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2007 JUL 16 AM 10:02  
IDAHO PUBLIC UTILITIES COMMISSION

June 26, 2007

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington  
Boise, ID 83702-5983

**RE: Docket No. QWE-T-03-23**

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **QWEST CORPORATION'S NOTICE OF STIPULATION REGARDING CERTAIN PERFORMANCE INDICATOR DEFINITIONS AND QWEST PERFORMANCE ASSURANCE PLAN PROVISIONS AND JOINT MOTION ON BEHALF OF THE STIPULATING PARTIES TO ACCEPT SAME** in the above referenced matter.

If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,

  
Mary S. Hobson

EnclosureS

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IDAHO PUBLIC UTILITIES COMMISSION

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Attorneys for Qwest Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<p><b>IN THE MATTER OF QWEST CORPORATION'S REVISIONS TO THE IDAHO QWEST PERFORMANCE ASSURANCE PLAN (QPAP)</b></p>	<p><b>Docket No. QWE-T-03-23</b></p>
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**NOTICE OF STIPULATION REGARDING CERTAIN PERFORMANCE INDICATOR DEFINITIONS AND QWEST PERFORMANCE ASSURANCE PLAN PROVISIONS AND JOINT MOTION ON BEHALF OF THE STIPULATING PARTIES TO ACCEPT SAME**

Qwest Corporation ("Qwest") on behalf of itself, Eschelon Telecom, Inc. ("Eschelon"), DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") and McLeodUSA Telecommunications Services, Inc. ("McLeodUSA")

NOTICE OF 2007 STIPULATION /JOINT MOTION

(collectively, the “Stipulating Parties” and each individually, a “Party”) submits the Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions (“2007 Stipulation”). The Stipulating Parties<sup>1</sup> respectfully recommend that the Commission accept the 2007 Stipulation, apply the agreed upon changes to the Qwest Performance Assurance Plan (“PAP”) and to the interconnection agreements containing the PAP, and also allow the Performance Indicator Definitions (“the PID” or “PIDs”) to take effect.

1. This submission results from collaborative work sessions among certain Competitive Local Exchange Carriers (CLECs) and Qwest. The participants identified above agreed upon a number of modifications to the PIDs and PAPs that would provide a fair resolution and be in the public interest. The Stipulating Parties’ agreement has been documented in the 2007 Stipulation attached as Exhibit 1.
2. These agreements were reached between Qwest and the CLECs in meetings between May 23, 2006, and May 17, 2007.
3. All of these changes were discussed by the participants in one or more of the sessions. Qwest provided notice of the opportunity to participate in the process as well as the issues presented for discussion to each CLEC certified in each of its fourteen states; nineteen CLECs in the region then elected to be notified of updates and meetings while six regularly participated.
4. State commission staffs in each of the fourteen Qwest local service region states were notified that Qwest and CLECs were engaged in PID/PAP modification discussions. *2007 Stipulation*, p. 1.

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<sup>1</sup> US Link, Inc. d/b/a TDS Metrocom (“TDS Metrocom”) is a Stipulating Party, however, it is certified as a CLEC only in North Dakota and Minnesota, and as such is not bringing this motion with the other Stipulating Parties.

5. The Stipulating Parties recommend that the Stipulation be accepted by the commissions and the changes implemented in each of the fourteen states in Qwest's local region. *Id.*
6. The impacted PIDs are currently reflected in Exhibit B to the Statement of Generally Available Terms and Conditions ("SGAT") while the PAP is currently found in Exhibit K of the SGAT. A comprehensive redline of the changes to the PAP is attached as Exhibit 2. A comprehensive redline of the PIDs is attached as Exhibit 4. The Stipulating Parties have reviewed the proposed changes to both documents and agree that they appropriately delineate the agreement and appropriate administrative changes, and that the 2007 Stipulation should be accepted. The "clean" versions of both documents are also attached as Exhibits 3 and 5 respectively. <sup>2</sup>
7. The Stipulating Parties believe that the 2007 Stipulation provides a fair resolution and is in the public interest. *2007 Stipulation*, p. 1.
8. The Stipulating Parties seek to have the Commission accept the Stipulation and implement the described changes for both the PIDs and the PAP without a hearing. *Id at p. 2.*
9. Each of the other Stipulating Parties, *i.e.*, Eschelon, Covad, TDS Metrocom and McLeodUSA, has authorized Qwest to file the 2007 Stipulation and jointly requests with Qwest the applicable changes be implemented in each state.

10. **Summary of Agreed Upon Changes**

The revisions include several provisions that do not apply in some states; for convenience, a summary of the portions only applicable to Idaho are provided:

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<sup>2</sup> As in past filings, Qwest submits "clean" and "red-lined" versions of both the PID and the PAP in which redlines appear on the document that is currently in effect.

- a. Eliminate resale DSL from PIDs and Modify PID and PAP references to Qwest DSL.
- b. Change the MR-11 PID title to "LNP Trouble Reports Cleared within Specified Timeframes."
- c. Update the PