers for millions of minutes  
27 and they would pay us for only 10,000.

28

1 Q. WHAT WOULD HAPPEN IF THE COMMISSION RULED IN FAVOR OF  
2 QWEST ON THE RUF ISSUE?

3 A. We could no longer afford to have an ISP on our network. We would have to kick them  
4 off our network.

5  
6 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

7 A. Yes.

8

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have served the foregoing document this day upon all parties of record (listed below) in these proceedings by mailing a copy properly addressed with first class postage prepaid.

Norman G. Curtright QWEST CORPORATION 20 East Thomas Rd., 16 <sup>th</sup> Floor Phoenix AZ 85012	Janice Alward, Chief Counsel Legal Division ARIZONA CORPORATION COMMISSION 1200 W Washington Street Phoenix AZ 85007
Steve Oles, Director Utilities Division ARIZONA CORPORATION COMMISSION 1200 W Washington Street Phoenix AZ 85007	Arizona Reporting Service, Inc. 2200 N Central Avenue, Suite 502 Phoenix AZ 85004-1481

An original and 15 copies of the foregoing hand-delivered to the Arizona Corporation Commission on the date below to the following address with first class postage prepaid.

Arizona Corporation Commission  
 Utilities Division  
 1200 W Washington Street  
 Phoenix AZ 85004-1481

Dated this 15<sup>th</sup> day of December, 2010, in Phoenix, Arizona.

Respectfully submitted,

  
 William G. Klain  
 LANG, BAKER & KLAIN PLC  
 8767 Via de Commercio, Suite 102  
 Scottsdale, AZ 85258-3374

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**BEFORE THE  
ARIZONA CORPORATION COMMISSION**

COMMISSIONERS:  
KRISTEN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



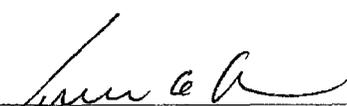
IN THE MATTER OF QWEST CORPORATION'S  
PETITION FOR ARBITRATION AND APPROVAL  
OF INTERCONNECTION AGREEMENT WITH  
NORTH COUNTY COMMUNICATIONS  
CORPORATION OF ARIZONA PURSUANT TO  
SECTION 252(B) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED BY THE  
TELECOMMUNICATIONS ACT OF 1996 AND  
APPLICABLE STATE LAWS.

**DOCKET NO. T-01051B-09-0383  
DOCKET NO. T-03335A-09-0383  
NOTICE OF FILING REPLY  
TESTIMONY OF TODD LESSER**

Pursuant to the Procedural and revised Procedural Orders in the above-captioned matter,  
North County Communications Corporation hereby files the attached reply testimony of Todd  
Lesser, in preparation for the Arbitration set in this matter for March 15, 2011.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of February, 2011.

LANG BAKER & KLAIN, PLC

By:   
William G. Klain  
8767 Via de Commercio, Suite 102  
Scottsdale, Arizona 85258  
Attorneys for North County Communications Corp.

1 **ORIGINAL** and 13 copies of the foregoing filed this 11<sup>th</sup> day of February, 2011, with:

2 Docket Control  
3 Arizona Corporation Commission  
4 1200 West Washington Street  
5 Phoenix, AZ 85007

6 **COPY** of the foregoing **hand-delivered** this same day to:

7 ALJ Jane L. Rodda, Arbitrator 8 Hearing Division 9 Arizona Corporation Commission 400 W. Congress Street, Suite 218 Phoenix, AZ 85007	10 Maureen Scott, Staff Attorney 11 Legal Division 12 Arizona Corporation Commission 13 1200 W. Washington Street Phoenix, AZ 85007
14 Janice Alward, Chief Counsel 15 Legal Division 16 Arizona Corporation Commission 17 1200 W. Washington Street 18 Phoenix, AZ 85007	19 Steve Olea, Director 20 Utilities Division 21 Arizona Corporation Commission 22 1200 W. Washington Street 23 Phoenix, AZ 85007

24 **COPY** of the foregoing mailed and/or emailed this same day to:

25 Norman G. Curtright, Esq. 26 Qwest Corporation 27 20 E. Thomas Rd., 16 <sup>th</sup> Floor 28 Phoenix, AZ 85012 Email: Norm.Curtright@qwest.com	Lisa A. Anderl, Esq. Qwest Corporation 1600 7th Avenue, Room 1506 Seattle, WA 98191 Email: Lisa.Anderl@qwest.com
--	--

1 **REPLY TESTIMONY OF TODD LESSER**

2 **Q: Please state your name and business address.**

3 A: My name is Todd Lesser. My business address is 3802 Rosecrans Street, No. 485, San  
4 Diego, California 92110. My telephone number is (619) 364-4750.

5  
6 **Q: Have you read the testimony of Qwest's Philip Linse and Renee Albersheim?**

7 A: Yes.

8  
9 **Q. Do you believe Mr. Linse is qualified to answer questions about the Central Office  
10 Capabilities of Qwest?**

11 A. No. As Mr. Linse testified in a recent arbitration hearing before the Washington Utilities  
12 and Transportation Commission ("WUTC"), he has never actually programmed or  
13 installed a live central office. His only experience is in training programs provided by  
14 Qwest. He has no actual real world, firsthand programming experience.

15  
16 **Q: When you were negotiating with Qwest, did you feel that Qwest was providing the  
17 correct technical responses to your inquiries?**

18 A: No. It was clear from my conversations with Qwest on the conference calls, that they  
19 have a limited understanding of the capabilities of their central office switches and/or  
20 trunk monitoring equipment.

21  
22 **Q. What incorrect information did Qwest provide?**

23 A: For instance, Qwest said they could only take PEG counts and could not keep track of  
24 actual calls and minutes sent to our trunk groups.

25  
26 **Q: Is Mr. Linse correct that Qwest can only monitor PEG counts and total usage?**

27 A: Absolutely not. Let me explain. A PEG counter is a simplistic way to just count calls and  
28 call totals. Mr. Linse does not disclose that all Central Offices ("COs") on the Qwest

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network follow the Telecordia Document LATA Switching System Generic Requirements (“LSSGR”). One LSSGR requirement is that the switch has a Call Detail Recording (“CDR”). In other words, every outbound and inbound call that is made or received is electronically recorded with all the call details.

**Q. Is this a new requirement?**

A. No. This has been around since the first electronic switches in the early 1960s. There is no reason why they cannot perform this required function on local interconnection trunks.

**Q. Can Qwest provide ANI on MF trunk groups?**

A. Yes. This is a simple Class of Service option on the trunk group. Qwest gives us ANI on our MF long distance trunks, and other ILECs have given us ANI on our MF local interconnection trunks. In fact, I just turned up a trunk group this week with another carrier that gave us ANI over MF for local traffic.

**Q. Qwest has stated that the ICA defines ANI as a Feature Group D long distance trunk so Qwest is not “required” to provide ANI to you for your local trunks. What are your thoughts on this?**

A. First, ANI stands for “Automatic Number Identification.” The definition was not that well worded in the agreement, but this is an industry standard term. The definition simply said ANI is *used* in Feature Group D signaling. It never said ANI is exclusive to Feature Group D signaling or that ANI cannot be provided in other signaling formats. For example, you can get ANI on ISDN, and ISDN is not Feature Group D format. Under the existing agreement, Qwest delivers ANI if a carrier has SS7. The way they attempt to define it now would mean that you should not get ANI over SS7 local interconnection trunks – you should only get ANI over SS7 Feature Group D long distance trunks.

1 **Q. Does this definition dispute trouble you?**

2 A. Absolutely. This is why the Commission shouldn't allow Qwest simply to discard  
3 existing agreement. Even if the Commission agrees with Qwest – i.e., that certain things  
4 should be added – they should be added to our *existing* agreement. Qwest is unwilling to  
5 state all the material changes to the agreement or discuss how they will interpret it  
6 different versus the existing agreement. I lost in a dispute proceeding with Verizon in  
7 Oregon over this exact issue. I felt the language in our agreement was as clear as day:  
8 Verizon was required to pay for all traffic – including ISP traffic. The judge ruled that  
9 Verizon felt it should never have to pay for ISP traffic. Under Oregon law, you are  
10 required to have a meeting of the minds for there to be a contract. Since there was no  
11 meeting of the minds, we had no contract and the judge ruled they didn't have to pay. I  
12 can't guess by reading Qwest's new agreement how they interpret every provision.  
13 Although, I know how they have interpreted our existing agreement for 13 years. The  
14 Commission cannot change Arizona law and they do not arbitrate the contract disputes.

15  
16 **Q. Is Mr. Linse correct that SS7 is more reliable than MF?**

17 A. Absolutely not. He obviously is not aware of the some of the well-publicized SS7  
18 outages across the country. For example, on June 26, 1991, over six million Bell Atlantic  
19 lines were cut off for seven hours in Washington, DC, Maryland, Virginia and West  
20 Virginia. Pacific Bell had an outage of three and a half million lines on the same day for a  
21 few hours. This was all caused by one SS7 problem in Baltimore, Maryland, where a bad  
22 circuit board disabled the whole network. SS7 has single points of failure. If your SS7  
23 links or your STP fails, your entire network goes down. With MF signaling, each call  
24 receives the call routing direction on that specific trunk. If you have a problem, then only  
25 one trunk or T1 goes down, not your whole network. In fact, many carriers around the  
26 country use MF signaling for 911 trunks even when the rest of their network is SS7. MF  
27 signaling is that much more reliable than SS7 signaling.

28

1 **Q. In thirteen years, has North County ever had an MF trunk outage with Qwest?**

2 A. No.

3  
4 **Q. Do MF circuits and equipment require more maintenance, as Mr. Linse describes?**

5 A. What Mr. Linse fails to disclose is that when you dial a telephone number at your house,  
6 the touch tones are in-band signaling. The interoffice MF trunks are just a different set of  
7 tones. In the 60s, the industry used transistorized MF transmitters and receivers. Today,  
8 we use DSPs (Digital Single Processors.). DSPs don't have problems. In fifteen years,  
9 we have never had a DSP card go bad.

10  
11 **Q. Does MF limit the number of carriers or the size of the recording capability in  
12 comparison to SS7?**

13 A. No. This makes no sense whatsoever. Whether the call set up is sent by in-band or out-  
14 of-band signaling with SS7, you still need to record it. In fact, SS7 has many more  
15 parameters to record.

16  
17 **Q. Is SS7 recording more accurate?**

18 A. No. In fact, in one jurisdiction we proved that the SS7 recordings were incorrect by  
19 swapping call detail recording from our central office switch. The SS7 recordings weren't  
20 recording all the calls because the instructions the monitor was given were not correct.  
21 CDRs from MF trunks are so simple that you don't encounter problems like that.

22  
23 **Q: Qwest came up with a system to bill for calls using SS7 monitoring. Is this the  
24 industry standard, and will it work better than the way NCC is calculating billing?**

25 A. Absolutely not. As pointed out in a WUTC report, WECA Docket 02-01, Report on  
26 Phantom Traffic, September 27, 2005 (Page 11), "Verizon also notes that SS7 signaling is  
27 intended primarily for routing, not billing, and therefore does not contain all the  
28

1 information necessary for billing the carriers responsible for traffic that transit Verizon  
2 tandem switches.” See attached Exhibit 1.

3  
4 **Q: Why is this important?**

5 A: This demonstrates Mr. Linse’s limited switching knowledge. He sometimes talks theories  
6 that are not real world, and other times he only knows the world as it is only according to  
7 Qwest. Of course, he isn’t going to be taught to do something Qwest doesn’t currently do.  
8 The courses he took are specifically tailored to what Qwest is doing, not to what the  
9 switch is capable of doing. To further quote the WECA report on page 6: “ In theory, the  
10 use of the CIC is available for identifying the carrier responsible for terminating charges.  
11 However, population of the IXC responsible for call termination charges in the CIC field  
12 in SS7 transmissions is optional at this time. Further, wireless carriers are not required to  
13 obtain or use CICs. In any event, since it is not needed for routing for termination  
14 purposes, CIC is not signaled in the termination direction today.”

15  
16 **Q: Does the SS7 monitoring system that Mr. Linse mentions make the billing more  
17 accurate than if MF is used?**

18 A: No. It isn’t an exact science, and both SS7 and MF each have issues. To quote page 6 of  
19 the WECA report: “The problem is that calls using SS7 can be completed even if the data  
20 in some of these fields used to identify the originating carrier is missing or incorrect. The  
21 same is true for the in-band signaling (MF) – the calls complete even if the information is  
22 missing. For example, calls from wireless providers generally leave the carrier parameters  
23 blank. In other cases, the originating or transiting carriers may change information in  
24 certain fields, for a variety of reasons.”

25  
26 **Q: Though Qwest has refused to provide you with an indication of the substantive  
27 changes they made, what specific issues do you know exist with the proposed ICA?**

28 A: As mentioned, the proposed ICA unlawfully attempts to force NCC to switch to SS7. It

1 also places an arbitrary cap on the number of minutes that NCC can bill Qwest (240,000).  
2 Further, the formula for the relative use factor (RUF) has no bearing on actual relative use.  
3 Finally, Qwest attempts to define VNXX when that definition has an industry standard or  
4 has been established by state utility commissions.

5  
6 **Q: How would you change these areas of the ICA?**

7 A: I would revert back to the original language used in the current ICA, which (1) did not  
8 penalize or otherwise limit NCC from using MF technology and (2) did not place a cap on  
9 the number of billable minutes. I would also use an RUF based on actual usage and omit  
10 all language regarding VNXX.

11  
12 **Q. Ms. Albersheim testifies that North County delayed the negotiations. Is that**  
13 **accurate?**

14 A. No. If anyone delayed the negotiations it was Qwest. We asked Qwest numerous times to  
15 have people on the conference calls that had the technical knowledge to answer all the  
16 technical questions. They refused. We asked them to have someone on the call with  
17 authority to make an agreement. They refused. Each time, they had to go back to talk it  
18 over with someone else or another organization. We asked them for redline versions and  
19 reasons why they wanted to make the changes. They refused. On the first phone call, I  
20 told them about a company in Massachusetts that signed a new agreement with Verizon  
21 and went out of business because of the shift in the cost of the circuits (i.e., due to a  
22 revised RUF). It took Qwest two years to finally disclose that there were more material  
23 changes than just "updating definitions." This is just an example of the delay and  
24 disinformation tactics Qwest used. I question how many other material changes have not  
25 been disclosed. It is a telltale sign that they are not willing to say what the material  
26 changes are.

27  
28

1 **Q. Is Ms. Albersheim's description of the negotiation process accurate?**

2 A. No, they only provided their side of the story after they refused to work with us. First,  
3 Qwest never had the people on the conference calls that had signing authority. Each time  
4 you brought up even a minute change, they had to go speak to someone else. This made it  
5 very difficult to negotiate. Second, they said it was their way or the highway. We had to  
6 use their template and nothing else. They wouldn't use our existing agreement. They  
7 wouldn't use an agreement that NCC had. They wouldn't use our existing agreements  
8 with AT&T or Verizon as a template. They simply refused to negotiate unless we used  
9 their agreement as the template. Third, their e-mails are totally out of context. If the  
10 commission would like, I can give them all the e-mails.

11

12 **Q. Why do you think Qwest included those emails?**

13 A. Perhaps to show bad faith on NCC's part or to show good faith on the part of Qwest.

14

15 **Q. To the best of your recollection, was Ms. Albersheim involved in the negotiations?**

16 A. I don't believe she was on a single call, and she definitely wasn't on any of the e-mails.  
17 None of her information is firsthand knowledge. It is all hearsay. I am not sure why she  
18 is here to testify. I believe all her testimony should be stricken.

19

20 **Q. Ms. Albersheim testified that you never brought up in the negotiations about using a  
21 third-party tandem provider. Is that an accurate statement?**

22 A. No. That is not true. It was brought up in numerous calls and in four e-mails – March 4,  
23 2009, August 24, 2009, August 27, 2009, and May 3, 2010. See attached Exhibit 2.

24

25 **Q. Was Qwest willing to work off other Commission-approved interconnection  
26 agreements or justify why they insisted on using their agreement?**

27 A. No. They treated me like they were the parent and I was the child. They told us we could  
28 opt in to one of their other agreements, accept this new agreement, negotiate off this

1 agreement, or they would force us to arbitration. Again, they used their size to bully us.  
2 They provide e-mails saying that I wouldn't work on their time table. In reality, they  
3 completely distorted my willingness to try to work through their agreement. They  
4 wouldn't extend the courtesy to me. There are approved Verizon interconnection  
5 agreements in Arizona. There is no reason not to work off one of those agreements.  
6 There is no justification to make it easier for Qwest but harder for competitors who have  
7 to work off multiple interconnection agreements with multiple carriers. As you can see  
8 from my two e-mails from December 4, 2008 e-mail, I asked Qwest if I sent them an  
9 agreement, would they be willing to work at the same time table they suggested. They  
10 refused and threatened arbitration. See attached Exhibit 3.

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**Q. Was Qwest willing to answer the simple question on how things would be different if you signed the new agreement?**

A. No, they just kept threatening arbitration.

**Q. Did Qwest have appropriate decision makers on the calls?**

A. No. Please see my e-mail dated November 18, 2009. See attached Exhibit 4.

**Q. Were there material changes in the end?**

A. Yes. They finally told us near the end of the negotiations. See my February 24, 2010 email. See attached Exhibit 5.

**Q. Does it matter that 95 other CLEC's opted in to the Qwest agreement?**

A. First, there are 29 CLECs that did not opt in to Qwest's form ICA. Second, it is likely that most of the CLECs decided it was not worth spending the money on arbitration to fight Qwest, who has unlimited resources. Finally, I would be curious how many CLECs are using our old agreement.

1 **Q. Verizon operates in Arizona. Do they charge a non-recurring charge for the T1s to**  
2 **deliver their traffic to NCC or to carriers they allow to subtend their tandem?**

3 A. No.

4  
5 **Q. Does Verizon charge NCC for the T1s and multiplexer ("MUX") fees?**

6 A. No.

7  
8 **Q. Do they charge for the call records?**

9 A. No.

10

11 **Q. Is it fair for Qwest to charge?**

12 A. No. The Commission should investigate Qwest's TELRIC rates for these call records.  
13 Everyone else provides them free of charge. In many instances, Qwest charges more for  
14 the call records that we can charge for the call. Qwest wants to pay us a lower  
15 termination fee but they don't want to charge a lower call record fee. And they won't  
16 allow us to subtend off a third-party tandem provider.

17

18 **Q. Does Qwest order T1s or DS3s to carry their traffic to NCC?**

19 A. No. They want us to order it.

20

21 **Q. In Tucson, you are interconnected with just T1s. Is there a MUX involved when a T1**  
22 **is used to interconnect?**

23 A. Yes.

24

25 **Q. Is Qwest charging you for MUX under your current agreement?**

26 A. No. They only charged us an installation fee. We paid it, but I believe it is a violation of  
27 our interconnection agreement.

28

1 **Q. Does Qwest want to start charging you a MUX fee to deliver their traffic to NCC if**  
2 **the new agreement is approved?**

3 A. Yes.

4  
5 **Q. You have a billing dispute with Qwest over your interconnection trunks in Phoenix.**  
6 **Could you explain it?**

7 A. For some reason even though we aren't charged in Tucson, they are charging us a MUX  
8 fee when we used DS3s in Phoenix. The only reason we used DS3s is because their fiber  
9 facility in the building we are located in didn't have the capacity for the amount of T1s we  
10 were getting. Second, when we had so many T1s, Qwest kept having outages on their  
11 end. Finally, it was cheaper for Qwest to put in the DS3s. It was actually more expensive  
12 on our end because we had to put a MUX on our end to convert them back to T1s. I  
13 believe the interconnection agreement doesn't allow them to charge a recurring or non-  
14 recurring fee for the circuits or the MUX.

15  
16 **Q. Are you saying they charge NCC a MUX fee when it is a DS3 but not when it is a T1?**

17 A. Correct. It makes no sense. They don't charge us for the MUX for DS3s in Oregon, and  
18 we have the same interconnection agreement. I suspect this was another red herring. We  
19 didn't have any problems with Qwest until they wanted a new interconnection agreement.

20  
21 **Q. Does Verizon charge you for a MUX if you have a DS3 versus a T1?**

22 A. No.

23  
24 **Q. Do you order the circuits from Verizon for Verizon's traffic to NCC?**

25 A. No. They order them. They install them. And they provide the call records. All for free.  
26 It is the industry standard for the originating carrier to pay for the transport of their calls –  
27 not the receiving party. Qwest would like for us to pay for our calls and their calls.

28

1 **Q. Has Qwest ever ordered T1s to your switch?**

2 A. Yes, in the Phoenix LATA. I don't know why they won't do it now. They send me e-  
3 mails that they want me to order circuits. When I do, they bill me. This isn't fair, and it  
4 goes against industry standard practices. I have a blocking situation right now in Tucson.  
5 They should be ordering circuits to relieve the capacity problem and they aren't doing it.  
6

7 **Q. Mr. Linse says that other CLECs interconnect with Qwest using MF. Why would**  
8 **they still keep their MF trunks if SS7 is so much more reliable?**

9 A. They wouldn't. They keep them as a backup in case their SS7 links go down. Most small  
10 CLEC's order their SS7 links from companies such as Verisign/TNS. These links costs  
11 thousands of dollars. Qwest can afford to have more than two links. Small CLECs, if  
12 they have a need to go to SS7, only order two. This makes it less reliable. In other words,  
13 if two circuits go down, your entire network goes down. If we were forced to switch to  
14 SS7, we would lose money on the costs of the link alone.  
15

16 **Q. Ms. Albersheim stated the process that Qwest has to go through to investigate billing**  
17 **issues. Is she accurate?**

18 A. No. Qwest is purposely tying one hand behind its back. Their switches have the  
19 capability to track MF calls. Further, if they would provide us an ANI on each call in MF,  
20 we could give them exchange message interface ("EMI") records of every call. They  
21 simply refuse to do so and then say, "We can't track calls." The truth is they choose not  
22 to track MF calls. It is simply a choice on their part, and because the original agreement  
23 was for MF calls, and because we built our entire network around their original  
24 agreement, as between Qwest putting the effort into tracking MF calls or North County  
25 completely scrapping its entire network and converting to SS7, it is Qwest that should  
26 bear the burden of its choice to dictate the available technology.  
27  
28

1 **Q. Are you saying that if they provided you with ANI on your interconnection trunks**  
2 **that you could give them all the information they need to validate the billing and**  
3 **address all their concerns?**

4 A. Absolutely. It is a common practice in the industry to swap or provide EMI files if there  
5 is a billing dispute. But instead of doing this they want to put an arbitrary cap on my  
6 billable minutes. Those lines can handle a million minutes, but Qwest only wants to pay  
7 for the first 240,000 and get the rest of the minutes for free (while still billing their own  
8 clients for these minutes they refuse to reimburse us for).

9  
10 **Q. What would it cost them to provide you the ANI?**

11 A. Nothing. It is just a Class of Service change on our trunk group. They simply type a few  
12 commands into the computer.

13  
14 **Q. Ms. Albersheim testifies that Qwest can't track the minutes. Is she qualified to say**  
15 **this?**

16 A. She appears to be a lawyer and billing person, not a technical person. She is just repeating  
17 what other people have told her.

18  
19 **Q. Ms. Albersheim mentioned the methodology that was used to create the billing. Is**  
20 **she telling the whole story?**

21 A. Absolutely not. I will try not to oversimplify it. There are three general types of calls that  
22 come over our trunk groups: Local, Switched Access (intraLATA toll or interLATA toll),  
23 and Transit Calls. Qwest provides us with a billing tape of all the toll calls from long  
24 distance carriers and the transit records from wireless carriers and CLECs. The rest of the  
25 calls are from Qwest or small rural local exchange carriers that subtend their tandem.  
26 Qwest then only pays a percentage of this amount – not the entire amount reflected in the  
27 records. Because they refuse to provide us ANI, we are unable to validate the percentage  
28 they tell us. Indeed, during negotiations, we discovered their analysis was completely

1 baseless. For example, in Tucson, Qwest was only paying us for 74% of the calls. Qwest  
2 told us that there were other carriers that connected up to them that weren't being tracked.  
3 This was completely false. There isn't a single rural local exchange carrier in the local  
4 Tucson area. In Phoenix, they were only paying us for 58% of the local calls. We  
5 discovered that Qwest covers over 99% of the Phoenix area and that there were only a few  
6 small Indian reservations that had very few people living there. Clearly this didn't justify  
7 only paying for only 58% of the calls. We are still working with Qwest to resolve these  
8 billing issues.

9  
10 **Q. Ms. Albersheim mentions that Qwest cannot bill North County for outbound calls**  
11 **because of MF. Is this true?**

12 A. Qwest bills usage on our MF long distance trunks, and other carriers who have the same  
13 switches as Qwest bill us for outbound calls. I am at a loss as to why Qwest is saying it  
14 cannot do it.

15  
16 **Q. Is Qwest requiring the rural ILEC's to convert to SS7 to interconnect with them?**

17 A. No. Frankly, nothing in the Telecom Act allows them to dictate that the trunks would be  
18 configured using SS7. Again, they are the ones who decided to change their trunks from  
19 the MF trunks we both were using when we interconnected. Now they want to force us to  
20 convert to their technology, and now they claim that it is imperative even though for  
21 almost 14 years there were almost no issues with MF signaling. Indeed, Mr. Linse admits  
22 that Qwest finally completed their conversion to SS7 in their last central offices on April  
23 30, 2010 – a couple months ago. So they literally sought to require our conversion before  
24 their conversion was even complete. In addition, I suspect by the way they answered the  
25 discovery questions (or more accurately, failed to answer the discovery questions) that  
26 they still have MF trunks on their network; they just added SS7 service. As between  
27 Qwest using the resources it has to properly track MF, and North County being forced to  
28 either convert to SS7 or receive nothing for the provision of its services, equity dictates

1 that Qwest should bear the burden of its technology choices. This is particularly true  
2 where, as here, a small CLEC built its system based on Qwest's prior requirements and  
3 the current ICA drafted by Qwest.  
4

5 **Q. When Qwest was demanding that you convert to SS7 to be able to make outbound**  
6 **calls on their network, did they still have CO's that were exclusively MF?**

7 A. Yes. In fact they had one CO that was exclusively MF until April 30, 2010. They wanted  
8 us to convert to SS7 two years before they did.  
9

10 **Q. When NCC requested that Qwest disclose how many CLECs still have MF trunks in**  
11 **addition to SS7 trunks, did Qwest every answer the question?**

12 A. No. They are playing big firm litigation tactics and trying to force us to file a whole  
13 bunch of motions. Instead of answering our questions, they had the audacity to restate  
14 and reinterpret our request to be 'how many carriers only have MF trunks.' That was not  
15 our question. The Commission should force Qwest to answer this question. If a carrier  
16 still has MF trunks, they can use them to make outbound calls. If other carriers still have  
17 them, and there are no use restrictions in their interconnection agreement, Qwest shouldn't  
18 be allowed to discriminate against NCC.  
19

20 **Q. Qwest and NCC have a billing dispute in Arizona. Do you believe Qwest is justified**  
21 **in its dispute?**

22 A. Absolutely not. This was a complete red herring to justify the new interconnection  
23 agreement. They state they don't have the ability to track the calls they send us – they  
24 can only give a peg count and they can't tell the jurisdiction of the calls. Since they  
25 admitted they aren't currently tracking the calls, they cannot credibly dispute our bills.  
26

27 **Q. Should an ILEC be allowed to interconnect with Qwest on a two-way basis and NCC**  
28 **be prohibited from interconnecting in the same fashion?**

1 A. No. The Telecom Act is supposed to level the playing field. Qwest is not allowed to  
2 discriminate against CLECs.

3  
4 **Q. Qwest says that SS7 is the industry standard for interconnection. Is this correct?**

5 A. No, it is simply one of the standards. So is MF. In fact, one of the new standards of  
6 interconnection between carriers is SIP. Qwest refuses to interconnect by SIP and Voice  
7 over Internet Protocol ("VoIP"). SIP would also address all of their concerns. We have  
8 the capability to interconnect by SIP. We would like to interconnect using ISDN or SIP.  
9 Qwest is also refusing to interconnect using either of these standards. Again, Qwest is  
10 simply trying to force NCC to bear the burden of Qwest's technology choices. Mr.  
11 Linse's Direct Testimony in footnote 4 on page 6 states, "SS7 is the dominant signaling  
12 protocol in a Time Division Multiplex (TDM) network. As Internet Protocol networks  
13 carry telecommunications traffic, IP compatible signaling protocols are being developed  
14 and used for similar purposes as SS7 signaling." I assume he is quoting from a document  
15 that is ten years old. VoIP standards were developed a long time ago. AT&T, Verizon,  
16 Vonage, Time Warner Cable, Cox, Magic Jack, Skype, AOL/AIM, Google Voice and  
17 hundreds of other providers use IP. Even Qwest offer VoIP services to its customers. I  
18 believe our interconnection agreement should require Qwest to offer VoIP  
19 interconnection. It is so much more efficient than SS7 with TDM. Qwest is proposing a  
20 standard that is already behind the times. We would love to switch from MF to VoIP but  
21 Qwest is refusing.

22  
23 **Q. Do you feel Qwest is discriminating against NCC by not giving NCC IP  
24 interconnection and forcing NCC to use SS7?**

25 A. Yes. As stated in *Western Radio v. Qwest Corp.*, "ILECS are required to provide  
26 interconnection to requesting carriers 'that is at least equal in quality to that provided by  
27 the local exchange carrier itself or to any subsidiary, affiliate, or any other party to which  
28 the carrier provides interconnection..." Qwest offer IP interconnection on a wholesale

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level, to businesses, and even to residential customers. See attached Exhibit 6. Qwest offers up to 46 voice lines per T1 compared to the only 24 voice lines per T1 if we interconnect with them with SS7.

**Q. Does the Telecom Act allow Qwest to choose the standard they can interconnect?**

A. No, there are many different standards. With all due respect, who made Qwest king?

**Q. Mr. Linse changed his testimony since the Washington Arbitration. Do you have any insight into this?**

A. Yes. In his prior testimony, he appeared to be confused between the 1984 breakup of AT&T and the 1996 Telecom Act. He went back to the text books and tightened up his testimony. His only central office experience is he took one course on it. He has no infield experience. For example, after I pointed out that, if MF is so unreliable, it wouldn't be used on 911 trunks, Mr. Linse is now trying to say that MF on 911 is somehow different because they are one way trunks versus two way trunks. There is simply no technical basis to explain why they would be reliable for one-way trunks but not reliable for two way trunks.

**Q. Mr. Linse states that SS7 is necessary to record the local originating traffic from NCC. How much investigation did he do to make sure this was accurate?**

A. In Washington, our attorney specifically asked him if he asked AT&T or Verizon how they can track NCC's originating and terminating local minutes. In his testimony in Washington, he said that he spoke to a few people who said it couldn't be done, but he did not know their names. I don't know who he spoke to but they clearly either didn't understand his questions or they were wrong. For example, North County receives bills ever month for local traffic it sends to AT&T over MF trunks. We also receive a report from them every month that shows all the traffic we receive over the MF trunks. It includes all local and toll calls. It isn't simply a PEG count.

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**Q. Mr. Linse attached an exhibit to his testimony to show that MF signals get blocked or are often busy. Have you ever had any issues with call blocking or busy signals?**

A. No. NCC and our customers designed the network to be non-blocking. Therefore, it doesn't apply.

**Q. In his testimony, Mr. Linse states that Qwest can't track jurisdictional minutes and can only tell you the total number of minutes. He said that prior to the 1996 Telecom Act Qwest's "validating records required little more than counting the total number of minutes on each trunk and comparing this total with that of the originating switch1 record..." Is this an accurate Statement?**

A. No. He was obviously told this by someone else, and this is not based on his personal experience. All I can say is that he misunderstood what he was told. The Telecom Act of 1996 opened the market for CLECs to come about. In 1984, AT&T was broken up. This is when the Baby Bell's were created and there was equal access to long distance. USWest/Qwest didn't just add up the total number of minutes that long distance carriers had on their network when the long distance carrier had MF signaling. Qwest charged them mileage on each call. You can't do this if you are just adding up the minutes.

**Q. How do you know you are correct and he is incorrect?**

A. Because I personally submitted the Access Service Request ("ASR") orders with Qwest for MF long distance trunks back in the early 90s. I validated the bills when they came in. In fact, I believe we may even still have some of those trunk groups around.

**Q. Do you have a problem with Qwest's definition of RUF and facilities?**

A. Yes, a MUX is necessary on their end of the circuit and on our end of the circuit. We shouldn't have to pay 100% of their MUX.

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Washington. We use other carriers to route the calls to Qwest. Many business customers want their name displayed on the caller ID displays of the people they call. NCC requested that Qwest buy NCC's data under the same terms and conditions Qwest was selling us its data. Qwest refused. What I find even more shocking is they appear to make a distinction between obligations to purchase CNAM data from ILECs versus CLECs.

**Q. Is Qwest charging other carriers different rates for the call records?**

A. They appear to be, and it isn't fair. They would only give me the same rate if I signed the new interconnection agreement. Those items shouldn't be related.

**Q. Does this conclude your testimony?**

A. Yes.

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**WECA Docket 02-01**  
**Report on Phantom Traffic**  
**September 27, 2005**

## I. Identification of Issue

A significant volume of telecommunications traffic is being delivered to rural incumbent local exchange companies (rural companies) for termination without sufficient information to permit billing by the rural companies. This traffic originates from interexchange carriers (IXCs), competitive local exchange carriers (CLECs), wireless providers and others (collectively, "the originating providers"). The rural companies are not being paid for terminating this traffic. As a corollary, the originating providers are receiving free use of the rural companies' networks. In addition, it appears that significant amounts of toll or long-distance traffic is being delivered to the rural companies over extended area service (EAS) trunks without records necessary for assessing access charges. This traffic – traffic delivered without associated information identifying the originating carrier, or interexchange carrier in the case of toll traffic – is referred to as "Phantom Traffic."

The presence of Phantom Traffic creates several problems. The first of these problems is that to the extent that the Phantom Traffic would otherwise qualify as traffic subject to tariffed access charges, there is an understatement of access traffic. This understatement of access traffic can have two consequences. The first is that the rural company has a shortfall in covering the costs of providing access services. The second consequence is that access rates are higher than they would otherwise be since the traffic is not being included in the calculation of the appropriate level of access rates. This, in turn, has consequences for determining intercarrier compensation reform. If the "size of the pie" is not properly measured, it may lead to adoption of a particular intercarrier compensation reform mechanism that would not be appropriate if the total volume of access traffic was properly accounted for. This means that to the extent that revenue recovery through access charges is transferred to charges to end use customers under a particular intercarrier compensation reform mechanism, there is the potential for too large of an increase in end user charges.

Second, the presence of Phantom Traffic also has potential problems for universal service fund mechanisms. To the extent the traffic appears as local traffic (delivered over an EAS trunk group), it may not be counted in interstate revenues for a particular carrier and thus there is less of a contribution to the federal universal service fund, resulting in a higher percentage surcharge being assessed to other customers. In addition, to the extent that intercarrier compensation reform mechanisms propose the transfer of recovery of revenues from access charges to universal service fund mechanisms, there is a higher proportion of revenue shifted to those universal service fund mechanisms due to the presence of Phantom Traffic, if such Phantom Traffic is properly access traffic. This, also, can affect the majority of customers by requiring them to contribute a higher percentage to a federal universal service fund than might otherwise be the case if all traffic was properly measured and billed appropriately.

The third problem posed by the presence of Phantom Traffic is the effect on the network. Increasing use of the public switched telephone network (PSTN) by carriers

that do not pay for the use of the PSTN creates an increasing strain on the network. Absent adequate compensation from all telecommunications users, the carriers owning the networks, such as the rural companies, may not be able to afford network augmentation, network improvements or network upgrades. If there are political limits on the amount of support that can be provided by universal service funds, the free use of the PSTN by carriers that originate Phantom Traffic creates a transfer of those costs from the carriers using Phantom Traffic to end use customers to pay for network augmentation, network improvements and network upgrades. However, there are practical and competitive limitations on the extent to which charges to end use customers can be increased. As a result, it is not clear how continued investment in the PSTN can be sustained in the face of a growing volume of Phantom Traffic.

National estimates have put the size of the Phantom Traffic problem at twenty percent or more of the traffic terminating to a rural carrier.<sup>1</sup> In Oregon, one company that has established the capability to capture terminating traffic has reported that upwards of fifty percent of the traffic terminating to it on Feature Group C (FGC) trunks<sup>2</sup> potentially qualify as Phantom Traffic. The same company reported that on Feature Group D (FGD) trunks that the interexchange carriers (IXCs) order directly to the company (not tandem routed), the Phantom Traffic rate is well below one percent. Two Washington companies with similar measuring capability have reported that well in excess of thirty percent, and recently approaching forty percent for one company and in excess of fifty percent for the other company, of the traffic terminating to these companies on FGC trunks do not have associated billing records and, thus, may qualify as Phantom Traffic.<sup>3</sup>

The traffic is being delivered to toll/access tandems owned and operated by Qwest or potentially other tandem operators by the originating providers. The vast majority of rural companies subtend Qwest tandems. That traffic is then delivered to the rural companies over trunk groups established for toll calls. In some cases, toll traffic is not delivered to the toll tandem and instead is delivered to the rural companies over EAS trunks.

The traffic traversing the toll/access tandems is generally referred to by the tandem provider as transiting traffic, since it originates on the network of one provider, transits through the network of an intermediary provider (the tandem provider), and terminates on the network of a third provider.<sup>4</sup>

<sup>1</sup> National Exchange Carrier Association, Inc., "Phantom Traffic" Uncover, Discover and Recover, Presented March 3, 2005. Balhoff & Rowe, LLC, Phantom Traffic: Problem and Solutions, (May, 2005).

<sup>2</sup> In common usage, the trunk groups between rural companies and Qwest to and from the toll/access tandem for the carriage of toll traffic are referred to as Feature Group C trunks and that nomenclature will be adopted for the report. Technically, the trunk groups were established as Feature Group trunks for the provision of Feature Group services (Feature Group A, Feature Group B, and Feature Group C) ordered out of the rural company's access tariff. There is disagreement whether to characterize the feature groups in terms of signaling protocols (i.e., FGC is "traditional signaling") or services. This technical debate was not resolved within the docket. More importantly, the technical debate appears to have little meaning for the resolution of Phantom Traffic issues.

<sup>3</sup> See Tables 1 and 2, attached. In particular, note the growth in the traffic that may qualify as Phantom Traffic over the past four years.

<sup>4</sup> This assumes that the originating and terminating parties subtend the same tandem.

The originating providers may pay the intermediary provider transiting charges for transporting the traffic from their networks, switching the traffic at the tandem, and transporting the traffic to the networks of the rural companies. These charges are pursuant to access tariffs and interconnection agreements.

Historical compensation schemes evolved to an access charge structure under which rural companies assess Qwest originating and terminating access for delivery of the intraLATA toll traffic.<sup>5</sup> The toll trunks were not used for the routing of EAS traffic. The converse was also true; historically, EAS trunks were not used for the routing of toll/access traffic. Today, it appears that EAS traffic is routed over toll trunk groups and toll traffic is sometimes routed over EAS trunk groups. In most cases, such traffic lacks signaling information sufficient to permit identification of the originating provider or the facilities of the rural companies are not technically capable of identifying the originating provider for this traffic. Again in most cases, the rural companies are not able to block traffic from particular providers without blocking all incoming traffic on these shared trunks.

In the past, the amount of unidentified transiting traffic delivered to rural companies from an intermediary provider was not significant. This has changed, driven in major part by growth in usage in the wireless and CLEC markets. Termination of originating Voice over Internet Protocol (VoIP) traffic destined for access lines served by rural companies may also be a growing contributor to the problem. It also appears that access bypass is, in part, a motivating factor. Significant costs for rural companies are attributable to the volume of such traffic now being delivered to the rural companies.

## II. Background: Evolution of Interconnection

Historically, the telephone network has had central offices<sup>6</sup> connected to tandem switches, which were, in turn, connected to other long distance switching offices. Prior to the Bell System divestiture in 1984, the tandem switches to which rural company central offices connected were generally owned by AT&T Long Lines (AT&T) or Pacific Northwest Bell Telephone Company (PNB).

With the Bell System divestiture, the AT&T and PNB tandem offices became US WEST properties, and US WEST (now Qwest) became the intraLATA toll provider for all of the rural companies' service areas in Washington and Oregon. This meant that intraLATA long distance calls placed by rural company customers were jointly provided by the rural company where the call originated and Qwest. IntraLATA toll traffic continued to use the existing trunks constructed under the old AT&T and PNB regime.

<sup>5</sup> With the implementation of equal access, IXCs other than Qwest also pay access charges on intraLATA traffic.

<sup>6</sup> Central offices that serve end user subscribers are referred to as "end offices." Every end office is not directly connected to every other end office. Traffic between end offices is aggregated for both originating and terminating purposes through tandems that serve several subtending central offices. An explanation of the various types of traffic and the methods used to route such traffic appears in Appendix A. A glossary of some of the technical terms is included as Appendix B.

As a general rule, the rural companies provided trunking to and from a meet point with Qwest and Qwest provided the remainder of the intraLATA toll network.<sup>7</sup> Those trunks were, and are, FGC.

After the Bell System divestiture, interLATA toll traffic originating or terminating in areas served by the rural company was also routed through Qwest tandems, but such traffic was routed to the customer's chosen interLATA toll provider. After divestiture and the deployment of Equal Access, all major interexchange carriers, and most minor ones, purchased FGD trunking to the Qwest tandems, and in some cases directly to the end offices of the rural company,<sup>8</sup> for the handling of interLATA toll traffic, since FGD allowed carriers to use equal access dialing for originating calls. With equal access dialing originating calls, the presubscribed interexchange carrier identification code ("CIC") is signaled in FGD format from the end office to the tandem switch. IntraLATA toll traffic, however, continued to be routed over the existing FGC trunks which predated divestiture.

Prior to the Bell System divestiture, and for a substantial period thereafter, EAS calls were carried over separate trunks and not co-mingled with toll traffic. More recently, some EAS traffic, especially EAS traffic originating from CLECs, has come to be carried over the FGC trunks that historically were reserved exclusively for toll traffic.<sup>9</sup> Today, the traffic routed by Qwest on the FGC trunks terminating at rural company central offices includes calls from CLECs and wireless providers who have interconnected at the Qwest access/toll tandem, instead of at the rural company end offices. The rural companies have trouble billing for this traffic because all types of traffic on the FGC trunks are co-mingled and the rural companies, as a technical matter, cannot identify, based on terminating call records the rural company creates, whether calls they terminate should be billed to an IXC, a CMRS provider or a CLEC. On FGD trunks, the terminating billing record is a combination of Signaling System 7 (SS7), which is out-of-band signaling, or recording data on call duration, and the carrier to be billed is identified through the control of the interconnection trunk: if the trunk has been ordered by carrier X, or is otherwise assigned to carrier X, then the traffic is billed to carrier X. However, since transiting traffic is carried on shared trunks (FGC), the rural companies cannot identify the carrier based on the trunk. For traffic which transits the tandem, only the tandem provider can identify the carrier to be billed.

If the information is present in the signaling stream, it is technically possible to identify the company serving the originating customer based on SS7 or the in-band signaling information. For example, SS7 call signaling contains a number of data fields. The Calling Party Number (CPN) field identifies the number of the person placing the call. The Charged Number (CN) field indicates the number that is being billed for the

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<sup>7</sup> Each company had a distinct meet point with Qwest unless the rural company subtended another, non-Qwest tandem. This was, and is, a relatively rare occurrence.

<sup>8</sup> A few rural companies have maintained their own tandem from time-to-time, in which case the traffic would route to the rural company's tandem.

<sup>9</sup> This description of traffic flows is not meant to suggest that the routing of EAS traffic over toll trunks or toll traffic over EAS trunks is an acceptable routing mechanism. Rather, this phenomena is a contributing factor to the creation of Phantom Traffic.

call. If the calling number has not been ported, the NPA-NXX of the CPN can be used to identify the company serving the calling party. Although there are industry billing guidelines that establish billing record formats for the recording of traffic carried by an IXC, the signaling stream will not necessarily identify the carrier for the call if the call is carried by an IXC since the CIC of the carrier responsible for terminating charges is not signaled in the terminating direction. In addition, if the calling number has been ported,<sup>10</sup> then the SS7 local call signaling may also contain the local routing number or LRN as well as the ported number, and the company providing local service to the calling party can be identified via the LRN.

In theory, the use of the CIC is available for identifying the carrier responsible for terminating charges. However, population of the IXC responsible for call termination charges in the CIC field in SS7 transmissions is optional at this time. Further, wireless carriers are not required to obtain or use CICs. In any event, since it is not needed for routing for termination purposes, CIC is not signaled in the terminating direction today. SS7 has many additional fields, such as jurisdictional indicators and some of these might be used for identifying the originating carrier (defined as the IXC the calling party uses for the call), but that requires further technical investigation.

The problem is that calls using SS7 can be completed even if the data in some of these fields used to identify the originating carrier is missing or incorrect. The same is true for the in-band signaling (MF)--the calls complete even if the information is missing. For example, calls from wireless providers generally leave the carrier parameters blank. In other cases, the originating or transiting carriers may change information in certain fields, for a variety of reasons.

An additional problem may be that some trunks interconnecting transiting carriers and originating providers may not use SS7 signaling for the entire call route. The same may be true of trunks connecting the transiting providers and the terminating rural companies. If these interconnecting trunks are not SS7 compatible, then the out-of-band SS7 message, which contains the information which could be used to identify the originating provider, will not be passed over that portion of the call route where the trunks are not SS7.

The shared interconnection trunks (FGC) connecting an access tandem and the rural company end office carry a variety of traffic terminating to the rural company, including:

- IntraLATA traffic from the tandem operator.
- IntraLATA traffic originating from another ILEC providers serving as Primary Toll Carriers.
- Wireless traffic.

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<sup>10</sup> Local number portability allows a customer to move or "port" service from one provider to another without the need to change telephone number.

- Terminating traffic (both toll and EAS) bound to the terminating rural company from CLECs which interconnect with the tandem operator at the access/toll tandem.
- Terminating traffic (both interLATA and intraLATA) from IXCs that do not have direct FGD trunks to the terminating rural company end office or to a terminating tandem operated by the rural company.
- Overflow terminating traffic from IXCs that have direct FGD trunks to the rural company, where the FGD toll trunks connecting the IXC to the rural company become full (if such overflow routing has been provisioned by the IXC and the terminating tandem operator).

It should also be noted that in order to accommodate the entry of Verizon Northwest as a Primary Toll Carrier (PTC) into the intraLATA toll market, the industry created the Data Distribution Center (DDC) to allow the exchange of traffic information for intraLATA toll calling for calls that originate from the service areas of incumbent LECs and where no IXC, other than a PTC, is involved in the carriage of the call. This allowed Qwest, Verizon and, later, Sprint-United to become the PTCs for customers within their service areas. The rural companies do not charge for the delivery of their originating message record information to the DDC.

### III. Positions of the Parties:

#### A. Wireless Providers and Originating CLECs<sup>11</sup>

These providers are currently sending traffic to the transiting providers' tandems, and are being charged only the relatively low transiting charges. The calls are being terminated by rural companies, but, in many cases, the originating providers are not being charged anything for that service. Wireless providers enjoy a large "local" calling area mandated by decisions of the FCC. This local calling area for purposes of call termination is the Major Trading Area, which usually encompasses a large geographic area. For example, the Seattle Major Trading Area consists of the following counties: Chelan, Clallam, Douglas, Grant, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima. The Portland Major Trading Area is comprised of the following Oregon and Washington counties: Benton, Clackamas, Clark, Clatsop, Columbia, Coos, Cowlitz, Crook, Curry, Deschutes, Douglas, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Klickitat, Lake, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Skamania, Tillamook, Wahkiakum, Wasco, Washington, Wheeler and Yamhill. Wireless providers generally oppose any move to reduce this local calling area. The status quo is not harming these originating providers, while any change is likely to increase their costs.

The rural companies, when deprived of compensation for terminating this traffic, are harmed by the status quo. The rural companies have undertaken an initiative over the

<sup>11</sup> No wireless carrier participated in the Docket. Only one CLEC participated. The positions stated in this section are inferred from positions taken in public dockets.

past two years to negotiate traffic exchange agreements with various wireless companies. As of this date, agreements are in place with Verizon Wireless, Sprint PCS, T-Mobile and Cingular.<sup>12</sup> Other wireless carriers have either ignored the requests to negotiate traffic exchange agreements or have been very slow to respond to such requests.<sup>13</sup>

#### B. Rural Companies

The rural companies have proposed several remedies for this problem. Not all of these remedies are mutually exclusive. As one idea, they proposed requiring separate trunks for all traffic. Rural companies have also proposed charging the provider delivering the terminating traffic for the traffic. Third, they have, in the past, proposed having Qwest convert the interconnection trunks to FGD. Fourth, the rural companies have discussed joint or model agreements with the originating wireless carriers. The rural companies continue to discuss other possible remedies with Qwest.

If all traffic were carried over separate trunk groups, with each trunk group dedicated solely to one type of traffic from one provider, the rural companies would have no trouble identifying the originating carrier, nor obtaining enough information to bill those providers. This would allow direct billing. It would also allow the rural companies to block traffic from any provider that did not pay for terminating the traffic, since the rural company could block that trunk group. However, the rural companies have recognized this is a very expensive solution and have not seriously pursued this option to date.

The rural companies have also proposed billing the provider delivering the traffic. The rural companies argue that access charges should apply to all traffic being sent over the shared access trunks. The rural companies state that the shared trunks were originally established to carry toll calls, so any usage over those trunks should be billed access unless the delivering carrier can accurately identify the non-toll traffic from other terminating traffic for billing purposes. Further, in most instances the FGC (shared) trunks are established, ordered and operated by Qwest. Arguably, under tariff language, Qwest is the responsible party for all traffic delivered by it over those trunks. The delivering carrier could, presumably, pass the terminating charges on to the originating provider.

The rural companies have suggested that Qwest (and presumably the other tandem operators) convert its trunks from FGC to FGD. Under this approach, Qwest would order FGD services out of the rural companies' access tariffs. However, this appears to be an expensive alternative.

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<sup>12</sup> Cingular has agreements in the state of Washington but not in the state of Oregon.

<sup>13</sup> Under the FCC's recent decision in the T-Mobile docket, T-Mobile Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, CC Docket No. 01-92, FCC 05-42 (Released February 24, 2005), rural LECs now have the ability to request negotiations for traffic exchange with wireless carriers, including the ability to seek state arbitration. There is some debate as to whether the order is consistent with statutory language. The order has been appealed.

The rural companies have also been attempting to negotiate traffic exchange agreements with the wireless providers sending traffic over the shared trunks. The rural companies are proposing a model agreement, which could be applied to most rural companies and most wireless carriers. The rural companies prefer the model agreement option to arbitrating agreements between the many rural companies and many dozen originating providers. Several agreements have been signed, but the rural companies are reporting that negotiations on the model agreement are at an impasse with other carriers. To date, negotiations have not been attempted with CLECs. The rural companies also looked at tariffs as an interim measure until agreements are negotiated.<sup>14</sup>

C. Qwest

Qwest's position is that it should not be required to pay terminating access on transiting traffic because:

1. Qwest does not have the retail relationship with the end user on either end of the call and therefore has no retail revenue from which to compensate the terminating carrier under a calling party pays compensation environment.
2. Per the FCC, terminating access rates are not the appropriate charges for intraMTA wireless traffic.

Qwest also objects to being billed terminating charges (access or reciprocal compensation) with the intention that Qwest assume the administrative burden of billing and collecting those company specific charges from the carriers who delivered the traffic to Qwest.

Qwest's position is that it should not be required to convert its tandems to enable FGD trunking with ILECs as doing so would not accomplish the intended objective of providing the terminating carrier more information for billing purposes.

Qwest also offers a product called the Single Point of Presence (SPOP) under which a wireless carrier or CLEC can deliver all traffic to a single point in the LATA. SPOP allows a CLEC or wireless service provider (WSP) to have one physical point of presence per LATA. In addition, it also allows a CLEC to deliver exchange service (EAS/Local), exchange access (intraLATA Toll (Non-IXC)) and jointly provided switched access (interLATA and intraLATA IXC) traffic or a WSP to deliver intraMTA and interMTA on combined or separate trunk groups to Qwest access tandem switches where no local tandem exists. As a result of 271 workshops occurring in each state in Qwest's fourteen state region, each state has different rules around interconnecting to local tandems. The following is the language that was agreed to in the 271 workshops by Qwest and CLECs, which was subsequently approved by the respective Commissions in Oregon and Washington:

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<sup>14</sup> The tariff option may not be a feasible option for wireless traffic as a result of the Federal Communications Commission's recent decision on the T-Mobile petition (*see*, footnote 12). The T-Mobile decision declared wireless termination tariffs to be impermissible on a forward-going basis from the date of the decision.

be undertaken between wireless providers and rural companies and also between CLECs and rural companies for the termination of traffic to the rural companies.

It is Qwest's position that the options available to terminating carriers include the following: 1) make arrangements with the originating carriers to have the originating carriers provide the call detail information and jurisdiction indicators to the terminating carriers, or 2) contract with an entity that can record the information provided on the SS7 signaling stream, or from switch-based recording, for the transit calls to obtain the call detail records to be used for billing, or 3) obtain call detail transit records from the transiting provider, or 4) request direct connections with the originating providers.

In addition, Qwest, as a transit provider, does not feel it is obligated to assume the administrative costs and risk of non-payments by originating carriers while having to pay terminating companies.

Further, Qwest believes that separation of traffic onto separate trunk groups by originating carrier creates major translation problems for Qwest, will not provide a clean routing process and is inefficient.

D. Verizon

Verizon notes that this is not exclusively a rural company problem. Larger firms, such as Verizon, are affected by such billing issues – as terminating service and as transit service providers. Verizon also notes that estimates of Phantom Traffic in the range of 20 percent or more likely include local and EAS calls.

Verizon also notes that SS7 signaling is intended primarily for routing, not billing, and therefore does not contain all the information necessary for billing the carriers responsible for traffic that transit Verizon tandem switches.

EMI records, on the other hand, are intended for billing. At the current time, where Verizon records transit traffic, Verizon will deliver the EMI records to the terminating LEC without a charge. These EMI records contain information identifying the carrier to be billed. Per OBF industry standards, IXCs are identified by a CIC code, while all other carriers are identified by their OCN. Verizon reserves the right to assess a charge for these records at some point in time in the future.

Verizon's position is that the terminating party should bill the originating party in the case of traffic subject to reciprocal compensation, and the toll service provider in the case of traffic subject to access charges. Verizon's position is that the terminating party should not bill the transiting provider. Transit providers such as Verizon are not required – and should not be required – to act as a billing intermediary between originating and terminating carriers. It is also Verizon's position that it is not under an obligation to provide tandem switching for third party carriers and that if new burdens and financial risks were placed on it as to transiting traffic, it would be entitled to either act to secure sufficient compensation or to discontinue its transiting traffic functions.

As to the suggestion that Qwest and other tandem operators convert trunks from FGC to FGD signaling, Verizon notes that nothing would be gained by such a move. FGD signaling, as described in Appendix B, provides for equal access dialing on the originating side of a toll call, and is used to signal the selected toll provider's CIC to the tandem switch -- the CIC is the only information available to the tandem that tells it to which toll provider to route the call. On the terminating side of a toll call there is no equal access signaling and there is no practical difference between FGC and FGD signaling. Verizon stresses that the CIC information used to identify the toll service provider to bill for terminating access charges is not part of the terminating signaling. As such, any transition from FGC to FGD will not deliver the expected billing information to the rural LEC end office.

#### IV. Activity in Other Venues:

##### A. Other States

A few states, such as Missouri, have opened rulemakings on these issues. Montana and South Dakota have passed legislation dealing with transit traffic issues. Wisconsin has a docket on this issue, Docket No. 5-TI-1068, Investigation on the Commission's Own Motion Into the Treatment of Transiting Traffic.

Minnesota has a docket in which the rural companies brought a complaint against Qwest, Docket No. P-421/C-04-200, In the Matter of a Complaint by the Minnesota Telecom Alliance Against Qwest Communications, Inc. Regarding Traffic Terminating from Qwest Communications, Inc. Tandem Switches. An interim settlement has been reached under which Qwest agreed to deliver the records for certain transiting traffic to the rural companies. The records related to CLEC originated traffic are provided without charge.

In Michigan, SBC has agreed to be responsible for payment of access charges for messages delivered to rural companies that do not include billing information. Michigan Exchange Carriers Association v. Ameritech, Cause No. U-11298.

In Oregon, one rural company has brought a complaint against Qwest alleging improper delivery of traffic without records. That is Docket UCB 18, In the Matter of Beaver Creek Cooperative Telephone Company vs. Qwest Corporation. The Administrative Law Judge in that docket has issued an interim ruling that Qwest is not financially responsible for the delivery of third party traffic to the Complainant.<sup>15</sup> That ruling is subject to appeal at the close of the hearings on Qwest originated traffic.

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<sup>15</sup> The ALJ's August 4, 2005 ruling in the OPUC's UCB 18 Docket concludes: "(n)either the Commission or either of the parties hold the view that Phantom Traffic is a phantom problem. ILECs are providing terminating access for interexchange traffic passing through CLEC and CMRS switches for which those ILECs are not being compensated. Someone should pay, but for the reasons set forth in my ruling, that someone is not Qwest." Ruling at pages 4-5.

There are forums that address some of these issues. One forum in particular--the Ordering and Billing Forum or OBF--has addressed many issues of data requirements and formats. The OBF has some recommendations under consideration that may be useful. However, part of the problem has been that the OBF guidelines are not complete enough, while another part of the problem has been that carriers have been inconsistent or incomplete in their implementation of OBF guidelines. Therefore, although the OBF guidelines may have a part in solving these problems, the parties should not expect the OBF to resolve the problem on its own.

#### B. FCC Activity

The FCC has issued its Further Notice of Proposed Rulemaking (FNPRM) on intercarrier compensation.<sup>16</sup> The FCC has called for comments on a number of intercarrier compensation proposals. These include proposals submitted by the Intercarrier Compensation Forum (ICF), the Expanded Portland Group (EPG), the Alliance for Rational Intercarrier Compensation (ARIC), Western Wireless, Cost-Based Intercarrier Coalition (CBIC) and the National Association of Regulatory Utility Commissions (NARUC), among others. These proposals include a variety of alternatives, such as the transition to bill and keep, the transition from per minute charges to per port charges and moving intrastate access charges to interstate levels. It is unlikely that the FCC will take action on the NPRM prior to the end of the year. In addition, most of the plans that are under review call for relatively long term transition periods for the rural companies.

Implementing a bill-and-keep scheme would result in significant lost revenue for rural companies. Interstate access charges for rural companies are significantly higher than RBOC access charges, and rural companies, generally, have less revenue from specialized services, such as high-capacity transport and specialized business services. An increase in the monthly end user common line is unlikely to cover the loss of revenues from interstate intercarrier compensation for rural providers. If the FCC pre-empts intrastate access charges as well, the rate increase to local customers will be much higher. Attached as Tables 3 and 4 is an analysis of the local rate increases resulting solely from intrastate access rates being reduced to some of the levels suggested by the intercarrier compensation proposals. The amounts are significant.

In the opening round of comments in the FNPRM, a large number of the comments stressed the need to address Phantom Traffic issues. For example, both CenturyTel, Inc. and TDS Telecommunications Corporation (TDS) stressed the need to enforce "truth-in-labeling" on all inter-network and intercarrier traffic. Any traffic that is not properly labeled should be blocked.<sup>17</sup>

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<sup>16</sup> In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33 (Released March 3, 2005).

<sup>17</sup> Comments of Century, Inc. at p. 5-7; Comments of TDS Telecommunications Corporation ("TDS Comments") beginning at p. 9.

Specifically, TDS states: "The growing problem of phantom traffic distorts the intercarrier compensation system by placing undue burdens and costs on other carriers and consumers (especially rural consumers); undermines the cost-causer principle at the heart of the current intercarrier compensation system; and contributes to regulatory arbitrage."<sup>18</sup> TDS urged that the first step in any intercarrier compensation reform be the elimination of Phantom Traffic. TDS made the following recommendations:

At a minimum, the Commission should (1) adopt "truth-in-billing" guidelines that make it explicitly unlawful to alter, exclude, or strip carrier and call identifying information; (2) implement processes for challenging suspect traffic and penalizing responsible carriers; (3) permit inaccurately labeled traffic to be billed at the highest applicable rate to the carrier delivering the traffic; and (4) authorize the blocking of inaccurately labeled traffic, subject to specific guidelines and timelines for notifying and warning consumers and investigating and resolving disputes.<sup>19</sup>

The National Telecommunications Cooperative Association (NTCA) filed comments on the issue of Phantom Traffic supporting that after a date certain, all unlabeled traffic would be billed to the carrier delivering the traffic as access.<sup>20</sup> Additionally, NTCA supports adoption as mandatory standards the recommendations of the Network Interconnection Interoperability Forum (NIIF) for procedures for getting accurate geographic information for call origination into SS7 initial address messages. This would implement existing Jurisdictional Information Parameter (JIP) information. Currently, the JIP is an optional parameter. NTCA recommends adopting the NIIF rules for populating the JIP as mandatory standards. Those rules as described by NTCA are as follows:

1. JIP should be populated in the Initial Address Messages (IAMs) of all wireline and wireless originating calls where technically feasible.
2. JIP should be populated with an NPA-NXX that is assigned in the Local Exchange Routing Guide (LERG) to the originating switch or Mobile Switching Center (MSC).
3. Where technically feasible if the originating switch or MSC serves multiple states/LATAs, then the switch should support multiple JIPs such that the JIP used for a given call can be populated with an NPA-NXX that is specific to both the switch as well as the state and LATA of the caller. If the JIP cannot be populated at the state and LATA level, the JIP should be populated with an NPA-NXX specific to the originating switch or MSC where it is technically feasible.

<sup>18</sup> TDS Comments at p. 10.

<sup>19</sup> TDS Comments at p. 11-12.

<sup>20</sup> Comments of the National Telecommunications Cooperative Association at p. 51.

4. Where the originating switch cannot signal JIP it is desirable the subsequent switch in the call path populate the JIP using a data fill default associated with the incoming route. The value of the data fill item is an NPA-NXX associated with the originating switch or MSC and reflects its location.
5. When call forwarding occurs, the forwarded call from directory number (DN) field will be populated, the JIP will be changed to a JIP associated with the forwarded from DN and the new called DN will be inserted in the IAM.
6. As per T1.TRQ2, the JIP should be reset when a new billable call leg is created.

The National Association of Regulatory Utility Commissioners (NARUC) filed an intercarrier compensation proposal known as Version 7. In that proposal, NARUC addresses Phantom Traffic as follows:

No LEC shall be required to terminate calls if the call records do not permit billing for terminating access, so long as it participates in an industry process designed to identify calls that have been blocked for this reason and provide real-time resolution. If the carrier seeking to terminate traffic to the LEC disputes the LEC's determination, it should have the option of referring the dispute to the appropriate State commission for resolution. Upon receiving notice that the dispute has been referred to a State commission, the LEC should carry the disputed traffic until the State commission has acted.

Reply comments in the FNPRM were filed July 20, 2005. It is still not expected that FCC action will occur prior to the end of this calendar year.

**V. Analysis of Alternatives:**

**A. Status Quo**

The rural companies are experiencing an ever-increasing amount of transiting traffic being terminated to them. See Tables 1 and 2. It is difficult to quantify the portion of the traffic that is Phantom Traffic. It is even more difficult to assign a dollar value to the Phantom Traffic. However, the magnitude of the Phantom Traffic is significant, and growing. The rural companies have expressed increasing concern over this problem. The status quo--having the rural companies absorb the cost of terminating this traffic--does not seem reasonable or sustainable.

For the reasons identified earlier, the status quo places upward pressure on retail customer rates. In addition, the status quo calls into question the ways in which continued investment can be made in network augmentation, network improvements and network upgrades in rural portions of the PSTN.

B. Wait for FCC

As discussed above, a final resolution from the FCC may not be presented in the near term. The only resolution which would obviate the need for state-level action on the transiting traffic issue is if the FCC abolishes intercarrier compensation and attempts to preempt the state commissions, applying a bill and keep policy to intrastate interconnection as well. It is questionable that such a plan could withstand court challenges, and even if the FCC were to pursue such a course, the FCC could be expected to phase in that plan over a number of years.

C. Dedicated Trunking

Requiring separate trunks for all traffic would resolve many of the billing and blocking problems the rural companies now face. The cost of requiring such trunking, however, could be high.

There are over a dozen rural companies serving in rural areas of the state, and those rural companies serve many end offices. Taken together, there are even more CLECs and wireless providers serving in the state. Requiring separate trunks from each provider to each office would require many hundreds of additional trunks to be installed. This would require investment for facilities upgrades, and, perhaps, switch enhancements.

The CLECs and wireless providers would also bear additional costs--the charges for the facilities and terminations of all those trunks. For some providers operating only in the Seattle or Tacoma areas, for example, the trunks terminating in various rural areas of Washington would see little or no usage--certainly not the level of usage that would make installing a dedicated business trunk a reasonable business decision if other transport were available.

This solution would be further compounded by legal problems. Under FCC rules, it is arguable that the wireless carriers are allowed to interconnect at tandems, and receive transport over the ILEC network to all subtending end offices. If the Commission attempted to require wireless providers to use dedicated transport to all end offices, it could face a legal challenge. If it did not, then shared transport trunks would continue to create the same problems that exist today.

Requiring dedicated trunking to all end offices also runs into problems if the Commission continues to allow overflow traffic to ride shared trunks. Overflow traffic would have the same identification problems of other types of shared trunks. Not allowing overflow trunking would require the providers to size the dedicated trunks for peak loads, rather than typical loads. This would result in an increase in the number of trunks required, and in the resulting expense.

D. Billing Transiting Carriers Terminating Charges

The rural companies have proposed applying terminating access charges to all traffic delivered to them over FGC trunks. The rural companies would bill the delivering carrier for all traffic arriving over the shared interconnection trunks in this case. The problems the rural companies now have in billing transiting usage result from problems in identifying the provider to be billed, and these problems would end if all charges were billed to the provider delivering the traffic to the rural companies. The rural companies argue that the existing access tariffs allow them to bill the provider delivering the traffic to them.

The delivering providers could, in theory, pass these charges on to the originating providers. In practice, this would depend on whether the interconnection agreements between the transiting and originating providers allowed the passing on of such charges.

E. Interconnection Agreements (ICAs)

Under the 1996 Telecommunications Act, one method of arriving at interconnection and compensation for "local" traffic is the ICA. However, not all of the traffic involved in this issue is considered to be "local" in nature. In an ICA, providers may negotiate agreements covering rates, terms and conditions, and those rates, terms and conditions may be different than tariffed rates. Providers may reach voluntary agreements, or may request mediation or arbitration under the §§ 251 and 252 of the Act.

The rural companies have been attempting to negotiate a model wireless agreement, which the majority of wireless originating providers could enter into. Such a model agreement could obviate the need for a large number of arbitrations.<sup>21</sup> Since arbitrating a significant number of the agreements necessary between the dozen or so rural companies and dozens of originating providers would tax the resources of the rural companies and originating providers, this is a desirable goal.

Many of the rural companies are currently unable to block the traffic from individual originating carriers that is delivered on the FGC trunks. This leaves the rural companies no ability to disconnect providers for non-payment. Rural companies have proposed the use of ratios to determine terminating traffic. The ratio is based on traffic originating from the rural companies which then uses the agreed T/O ratio.<sup>22</sup> The originating minute data is verifiable. Three wireless carriers – Verizon Wireless, Sprint PCS and T-Mobile – agreed to use of the T/O ratios for billing terminating traffic. AT&T Wireless (now Cingular) began by using its records and sending those records,

<sup>21</sup> It is not clear that arbitration may be available for these negotiations. Rural companies are exempt from Section 251(c) obligations, which include arbitration leading to Section 252 Commission-determined arbitration. The FCC's T-Mobile decision recently indicated that the rural companies could compel arbitration with a wireless provider. That decision may be subject to legal challenge.

<sup>22</sup> "T/O ratio" refers to the calculation of terminating minutes ("T") based on originating minutes ("O"). With a T/O factor of 2/1, there is agreement to use two terminating minutes for every one originating minute. The T/O ratio can also be expressed as a percentage of total traffic between two carriers, such as "70/30."

without charge, to the rural companies to be used for billing terminating traffic. The accuracy of Cingular's records was called in question. Cingular has recently agreed to be billed using a T/O ratio. Without the use of ratios, most of the rural companies would have to rely on the originating provider's own statements of volume, or purchase the Qwest records, to determine the amount of terminating traffic they receive. The rural companies do not have the ability to verify this third party data.

F. Qwest Records

Currently, Qwest is willing to sell transiting records to the rural companies for \$0.0025 per category 11-01-01 call detail message. This charge would apply to all messages, whether billable or not. At the present time, Qwest asserts that it is unable to identify and provide only billable messages. At the present time, Qwest takes the position that:

(a) The CMRS or CLEC carriers who utilize indirect connections and deliver their traffic to Qwest's tandems have the responsibility to properly route their traffic to the appropriate tandem for completion;

(b) Qwest, as a transit provider, has an obligation to allow for indirect interconnection between CMRS and CLECs to LECs, therefore Qwest will transit all traffic delivered to it at its access or local tandems; and

(c) Qwest's switching system does not attempt to identify the jurisdiction of the inbound traffic at the time the call is set up to determine whether the traffic should be routed over other groups such as local or EAS trunks instead of traditionally signaled terminating toll trunks.

This position has resulted in a high volume of local traffic from CLECs being routed to rural companies in EAS regions over FGC trunks rather than EAS trunks. Qwest would bill the rural companies for the provision of records for these EAS messages under its current offering.

Qwest also offers a Single Point of Presence (SPOP)<sup>23</sup> product to CLECs and wireless companies. This product is meant to require that the CLEC or wireless carrier route traffic to an EAS tandem, if one exists for an end office, and to the access tandem for all other end offices within a LATA. It is not clear that Qwest is enforcing the requirement to use local tandems where they exist since Qwest states it does not look at the originating number when delivering traffic through the access tandem. However, Qwest represents that it records every message delivered to it at the access tandem and that all records would be included in the record charges on a per-message basis. This makes the offer from Qwest to provide the messages for a fee appear to be uneconomic for the rural companies.

G. Blocking Traffic from Non-Paying Originating Providers

Even if the rural companies can identify the originating carrier for terminating traffic, the rural companies may continue to have trouble billing that traffic.

<sup>23</sup> See the description of the SPOP set out at pages 8-9, earlier.

Traditionally, telephone companies have enforced billing by threatening disconnection. Since transiting traffic (Phantom Traffic) is delivered over shared trunks that also deliver intraLATA toll, disconnection of those trunks by the rural company is not a viable option for many of the companies.

It may be technically possible for rural companies to block traffic based on originating carrier identification data in the SS7 call set-up message, but that remains theoretical at this point.

The transiting providers generally could block this traffic, since the traffic usually arrives from the originating providers over dedicated trunks,<sup>24</sup> and the transiting providers could block traffic from that trunk group to a particular rural company. However, Qwest has expressed reluctance to block traffic unless ordered to do so by the Commission. Assuming that the Commission does order transiting carriers to block traffic, when required, the parties and Commission will need to develop methods and criteria for that blocking. It should be noted that at least some of the intercarrier compensation proposals in the FCC's NPRM call for the tandem provider to exercise a higher level of control over the traffic that transits the tandem than Qwest does today. This would include looking at the originating data to determine whether the traffic should permissibly be routed over that tandem.

#### H. Passing Carrier Identification Data

If the rural companies are able to develop a method of billing based on in-band carrier identification or SS7 data, or if they use that data to verify the traffic reports supplied by the transiting providers, then this approach may offer an alternative. Presently, it is not clear what work-around processes might be possible if some data is missing. One Washington company, Mashell Telecom, has amended its access tariff to allow billing based upon terminating access records derived from information in the SS7 signal. Under this tariff language, the call is deemed to begin for access billing purposes with the transmission of the Address Complete Message and the message is deemed to have completed for access billing purposes with the transmission of the Release Complete Message. Mashell is experiencing implementation issues associated with use of this alternative billing parameter and has not yet issued any bills based upon SS7 signal information.

#### I. Legislation

It is possible for rural companies to pursue legislation. However, pursuing legislation is extremely time consuming, and can also be very expensive. For informational purposes, a copy of recent legislation adopted in South Dakota is attached in Appendix C.

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<sup>24</sup> One exception would be traffic that travels from one tandem to another. Other exceptions may exist.

## J. Combination Approaches

Several parties have recommended that a combination of approaches be used. These approaches focus on the need to correctly and completely populate message records. This "truth-in-labeling" or "truth-in-billing" approach is coupled with providing carriers the ability to block improperly populated traffic and, most importantly, billing the delivering carrier for the traffic that is delivered without billing information for the delivered message.

One approach is suggested by the mid-sized carriers such as CenturyTel and TDS. This approach has the following elements:

- Adoption of "truth-in-billing" standards that require the population of identifying fields for carrier and jurisdiction by the originating carrier and which make it explicitly unlawful to alter, exclude, or strip carrier and call identifying information
- Implement processes for challenging suspect traffic and penalizing responsible carriers
- Require transiting carrier to forward the identification information without alteration
- Permit inaccurately labeled traffic to be billed at the highest applicable rate to the carrier delivering the traffic
- Permit the blocking of inaccurately labeled traffic, subject to specific guidelines and time lines for notifying and warning consumers and investigating and resolving disputes

An alternative approach is suggested by NTCA. The NTCA approach would adopt the NIIF procedures for accurate geographic labeling, focusing on population of the JIP. These would become mandatory standards. The standards are set forth at page 14, above. Any message that is delivered without the appropriate population information in the record would be billed to the carrier delivering the traffic as access traffic.

## VI. **Other Issues:**

### A. 800 Calls

In addition to other types of calling patterns, over the past year the industry has been addressing a problem related to 800-type calling. This problem originates where calls are associated with a CIC of 0110, which is commonly denominated within the industry to indicate that a LEC, and not an IXC, is the 800 service provider. The LEC 800 service provider is identified by means of a POTS (plain old telephone service) line number. Under the 800 calling system, an 800 number is associated with either a valid CIC, or a CIC of 0110 and a POTS number. The information that associates the 800 number with the CIC or POTS number is entered and maintained in the SMS800 database.

The control for entry of data in the SMS800 database is that an entity must become a RESPORG (or responsible organization). Unfortunately, the controls over who may become a RESPORG and enter data are very loose. This has led to the situation where some 800 providers are associating with what appear to be less than honorable RESBORGS. The 800 service provider sells an 800 number to a business at a "good" price. The RESPORG then associates that 800 number with a 0110 CIC and a POTS number of a LEC, who many times is not aware of the entry into SMS800 of the 800 number, 0110 CIC, and one of their POTS numbers. All billing records that are developed for that 800 number are associated with the LEC who has the POTS number, not the actual 800 service provider themselves. Therefore, the 800 service provider avoids having to pay access charges for the service.

This problem is being addressed at a national level on a forward-going basis. A solution appears to be ready to be put in place that would require verification of a business relationship between the RESPORG entering the data into SMS800 and the LEC with the POTS line number. There is still a question about traffic that is processed up to that date and, perhaps, some ongoing traffic that is processed prior to that date with existing RESPORGs.

The Washington Exchange Carrier Association, the Oregon Exchange Carrier Association, Qwest, Electric Lightwave, Verizon and Sprint-United are working together to try to address the legacy issues by identifying high volumes of traffic to particular 800 numbers that are associated with 0110 CICs, but where Qwest is not the 800 service provider. The identified companies will track that data to attempt to identify any unethical RESPORGs that may be involved in the use of the 800 database for such traffic.

Many calling card services are related to 800 calling. AT&T claimed that its calling card services were information services, not telecommunications services. Under this theory, AT&T did not pay access charges or make contributions to the universal service fund for those services. The FCC recently held that AT&T was wrong.<sup>25</sup> The FCC concluded that AT&T's calling card services were in fact telecommunications services. AT&T subsequently filed a Motion for Stay Pending Appeal. In that Motion, AT&T argued that there were many other calling card service providers that route their calls in such a way as to avoid the payment of access charges. This is a significant ongoing problem.

## **VII. Conclusion and Recommendation:**

The Docket recommendation is that the Commission open a proceeding to consider the following:

1. Adoption of "truth-in-billing" standards that require the population of identifying fields for carrier and jurisdiction by the originating carrier and

<sup>25</sup> In the Matter of AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket No. 03-133, Order and Notice of Proposed Rulemaking (Released February 23, 2005), FCC 05-41.

which make it explicitly unlawful to alter, exclude, omit, or strip carrier and call identifying information.

2. Adoption of processes for challenging suspect interexchange traffic and penalizing responsible carriers.
3. Adoption of a default standard of billing the carrier delivering inaccurately labeled traffic for that traffic.
4. Adoption of a set of standards establishing the minimum requirements for delivery and exchange of traffic records.
5. Adoption of specific guidelines and timelines for investigating and resolving intercarrier traffic labeling disputes.
6. Adoption of a range of remedies to address violations of "truth-in-billing" standards.

It should be noted that the foregoing recommendation did not proceed from the docket as a unanimous recommendation.<sup>26</sup> Some docket participants felt that moving these issues to state commission proceedings is not appropriate at this time. A suggestion was made that it may be more appropriate to defer action until the Phantom Traffic issues have been addressed at the FCC. It is correct that many carriers have been urging the FCC to undertake a review of Phantom Traffic issues. However, there is no indication to date that the FCC will start such a proceeding or consider Phantom Traffic issues within the existing dockets, most notably the Intercarrier Compensation docket.

Nor is it clear that the FCC would have jurisdiction over intrastate access issues. Many parties filing comments before the FCC in the Intercarrier Compensation docket have argued that the FCC does not have authority over intrastate access issues. This is the position taken by many state commissions.

Concerns were also expressed whether a state commission has authority to address these issues for traffic carried by wireless carriers or traffic carried by VoIP providers. The countervailing view was that even if one hundred percent of the traffic cannot be addressed, it is important to make progress on these issues and, thus, moving the discussion of the issues to the Commission appears to be appropriate.

The issues are very complex. The issues are very technical. And, the issues are evolving, including the necessity to consider whether various new methods of routing calls, such as VoIP, may come into play. However, the issues are important and they are timely issues. The fact that the industry itself has not been able to come up with an

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<sup>26</sup> Qwest proposed an alternative recommendation which is attached as Appendix D. Qwest took no position on whether it is appropriate to bring these issues to the Commission at this time, but offered the alternative recommendation for consideration.

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agreed solution to Phantom Traffic issues only underscores that it is appropriate to bring these issues to the Commission for consideration.

**TABLE 1**

**COMPANY A  
FGC TERMINATING TRAFFIC**

A	B		C		D		E	
	SWITCH MEASURED		QWEST REPORTED		DIFFERENCE		DIFFERENCE %	
YEAR	MINUTES	MSSG	MINUTES	MSSG	MINUTES	MSSG	MINUTES	MSSG
2001	5,587,726	1,682,758	4,080,112	1,077,742	1,507,614	605,016	26.9800%	35.9500%
2002	5,877,825	1,759,500	3,956,574	1,021,705	1,921,251	737,795	32.6900%	41.9300%
2003	6,604,722	2,085,805	3,795,144	1,039,990	2,809,578	1,045,815	42.5400%	50.1400%
2004	7,760,104	2,391,229	4,059,805	1,106,798	3,700,299	1,284,431	47.6800%	53.7100%
2005*	3,052,349	877,217	1,481,564	376,674	1,570,785	500,543	51.4600%	57.0600%

\*Through April, 2005

**TABLE 2**  
**COMPANY B**  
**FGC TERMINATING TRAFFIC**

A	B		C		D		E	
	SWITCH MEASURED		QWEST REPORTED		DIFFERENCE		DIFFERENCE %	
YEAR	MINUTES	MSSG	MINUTES	MSSG	MINUTES	MSSG	MINUTES	MSSG
2001	5,718,675	1,657,584	4,713,652	1,289,940	1,005,023	367,644	17.57%	22.18%
2002	5,593,718	1,606,657	4,279,885	1,194,976	1,313,833	411,681	23.49%	25.62%
2003	7,012,272	1,852,954	4,725,073	1,300,679	2,287,199	552,275	32.62%	29.81%
2004	9,088,319	2,451,576	5,428,731	1,485,853	3,659,588	965,723	40.27%	39.39%
2005*	2,950,018	826,458	1,749,758	488,548	1,200,260	337,910	40.69%	40.89%

\*Through March, 2005

Table 3

## Washington

Company	Scenario 1 - Originating \$0.0 - Terminating \$0.01	Scenario 2 - Originating \$0.01 - Terminating \$0.01	Scenario 3 - Originating \$0.01 - Terminating \$0.02
1	\$60.05	\$59.01	\$56.97
2	40.37	38.80	37.32
3	35.21	32.07	30.41
4	30.37	28.25	27.42
5	27.63	27.01	26.62
6	26.38	24.34	23.33
7	26.15	25.14	24.30
8	25.98	25.16	24.25
9	23.90	23.44	22.48
10	23.19	22.52	21.80
11	21.01	14.73	9.20
12	20.19	19.18	18.50
13	16.12	15.50	15.03
14	14.07	13.22	12.58
15	13.18	12.50	11.52
16	13.15	12.41	11.52
17	11.46	10.89	10.21
18	11.14	10.44	9.98
19	8.97	8.32	7.72
20	8.18	7.70	6.39

Table 4

## Oregon

Company	Scenario 1 - Originating \$0.0 - Terminating \$0.01	Scenario 2 - Originating \$0.01 - Terminating \$0.01	Scenario 3 - Originating \$0.01 - Terminating \$0.02
1	\$15.58	\$13.75	\$12.34
2	12.98	11.41	10.31
3	12.51	11.12	9.86
4	12.32	10.80	9.80
5	11.57	10.64	8.90
6	10.75	9.54	8.48
7	10.73	9.59	8.43
8	8.33	7.46	6.53
9	8.02	7.21	6.27
10	7.75	6.90	6.10
11	7.62	6.98	6.14
12	7.16	6.19	5.76
13	6.34	5.50	5.09
14	6.26	5.52	4.96
15	6.21	5.56	4.87
16	5.76	5.10	4.56
17	5.60	4.99	4.41
18	5.04	4.40	4.02
19	4.89	4.37	3.83
20	4.87	4.33	3.83
21	4.73	4.30	3.67
22	3.92	3.41	3.13
23	3.64	3.18	2.91
24	3.51	3.07	2.80
25	2.68	2.33	2.14
26	2.60	2.32	2.04

## Appendix A Types of Traffic

### Local Service

#### Technical description:

The definition of local service evolved in a circuit-switched world. A customer would activate the switch, the switch would get information on the called party from the customer, and the switch would then connect that customer's line to the called party's line, to create a complete circuit. The customers would then have their conversation. At the end of the conversation, the switch would be notified that the call has been terminated, and the switch would disconnect the circuit.

In the early days of telephony, the customer would notify the switch operator of his/her desire to make a call by turning the crank on the side of the phone (which would ring a bell at the operator's location). The caller would then tell the operator the name or number of the person being called. At the end of the call, the customer would turn the crank again, to notify the operator that the call was done (ringing off).

With the current system, picking up the handset automatically signals the switch that the caller wishes to place a call. The switch responds by sending "dial tone"--an audible indication that the switch is ready to receive instructions. The customer sends the called party's telephone number, which corresponds to the line assigned to the called party. At the conclusion of a call, either party hanging up the phone will signal the switch to terminate the connection.

Technically, local service originally referred to calls between customers connected to the same switch, and physically located within the same exchange. Since an exchange was originally the area served by a single switch, these definitions were interchangeable. However, as populations grew, single exchanges were often divided and served by multiple switches, with the subdivision being called "wire centers." Likewise, some rural exchanges were merged, so that they could both be served by a single switch. Technological changes have also resulted in a single switch serving multiple exchanges.

## **Extended Area Service (EAS)**

### Technical description:

Extended Area Service is an arrangement where customers in one exchange can make calls on a local, non-toll basis, to customers in certain other exchanges. The trunking arrangement for EAS calls typically is that the switches in the exchanges with EAS to one another are directly connected with EAS trunk groups.

When an EAS call is placed, the switch serving the customer identifies the switch serving the called party, and routes the call over the trunks used to create the EAS arrangement with that switch. The switch of the company serving the called party then completes the circuit.

## **Long Distance, a/k/a Message Toll Service (MTS)**

### Technical description:

Long distance service means a call which terminates outside the local calling area of the originating end user.

With divestiture, the country was divided into LATAs.<sup>27</sup> The Regional Bell Operating Companies or RBOCs kept intraLATA toll traffic and AT&T, together with competing interexchange carriers (collectively, the IXCs), handled all interLATA traffic.

Post-divestiture, interLATA calls originate to the IXC utilizing the local company-provided lines, and when the IXC has purchased FGD trunks to the end office serving the calling party are switched onto that FGD trunk running to the IXC Point of Presence (POP). When the IXC has not purchased FGD trunks to the end office serving the calling party the call is then routed over FGC trunks to the tandem which the end office sub-tends. With the introduction of intraLATA competition, an intraLATA call may also be routed to an IXC for completion. Overflow traffic is traffic which is routed to the tandem (by either the end office in the case of call origination, or the IXC in the case of call termination) because the preferred direct end office FGD trunks are full.

To bill access charges on toll calls, the originating and terminating carriers use a mix of SS7 and trunk identification data. The time and duration of the call generally comes from SS7 data. Typically, on an originating access toll call, the equal access end office switch creates the originating access call record and the CIC is populated based on the carrier selected by the calling party (either their PIC/LPIC/or 1010XXXX). On a terminating access call the first switch on the PSTN (either the terminating end office where the IXC has ordered FGD trunks to that end office, or the tandem) creates the terminating access record and populates the CIC based on what IXC ordered the FGD trunk to the end office or tandem.

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<sup>27</sup> Local Access and Transport Area.

## Wireless Service

### Technical description:

Wireless traffic is, technically, identical to circuit switched voice traffic. Wireless traffic may originate over wireless links, but it is switched by the same switching technology used by ILECs. The interconnection trunks connecting wireless switching offices to wireline tandems are the same types as used by interconnecting CLECs or IXCs. Signaling is via SS7.<sup>28</sup>

The FCC, and various state and federal statutes, have limited the states' jurisdiction over wireless providers. The FCC decided to treat wireless providers as an "infant industry," and used a very light regulatory hand. For the purposes of this report, the FCC has made three important rulings.

First, the FCC has ruled that wireless providers can interconnect at tandems, and use the ILEC to ILEC network to originate and terminate wireless calls. The FCC has not required wireless providers to establish FGD trunking, or to enable equal access service for wireless customers. This means that termination of traffic over the shared tandem and FGC trunks to rural company switches is the norm in the wireless industry.

Second, the FCC has not required the wireless providers to obtain carrier identification numbers (CICs). This makes identifying the responsible provider for wireless traffic that transits multiple networks more difficult.

Third, the FCC has defined the local calling area for wireless traffic. For wireless carriers, the "local calling area" is defined as the MTA (metropolitan trading area). The boundaries of MTA are set by the census, and do not match those of exchanges, telephone service areas or even states. Wireless calls that originate and terminate inside the MTA are treated as local for the purposes of interconnection.<sup>29</sup> Wireless calls traveling between MTAs are considered long distance, and access charges apply.

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<sup>28</sup> The majority of all wireless to tandem links are SS7 capable.

<sup>29</sup> The point of origination is deemed to be the cell site serving the customer at the time the call is initiated.

## Appendix B Glossary

**CIC:** Carrier Identification Code: used to route and bill calls in the public switched telephone network. CICs are four-digit codes in the format XXXX, where X is any digit from 0 through 9. Separate CIC pools are maintained for Feature Group B (line side) access and Feature Group D (trunk side) access.

**CLEC:** Competitive Local Exchange Carrier.

**CPN:** The CPN is a SS7 parameter that should reflect the number of the subscriber line from which a call is placed.

**Feature Group X:** the trunks interconnecting ILEC central offices and with tandems, or tandems with other tandems, or tandems to POPs, are described in terms of the groups of features on those lines.

- **FGA:** line side interconnection with 7 digit local numbers, not in great use today, but when used is primarily for intraLATA toll service.
- **FGB:** similar to FGA, but with a (higher-quality) trunk-side connection, dialed using a "10XXX" dialing pattern.
- **FGC:** the legacy signaling protocol used by AT&T Long Lines before divestiture and by the RBOCs after divestiture.
- **FGD:** the signaling protocol which enables equal access dialing, using trunk-side interconnection.

**Rural Company:** Independent (telephone) company: this term has been used to refer to the smaller ILECs--the traditional telephone companies in Washington, other than Qwest and Verizon.

**ILEC:** Incumbent Local Exchange Carrier: generally, this indicates a traditional telephone company that has, or had, monopoly franchises in the past.

**IXC:** Interexchange Carrier, or long distance service provider.

**MTS:** Message Toll Service, a term for long distance service.

**MTA:** Metropolitan Trading Area: MTAs are geographic areas based on census data. The United States is divided into 51 MTAs. The FCC uses MTA to define the "local calling area" for wireless providers.

**OBF:** Ordering and Billing Forum: industry trade group that addresses problems and issues related to data format, data requirements and other factors associated with billing.

"Originating Provider" (also "originating carrier"): as used in this report, this means the providers that originate traffic that transits a tandem.

POP: Point of Presence: the location at which an IXC's long distance networks connect with the local provider networks.

SS7: Signaling System Seven (SS7): SS7 is a packet switched network, which sends data that supports call establishment, routing and information exchange functions through a separate ("out of band") network.

"Tandem": A tandem (or Class 4 switch): switches calls between incoming trunks and outgoing trunks that connect to end offices, or to long distance networks.

"Transiting Provider" (also "transiting carrier"): as used in this report, this means the intermediary provider that accepts transiting traffic from originating providers and routes it to terminating providers.

"Terminating Providers": mean the providers--primarily rural companies--that receive and terminate transiting traffic.

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**APPENDIX C**

49-31-109. Definitions. Terms used in §§ 49-31-109 to 49-31-115, inclusive, mean:

- (1) "Interexchange carrier," a telecommunications carrier providing nonlocal telecommunications services;
- (2) "Local telecommunications traffic," any wireline to wireline telecommunications traffic that originates and terminates in the same wireline local calling area or wireline to wireless telecommunications traffic that originates within and is delivered to an actual point of presence established by a wireless service provider in the same wireline local calling area. Local telecommunications traffic also includes any wireless to wireline telecommunications traffic that originates and terminates in the same major trading area as defined in 47 CFR § 24.202(a) as of January 1, 2004;
- (3) "Nonlocal telecommunications traffic," any wireline to wireline telecommunications traffic that originates in one wireline local calling area and terminates in another wireline local calling area and wireline to wireless telecommunications traffic that originates in one wireline local calling area and is delivered to an actual point of presence established by a wireless service provider in another wireline local calling area. Nonlocal telecommunications traffic also includes any wireless to wireline telecommunications traffic that originates in one major trading area and terminates in another major trading area;
- (4) "Originating carrier," a telecommunications carrier whose network or service is used by a customer to originate telecommunications traffic. An originating carrier may be a wireline or wireless carrier transmitting local telecommunications traffic or an interexchange carrier transmitting nonlocal telecommunications traffic;
- (5) "Terminating carrier," a telecommunications carrier upon whose network telecommunications traffic terminates to the called party;
- (6) "Transiting carrier," a telecommunications carrier that does not originate or terminate telecommunications traffic, but either switches or transports traffic, or both, between an originating carrier and a terminating carrier;
- (7) "Transit traffic," telecommunications traffic that an originating carrier has delivered to a transiting carrier or carriers for delivery to a terminating carrier.

Source: SL 2004, ch 284, § 1.

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49-31-110. Local telecommunications traffic signaling information required to be provided by originating carrier to terminating carrier to assess charges. If necessary for the assessment of transport and termination charges pursuant to 47 U.S.C. § 251(b)(5) as of January 1, 2004, an originating carrier of local telecommunications traffic shall, in delivering its traffic, transmit signaling information in accordance with commonly accepted industry standards giving the terminating carrier information that is sufficient to identify, measure, and appropriately charge the originating carrier for services provided in terminating the local telecommunications traffic. If the originating carrier is delivering both local and nonlocal telecommunications traffic, the originating carrier shall separately provide the terminating carrier with accurate and verifiable information, including percentage measurements that enables the terminating carrier to appropriately classify telecommunications traffic as being either local or nonlocal, and interstate or intrastate, and to assess the appropriate applicable transport and termination or access charges. If accurate and verifiable information allowing appropriate classification of the terminated traffic is not provided by the originating carrier, the terminating carrier may classify all unidentified traffic terminated for the originating carrier as nonlocal telecommunications traffic for service billing purposes.

Source: SL 2004, ch 284, § 2.

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49-31-111. Nonlocal telecommunications traffic signaling information required to be provided by originating carrier to terminating carrier to assess charges. An originating carrier of nonlocal telecommunications traffic shall, in delivering its traffic, transmit signaling information in accordance with commonly accepted industry standards giving the terminating carrier information that is sufficient to identify, measure, and appropriately charge the originating carrier for services provided in terminating the nonlocal telecommunications traffic. If the originating carrier is delivering both intrastate and interstate nonlocal telecommunications traffic, the originating carrier shall separately provide the terminating carrier with accurate information including verifiable percentage measurements that enables the terminating carrier to appropriately classify nonlocal telecommunications traffic as being either interstate or intrastate, and to assess the appropriate applicable access charges. If accurate and verifiable information allowing appropriate classification of the telecommunications traffic is not provided by the originating carrier, the terminating carrier may classify all unidentified nonlocal telecommunications traffic terminated for the originating carrier as intrastate telecommunications traffic for service billing purposes.

Source: SL 2004, ch 284, § 3.

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49-31-112. Transiting carrier required to deliver signaling information with telecommunications traffic--Liability for failure to deliver. A transiting carrier shall deliver telecommunications traffic to the terminating carrier by means of facilities and signaling protocols that enable the terminating carrier to receive from the originating carrier all signaling information, as required by §§ 49-31-110 and 49-31-111, the originating carrier transmits with its telecommunications traffic. If any transiting carrier fails to deliver telecommunications traffic to another transiting carrier or to the terminating carrier with all of the signaling information transmitted by the originating carrier as required by §§ 49-31-110 and 49-31-111, and this results in telecommunications traffic that is not identifiable and therefore not billable by the terminating carrier to the appropriate originating carrier, the transiting carrier is liable to the terminating carrier for the transport and termination or access compensation relating to the traffic that cannot be identified and billed to the appropriate originating carrier.

Source: SL 2004, ch 284, § 4.

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49-31-113. Transit traffic or billing records to be provided by transiting carrier. Upon the request of a terminating carrier, the transiting carrier shall provide detailed transit traffic records or billing records related to the telecommunications traffic delivered to the terminating carrier.

Source: SL 2004, ch 284, § 5.

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49-31-114. Complaint procedure--Provisional remedies. Any telecommunications carrier damaged by noncompliance with the provisions of §§ 49-31-109 to 49-31-115, inclusive, may file a complaint with the commission pursuant to the provisions of chapter 49-13. If a complaint is filed seeking enforcement of any of the provisions in §§ 49-31-109 to 49-31-115, inclusive, the commission is authorized to order interim payments to the damaged party or other appropriate relief pending the final resolution of the complaint proceeding.

Source: SL 2004, ch 284, § 6.

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49-31-115. Promulgation of rules. The commission may promulgate rules pursuant to chapter 1-26 for the purpose of implementing the provisions of §§ 49-31-109 to 49-31-115, inclusive. The rules may address:

- (1) Defining the terms used in §§ 49-31-109 to 49-31-115, inclusive;
- (2) Signaling information requirements;
- (3) Carrier information necessary to appropriately classify telecommunications traffic;
- (4) The handling of complaints filed by carriers under §§ 49-31-109 to 49-31-115, inclusive; and
- (5) Transit traffic records.

Source: SL 2004, ch 284, § 7.

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## Appendix D

### QWEST RECOMMENDATION

Should the Commission decide to open a proceeding requesting "Phantom Traffic," Qwest suggests consideration of the following:

1. Adoption of requirements that wireless carriers, competitive local exchange carriers and incumbent local exchange carriers must negotiate agreements to govern the exchange of traffic and the business relationship between the Parties even when a transit provider is involved in the calls.
2. Adoption of "truth-in-billing" standards for the population of identifying fields for carrier and jurisdiction by the originating carrier.
3. Adoption of processes for challenging suspect interexchange traffic and penalizing non-compliant originating carriers.
4. Adoption of a default standard of billing the originating carrier for its inaccurately labeled traffic.
5. Adoption of specific guidelines and timelines for investigating and resolving intercarrier traffic labeling disputes.

#### Notes:

This recommendation differs from the Docket recommendation primarily in two ways. The first is the focus on carrier-to-carrier negotiations. A concern was expressed that carrier-to-carrier negotiations would be extremely time consuming and expensive for the smaller carriers with limited resources and that such smaller carriers would have little negotiating power.

The second difference is that the Qwest recommendation focuses on the originating carrier more extensively than the Docket recommendation. The Docket recommendation calls for the tandem provider to play an important role in the process. It should be noted that both Qwest and Verizon expressed concern over what role the tandem provider would need to play in resolving Phantom Traffic issues.

Thu Feb 10 15:30:50 2011 1

From todd@nccom.com Wed Mar 04 08:16:31 2009  
Date: Wed, 4 Mar 2009 08:15:00 -0800  
From: Todd Lesser <todd@nccom.com>  
To: "Nodland, Jeff" <jeff.nodland@qwest.com>  
Cc: "Donahue, Nancy" <Nancy.Donahue@qwest.com>  
Subject: Re: (fwd) Re: Qwest Dispute

I don't have a problem with it in theory but it would be important for me to see the language. Unless we come up with a global solution (us upgrading to SS7 and coming to a settlement on past debt), we plan to file a complaint with the Arizona Commission over those rates. We feel they are unjust. No other carrier in the state, including Verizon, charges for those records. We consider this part of tandem functionality and should be bundled in tandem transport fee it charges other carriers to transport the calls through the tandem. It would be different if Qwest would agree to allow us to use another tandem provider that doesn't charge us to subten off of but Qwest doesn't want to do this.

If you need time to investigate this and want to extend the window of arbitration until when Nancy gets back, please let me know.

Once again, I prefer a global solution to all these issues.

On 2009-03-04 at 08:16, Nodland, Jeff (jeff.nodland@qwest.com) wrote:

> Todd:  
>  
>  
>  
> Nancy and I wanted to touch base with you again, as she is preparing to  
> go on vacation and we really need to see if we are closing these out or  
> going to arbitration. On #4, we can confirm that the rate Qwest would  
> propose for both Cat 11 JPSA records and transit records is the  
> TELRIC-based (and ACC approved) \$0.001827. Are you okay with my  
> proposal on #3? Finally, we need to see what we can do on OR and WA,  
> what do you think of my proposal? please let us know today, if at all  
> possible, so that we can get this stuff closed. It seems like we are  
> so close, we would like to finish. Thanks very much.

> Jeff

> Jeffrey T. Nodland  
> 303-383-6657

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> please inform the sender by reply e-mail and destroy all copies of the  
> original message.

---

> From: Nodland, Jeff  
> Sent: Monday, March 02, 2009 6:45 PM  
> To: Todd Lesser  
> Cc: Donahue, Nancy  
> Subject: RE: (fwd) Re: Qwest Dispute

Thu Feb 10 15:24:31 2011

1

From [todd@nccom.com](mailto:todd@nccom.com) Mon Aug 24 07:45:01 2009

Date: Mon, 24 Aug 2009 07:44:13 -0700

From: Todd Lesser <[todd@nccom.com](mailto:todd@nccom.com)>

To: "Nodland, Jeff" <[jeff.nodland@qwest.com](mailto:jeff.nodland@qwest.com)>

Cc: "Donahue, Nancy" <[Nancy.Donahue@qwest.com](mailto:Nancy.Donahue@qwest.com)>,  
'Chris Reichman' <[chris\\_reichman@yahoo.com](mailto:chris_reichman@yahoo.com)>,

'Joseph Dicks' <[jdicks@dicks-workmanlaw.com](mailto:jdicks@dicks-workmanlaw.com)>

Subject: Tandem fees

I have been in contact with another tandem provider in Arizona. If the 79% figure is correct, I can have 79% of the traffic switched through another tandem. This other carrier doesn't charge for the circuits nor do they charge for the records. They make their money by charging the terminating carrier tandem switching fees.

As I stated in my previous e-mail, I would assume that Qwest makes a lot of money off of tandem switching fees from our traffic and wouldn't want this traffic going through another carrier.

Is there anything you can do on these circuit costs and record fees?

Thu Feb 10 15:29:32 2011 1

From todd@nccom.com Thu Aug 27 14:38:54 2009  
Date: Thu, 27 Aug 2009 14:38:07 -0700  
From: Todd Lesser <todd@nccom.com>  
To: "Nodland, Jeff" <jeff.nodland@qwest.com>  
Cc: "Donahue, Nancy" <Nancy.Donahue@qwest.com>,  
Chris Reichman <chris\_reichman@yahoo.com>,  
"Joseph G. Dicks" <jdicks@dicks-workmanlaw.com>  
Subject: Re: Tandem fees

Correct me if I am wrong. The problem is how I understand it is some carriers are violating the interconnection agreement by routing long distance IXC traffic over the local interconnection trunks instead of terminating the traffic over IXC trunk groups. Qwest uses its SS7 tools to catch this violation.

I did come up with one solution. We have outbound MF IXC trunks groups with Qwest. Qwest clearly has the ability to track calls on those trunk groups. They currently bill us for mileage and whether the call is interstate or intrastate.

We should simply agree to outpulse the ANI of each call that is made. This would then provide the same protections that Qwest has with SS7.

On a separate issue, I have been in discussions with an alternative tandem provider in Arizona. They have agreed to have us subtend their tandem instead of the Qwest tandem. They are not billing us for the circuits nor for the call records.

This leaves two issues up in the air Qwest traffic and transit traffic.

I know Qwest makes a lot of money by billing IXC's, CLEC's and wireless carriers for traffic that transits the Qwest network and then terminates at our switch. Before I go down that path, I want to make sure that Qwest wants me to go in that direction. If I stay with Qwest, I would like Qwest to continue to not bill us for circuits and stop billing us for the call records.

On 2009-08-27 at 14:12, Nodland, Jeff (jeff.nodland@qwest.com) wrote:

> Have you been able to think of any proposals? Thanks.

>

> Jeff

>

>

> Jeffrey T. Nodland

> 303-383-6657

>

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>

>

>

>

> -----Original Message-----

> From: Todd Lesser [mailto:todd@nccom.com]

> Sent: Monday, August 24, 2009 9:45 AM

> To: Nodland, Jeff

> Subject: Re: Tandem fees

>

> Thank you for telling me your concerns. Let me think if over. I may

> have a few other solutions.

Thu Feb 10 15:30:19 2011

1

From todd@nccom.com Mon May 03 14:23:07 2010

Date: Mon, 3 May 2010 14:23:02 -0700

From: Todd Lesser <todd@nccom.com>

To: "Nodland, Jeff" <jeff.nodland@qwest.com>

Cc: "Batz, Nancy" <Nancy.Batz@qwest.com>,

"jdicks@dicks-workmanlaw.com" <jdicks@dicks-workmanlaw.com>,

"Donahue, Nancy" <Nancy.Donahue@qwest.com>,

"Anderl, Lisa" <Lisa.Anderl@qwest.com>,

Chris Reichman <chris\_reichman@yahoo.com>,

Anthony McNamer <anthony@mcnamerlaw.com>

Subject: Re: North County Final ICAs (AZ, OR & WA)

I may have a suggestion that may address a lot of your concerns. We have once again been approached by a third party tandem provider to have our central office subtend their tandem instead of the Qwest tandem. They would connect up to you by SS7 but still connect up to us by MF. You therefore should be able to use all your programs that you wrote to monitor with SS7.

Do you want to pursue this line of thought?

Thu Feb 10 15:34:20 2011 1

From todd@nccom.com Thu Dec 04 15:11:39 2008  
Date: Thu, 4 Dec 2008 15:10:42 -0800  
From: Todd Lesser <todd@nccom.com>  
To: "Nodland, Jeff" <jeff.nodland@qwest.com>  
Cc: "Donahue, Nancy" <Nancy.Donahue@qwest.com>  
Subject: Re: North County Communications Corporation ("North County")

Wait a second. I have wanted to negotiate off the current agreement since day one. Qwest has refused.

We are more than willing to negotiate with Qwest but requiring us to spent millions of dollars on upgrading to SS7 is not going to happen. Your whole agreement you sent is based upon SS7. Since we are not SS7, it is inappropriate to use that as the model template to work off of. Nevertheless, I am willing to discuss this during this 30 day window. Requiring us to purchase new switches would be no different than if I requested Qwest to purchase new switches to provide us interconnection using VOIP.

Our existing agreement has been approved by the jurisdictions we are in.

I am more than willing to negotiate with Qwest and extend the amount of time you can request arbitration by 30 days. I simply can agree to your conditions of what happens during those thirty days without legal approval. Something I can't get tonight.

It would really simplify the situation if you sent us an agreement that doesn't require us to build a completely new network.

On 2008-12-04 at 16:59, Nodland, Jeff (jeff.nodland@qwest.com) wrote:

> Mr. Lesser:

>

> Qwest has a template agreement that has been litigated in many venues and incorporates commission required language in many instances. North County has been in possession of the template for months and has had ample opportunity to review it. Negotiating from another agreement is not appropriate at this late juncture.

>

> You stated that you were amenable to a thirty day period, but now you appear to be backtracking. I will simply reiterate that Qwest is prepared to file arbitrations in all three states tomorrow absent that extension.

>

> As to your question, I did answer that this is a topic for negotiations, but SS7 is the industry standard and MF is not appropriate. If that is North County's sole issue, we can present it as such, but I am sorry that no further delay is acceptable. Unless we have a firm agreement on a schedule, Qwest will exercise its rights under the Act. I do hope that we can negotiate, but we are out of time.

>

> Jeff Nodland  
> Jeffrey T. Nodland  
> 303-683-8397

>

> ----- Original Message -----

> From: Todd Lesser <todd@nccom.com>

> To: Nodland, Jeff

> Cc: Donahue, Nancy

> Sent: Thu Dec 04 15:46:53 2008

> Subject: Re: North County Communications Corporation ("North County")

>

> It is a little late to get you an answer today. Our attorney is on the east coast.

>

> I have a better idea. If I send Qwest an agreement, would you be willing to meet the same schedule below.

>

> I see nothing in the Telecom Act that requires us to use your agreement at the template.

Thu Feb 10 15:34:00 2011 1

From todd@nccom.com Thu Dec 04 14:47:50 2008  
Date: Thu, 4 Dec 2008 14:46:53 -0800  
From: Todd Lesser <todd@nccom.com>  
To: "Nodland, Jeff" <jeff.nodland@qwest.com>  
Cc: "Donahue, Nancy" <Nancy.Donahue@qwest.com>  
Subject: Re: North County Communications Corporation ("North County")

It is a little late to get you an answer today. Our attorney is on the east coast.

I have a better idea. If I send Qwest an agreement, would you be willing to meet the same schedule below.

I see nothing in the Telecom Act that requires us to use your agreement at the template.

In addition, could you please respond to my December 2nd, 2008 e-mail. It sounds to me like this could be a show stopper.

On 2008-12-04 at 16:08, Nodland, Jeff (jeff.nodland@qwest.com) wrote:

> Mr. Lesser:  
>  
> Here is what I would offer as a negotiation schedule, taking into  
> account the holidays and end of the year:  
>  
> North County to provide redlined version of Qwest's template agreement  
> by December 19  
>  
> Qwest and North County begin negotiations the week of January 5, with at  
> least two meetings per week (more if needed), as schedule jointly by the  
> parties  
>  
> Negotiation period ends on January 23, 2009, with the parties preparing  
> issues lists for arbitration  
>  
> Petition for arbitration is filed by January 30, 2009.  
>  
> I need you to email back today whether this is acceptable. if it is, I  
> will prepare an extension letter, extending the arbitration window to  
> January 30, 2009. I will need you to immediately execute the letter and  
> fax it back to me. I hope that this works for us to avoid arbitration,  
> which would prevent Qwest filing for arbitration tomorrow. Thanks very  
> much.  
>  
> Jeff Nodland  
>  
>  
> Jeffrey T. Nodland  
> 303-383-6657  
>  
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>  
>  
>  
> -----Original Message-----

Thu Feb 10 15:55:16 2011

1

From todd@nccom.com Wed Nov 18 16:12:08 2009  
Date: Wed, 18 Nov 2009 16:10:38 -0800  
From: Todd Lesser <todd@nccom.com>  
To: "Nodland, Jeff" <jeff.nodland@qwest.com>  
Cc: "Joseph G. Dicks" <jdicks@dicks-workmanlaw.com>,  
"Donahue, Nancy" <Nancy.Donahue@qwest.com>,  
"Batz, Nancy" <Nancy.Batz@qwest.com>,  
"Van Meter, Russ" <Russ.VanMeter@qwest.com>,  
"Anderl, Lisa" <Lisa.Anderl@qwest.com>  
Subject: Re: North County Final ICAs (AZ, OR & WA)

I want to step in and give my input. NCC is a small company. We have always felt that we should have worked off the existing interconnection agreement. For the purpose of compromise, we agreed to try to reach an agreement on Section 7. If we were unable to agree on something as fundamental as Section 7, there was no point at spending all the legal fees to review all rest of the document.

While there have been some new terms that have come up over the last ten years, there are not 300 pages of new terms that justify a completely new document. Especially since there is a change of law provision and we just amended the contract a short time ago to implement those changes. Qwest created the first document and has clearly created ever revision since them. I know Qwest has a redline version of the documents and didn't just start from scratch. It would have been helpful if that document had been provided as requested.

These are very technical documents. We spent the money once having Qwest documents reviewed, we shouldn't have had to completely re-invent the wheel. By using your new document as the base, the cost of negotiations and legal review fees has completely shifted to NCC. Qwest needs to cut us some slack.

Once we reach an agreement on a specific issue, I move to the next one. I think that is the fair thing to do. I could have simply stuck to the position that Qwest should show us everything wrong with the existing agreement.

It has also been a great source of frustration on my part that Qwest has not had the decision makers on these calls nor the people with the technical expertise to answer all the questions. We have spent a considerably amount of time and money on issues because of this.

If we have to proceed with arbitration, everything is going to be on the table. I don't think that is going to be the case, but if we end up there, I don't believe it is fair to say any issues we bring up are new arguments. These documents are over 300 pages each and I need to make sure there are no "gotcha" language in there that would totally change the way we have been operating all these years. This happened to a company we purchased when Verizon changed the interconnection agreement.

This process could have been done a lot quicker if Qwest had simply told us what was wrong with the existing agreement, why they wanted each section changed and/or what legal basis there was to change each provision. If Qwest wants this to move faster, they should share with us this information. I know Qwest had internal meetings about every sentence in this agreement.

There are several problems with the all important section 7. For example, I have some concerns about the 400,000 minutes in Arizona per T1. Is this average decided by lata, by switch, by the entire state? I am trying to work with Qwest to address your concerns but I have never seen this before and I don't know why this is even in there.

While I believe that we will be able to work these issues out, given the length and complexity of the agreements and all that is at stake, it is not unreasonable to agree to deal with the specifics after my return from my trip for the holidays.

If you can have all the decision makers on a call, we can have one final call and rap it up.

On 2009-11-18 at 14:07, Nodland, Jeff (jeff.nodland@qwest.com) wrote:

> Joe:

>

>

> I greatly appreciate your efforts on this. Thanks for your  
> understanding and work.

>

>

> Jeff

>

>

> Jeffrey T. Nodland  
> 303-383-6657

>

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>

>

> From: Joseph G. Dicks [mailto:jdicks@dicks-workmanlaw.com]  
> Sent: Wednesday, November 18, 2009 2:06 PM  
> To: Nodland, Jeff; Donahue, Nancy; 'Todd Lesser'  
> Cc: Batz, Nancy; Van Meter, Russ; Anderl, Lisa  
> Subject: RE: North County Final ICAs (AZ, OR & WA)

>

>

> No need to apologize, Jeff. I understand your desire to wrap this up.  
> I will try to meet with the client tonight, as he leaves for the  
> holiday break tomorrow. It's just a big crunch-time for me on a number  
> of other cases. Bad timing, but I will do what I can.

>

>

> Joe

>

>

> Joseph G. Dicks, Esq.

>

> DICKS & WORKMAN

>

> Attorneys at Law

>

> 750 B Street, Suite 2720

>

> San Diego, CA 92101

>

> (619) 685-6800

>

> (619) 557-2735 facsimile

>

> Email: jdicks@dicks-workmanlaw.com

Thu Feb 10 20:17:47 2011

1

From todd@nccom.com Wed Feb 24 14:56:03 2010  
Date: Wed, 24 Feb 2010 14:55:46 -0800  
From: Todd Lesser <todd@nccom.com>  
To: "Nodland, Jeff" <jeff.nodland@qwest.com>  
Cc: "Batz, Nancy" <Nancy.Batz@qwest.com>,  
"jdicks@dicks-workmanlaw.com" <jdicks@dicks-workmanlaw.com>,  
"Donahue, Nancy" <Nancy.Donahue@qwest.com>,  
"Anderl, Lisa" <Lisa.Anderl@qwest.com>,  
Chris Reichman <chris\_reichman@yahoo.com>  
Subject: Re: North County Final ICAs (AZ, OR & WA)

I was up front on my concerns from day one. Qwest is proposing a new agreement and I simply wanted Qwest to tell me the material changes in the way our two companies would deal with each other in the future if we agreed to this agreement. Our existing agreement is time tested and has all the change in law provisions. I don't feel it is fair to make it my responsibility to look through the document and attempt to find them myself. It is an impossible task. It isn't as simple as looking at the words. I need to know how Qwest is going to interpret them. I am sure that one of the Qwest attorneys was asked to engage in the following exercise. How many different meanings does this statement have? "A pretty little girl[s] school."

Even without the potential interpretation issues, this was such a difficult task, that when I asked Qwest to say what was wrong with the existing agreement they were unable to do it. I am not sure how you can expect me to do something that Qwest was unwilling and/or unable to do.

We recently upgraded our existing agreement to comply with all the change of laws. As you recall, our existing agreement was proposed by Qwest years ago. We didn't modify a single word. Qwest didn't just change their model agreement for the heck of it, there had to be a reason. It shouldn't have to be a guessing game on my part. I bet there are red line tracking changes since day one. There had to be some motivation to change words that were not simply change of law provisions or a new name for an existing product. As time passed, we kept finding out what some of the motivation was. I wish Qwest had been more forthcoming at the beginning. We have always had a good working relationship and Qwest should have trusted me.

There is a great amount of risk in signing a new agreement in Arizona without Qwest stating the material changes - especially as to those provisions which could increase NCC's costs. We are already working extremely small margins.

I have even held off on billing reciprocal compensation until we work this out.

I know Qwest has a dispute on the prior reciprocal compensation amounts. I also have a dispute based upon the amount of customers being serviced by MF carriers was greatly exaggerated in the Phoenix LATA and totally non-existent in the Phoenix LATA. The percentage of billing was therefore totally off.

Maybe we can come up with a package deal to make this all go away. I am open to suggestions. My previous offer to settle this in Arizona still stands.

On 2010-02-24 at 15:05, Nodland, Jeff (jeff.nodland@qwest.com) wrote:

> Todd:

>

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## Integrated Access

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### Qwest iQ<sup>®</sup> Integrated Access

#### The Power Of High-Speed Digital Transport and Dynamically Allocated Bandwidth on the Same Circuit

Qwest iQ<sup>®</sup> Integrated Access provides a simple solution that combines both voice and data over the same circuit. Additional features are integrated into the product to assist in running your business more efficiently. Competitively priced, Qwest iQ<sup>®</sup> Integrated Access allows you to transition from standard telephone service to Voice over Internet Protocol (VoIP) without the need to replace your current telephony equipment. With dynamically allocated voice bandwidth on demand, you have the opportunity to build a solid, stable communications foundation that will grow with your expanding business needs and provide the competitive edge to succeed in the marketplace.

#### Description

Qwest iQ<sup>®</sup> Integrated Access is provided over a T-1 circuit that can be used to transfer data, access the Internet and have real-time, two-way voice calls via IP. It is designed to meet the voice and data needs of single and multi-location businesses. You can make off-net local toll, domestic long distance and international calls to end users on the public switched telephone network (PSTN) as a low-cost option. Also available are popular calling features like caller ID, voice mail and e-mail. Additionally, calls between users on the Qwest<sup>®</sup> VoIP network are at no additional charge, which is a powerful feature that delivers savings on calls between your locations and your business partners. Qwest delivers all of this as a robust nationwide offering, providing your

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business with the tools and support for all of your communications needs.

## Features

- Consolidation of multiple traffic types over the same circuit.
- Supports data speeds of 1.5 Mbps and 3.0 Mbps.
- Up to 46 Qwest iQ<sup>®</sup> Integrated Access voice lines available per T-1 circuit with compression.
- Real-time dynamically allocated bandwidth between voice and data channels.
- Unlimited local and on-net calling.
- Customizable feature configurations to meet your daily needs.
- Termination to existing PBX or key system equipment.
- Selectable voice mail capabilities.
- Customer portal to manage hunt-group feature changes.

## Benefits

- Simple solution—Local, long distance, international voice, and data services from one provider.
- Cost savings—Single and multiple business locations benefit from this technology and reduce overall communication costs. By leveraging your current investments in existing private branch exchange (PBX) and key system equipment, you have the flexibility to spend in other essential areas of your business.
- Pivotal product for advanced technologies—Qwest can provide an integrated solution that meets your specific needs using a flexible IP network. The service also provides a foundation to move your business to higher-end products.
- Increased efficiency—Management of both voice and data telecommunications needs is bundled into one technology.

## How It Works

Qwest iQ<sup>®</sup> Integrated Access uses VoIP technology to provide dynamically allocated bandwidth between voice and data in real time. The offering is an IP-based solution that integrates local and long-distance voice with Internet access on the same circuit. VoIP technology gives customers the advantage of using

the entire circuit for Internet access when phones are not in use. The Qwest technology management team has built thresholds within the product to ensure high IP quality, regardless of the number of voice lines in use.

### **Why Buy From Qwest?**

- Network technology—Tier 1 carrier-class network.
- Breadth of the product—Qwest has a nationwide footprint to meet all your business needs, wherever you are.
- Reliable account team service—Qwest has an extensive infrastructure and abundant support/resources to provide a stable solution.
- Extensive product integration—Qwest's full portfolio of services can be your single-source solution.
- Qwest Nationwide IP Network—Service is carried over Qwest's nationwide IP network. As a frontrunner in VoIP provisioning, Qwest will prepare you to move into the future.

### **Other Products Available From Qwest**

In addition to Qwest iQ<sup>®</sup> Integrated Access, Qwest has an array of products to meet your needs, including the following:

- Managed Firewall—VPN—Uses best-in-breed encryption and security solutions for your IP traffic.
- Qwest iQ<sup>®</sup> Managed VoIP—The next step within the VoIP product family—this service increases bandwidth and adds features to your current configuration through handsets and a customer portal.
- Internet Port—Provides a full port for public IP traffic. Service is available in a wide range of bandwidths to accommodate a diverse range of requirements.
- Private Port—Provides a fully-secured multi-protocol label switching (MPLS) port with advanced queuing methods to prioritize your voice, video and any other data applications. Prioritization is managed by selecting the template that works best for the application from 13 quality of service (QoS) templates.

Qwest iQ<sup>®</sup> Integrated Access is available to business customers in select areas across the continental U.S. Minimum one-year term commitment required. Early termination charges may apply. Monthly charge based on configuration selected. Long-distance

charges are additional. Additional equipment may be required. Other restrictions may apply. Call for availability and complete details.

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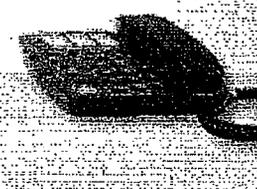
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\$29.99 charge applies if Qwest Broadband Phone Service is disconnected prior to 90 days after activation. If service is disconnected between the 1st and 30th day after activation, and customer returns equipment (at their own expense) undamaged and in original condition within 21 days of cancellation, customer will be credited \$29.99 charge.

**Qwest® Broadband Phone Service:** With approved credit. Service not available in all areas. Prices do not include taxes, incremental charges and surcharges. Some features incompatible with others. Subject to applicable restrictions and service agreements. **Qwest® Broadband Phone Service: Service (Including 911 calling) will not function during a power outage and may not function during network congestion.** Use of 911 service permitted only at a Qwest-approved service address, otherwise 911 calls will not route directly to a 911 operator. **Customers should secure an alternative to 911 service.** Contact Qwest for details.

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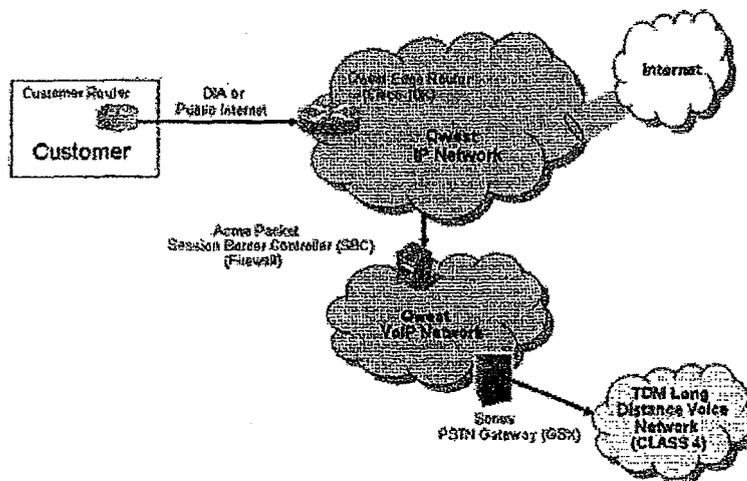
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## IP Voice 1+ Termination

### Your Ideal IP Voice Termination Provider

Qwest's expertise in both broadband and telephony make Qwest an ideal company to provide you with Internet Protocol (IP) Voice 1+ Termination services. Qwest's IP Voice 1+ Termination service is a cost-effective way for you to terminate telephone calls to over 250 countries while taking advantage of IP technology. Qwest IP Voice 1+ Termination service provides an IP-based connection for voice traffic exchange with other service providers. Once connected to Qwest's OC-192 network, with over 1,700 access points and over 16,000 routes, you will benefit from soft switch technology that achieves quality comparable to the public switched telephone network (PSTN).

### Network Architecture



### How It Works

Traditionally, long distance (LD) providers convert IP voice traffic to time division multiplex (TDM) and hand the traffic to their LD provider for termination. In many instances, the LD provider then converts that traffic back to IP to traverse their LD network, converts the traffic once again to TDM and terminates the call. With Qwest IP Voice 1+ Termination, you can hand your IP voice traffic directly to Qwest. Qwest will transport the IP voice call streams across its OC-192 MPLS network and terminate the calls to the PSTN. No longer will you need to purchase or manage the gateways necessary to make these conversions â€” Qwest does it all! First, your IP voice traffic traverses the Qwest IP transport to the Session Border Controller (SBC).

The SBC provides the necessary firewall protection to give your traffic an additional level of protection on Qwest's IP voice infrastructure. Qwest's media gateways terminate your IP voice calls to the TDM circuit-switched network. Calls are terminated either domestically or internationally to the PSTN via TDM.

### Features

- OCN-based and class-type pricing structures offer facilities-based providers significant value opportunity through your choice of billing granularity
  - OCN-based pricing allows facilities-based providers to better manage their network

**routing costs**

- Bill reconciliation is easier with a finer level of detail on both the invoice summary and monthly call detail records (CDRs)
- Support 8XX outbound
- Comprehensive North American LATA coverage

**Benefits****Savings**

Reduce your capital expenditures by using a scalable single point of access with Qwest Dedicated Internet Access, or by delivering traffic across the public Internet instead of using costly TDM trunks and managing multiple IP/TDM gateways.

**Quality and Security**

- With dedicated internet access, Qwest's IP voice infrastructure provides quality and service levels comparable to the PSTN
- 24x7x365 network monitoring and management enables real-time troubleshooting while enhancing network uptime
- Advanced network firewall protection using the SBC to provide IP address security and fraud protection

**Reach**

Qwest can terminate traffic in over 250 countries through both landline and mobile terminations.

**Ease of Use**

Qwest can be your single provider for both traditional long distance as well as IP Voice 1+ Termination.

**Service Technology**

- **Connection types:** Connect to Qwest's network using a DS-1 to OC-48 dedicated data circuit. Providers collocated in a Qwest point of presence (PoP) location may connect via an Ethernet cross-connect. Service providers may also connect via the public Internet\*
- **Protocol:** SIP
- **Codec:** G.711, ulaw, G.711 alaw, G.729A and G.729AB
- **FAX:** Standard fax and T.38 with G.711 or G.729
- **RFC2833 and SIP info:** Supported for G.729 only

**How to Get Started**

For more information on IP Voice 1+ Termination service, call a [Qwest Sales Representative](#).

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\*Qwest does not provide service level agreements or quality of service guarantees for traffic connected across the public Internet.

The information contained herein does not constitute an offer by Qwest to provide services, equipment or materials. Any such services and items shall be provided only pursuant to a fully executed Qwest Wholesale Services Agreement, or similar agreement, between Qwest and Customer.

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Thu Feb 10 20:28:23 2011 1

**From:** todd@nccom.com Thu Jan 20 14:58:33 2011  
**Date:** Thu, 20 Jan 2011 14:58:32 -0800  
**From:** Todd Lesser <todd@nccom.com>  
**To:** "Williams, Timothy J (Tim)" <tjwilliams@alcatel-lucent.com>  
**Subject:** Re: switch question

Our project is coming close to completion. Although, I had a question about the Lucent switches.

Someone at Qwest recently told me that the Lucent #4ESS and #5ESS don't have the ability to provide CDR (Call Detail Recording) when trunks between two switches are configured as MF and not SS7. They said they can only do peg counts on the number of calls. They can't tell how many minutes a call was or what number was dialed. I have never heard of a switch not having this basic capability.

Second, I was also told that two switches can't send ANI to each other if the switches are configured with MF trunks.

Are either of these things accurate?

Thank you

Begin forwarded message:

From: "Navone, Thomas J (Thomas)" <thomas.navone@alcatel-lucent.com>  
Date: January 22, 2011 09:10:23 PST  
To: Todd Lesser <todd@nccom.com>  
Cc: "Williams, Timothy J (Tim)" <tim.j.williams@alcatel-lucent.com>  
Subject: RE: switch question

Good Morning Todd -

My name is Tom Navone and as Tim mentioned below I will be supporting California from an Alcatel-Lucent Sales perspective. I'm based out of Irvine, California.

Tim received an answer from one of our Switch Engineers and the information is below:

The statements below are false pertaining to the 5ESS Switch. I can't speak to the 4ESS but I doubt it is true in that case either. LNP feature SFID 346 - NP-APPEND BAF MOD 164 W/CHARGEABLE ACCOUNT NUMBER TO CNA RECORD (99-5E-7304)

#### 3.4.75 NP-APPEND BAF MOD 164 W/CHARGEABLE ACCOUNT NUMBER TO CNA RECORD (99-5E-7304)

##### 3.4.75.1 Description

The NP - Append Mod 164 with Chargeable Account Number to CNA AMA Record feature (99-5E-7304) was developed in two separate phases.

In phase 1, all CNA BAF AMA CC720 base records populate Table 13 and 14 of Structure Code 0625 using the following:

With OFID 719 inactive, the following will be recorded:

\*Record the SS7 CHG or MF ANI if received.

\*Record SS7 CPN if the SS7 CHG or MF ANI are not available and the SS7 CPN was received.

\*Record the Trunk Group BN if the SS7 CHG or MF ANI and the SS7 CPN are not available and the Trunk Group BN was received.

With OFID 719 active, the following will be recorded:

\*Record Trunk Group BN populated.

In phase 2, the switch provides a recent changeable parameter on a trunk group basis, an option for recording of a Chargeable Account Number in an appended BAF Module 164 for CNA records. If the CNA Module 164 Option is set to YES on a trunk group, and all other conditions for recording a CNA record are met, then EBAF Module 164 is appended and populated as follows:

\*Record the SS7 RN if the call has been forwarded two or more times and the RN is received.

\*Record the SS7 OCN if the call has been forwarded once and the OCN is received and the RN is unavailable.

\*Record the SS7 CPN if received and the SS7 RN and SS7 OCN are unavailable.

\*Record the SS7 CHG or MF ANI if received and the SS7 RN, SS7 OCN, and SS7 CPN are unavailable.

If none of the SS7 parameters are received, then no module 164 will be appended to the CNA AMA SC 0625.

In phase 2, the base CNA BAF AMA CC720 base records will populate tables 13 and 14 of Structure Code 0625 using the following:

With OFID 719 inactive, the following will be recorded:

\*Record the SS7 CHG or MF ANI if received.

\*Record the SS7 CPN if received and SS7 CHG or MF ANI are unavailable.

With OFID 719 active, the following will be recorded:

\*Record Trunk Group BN if populated.

If you have any additional questions please contact me at any time.

I look forward to working with you.

Thanks!

TJN

Tom Navone  
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thomas.navone@alcatel-lucent.com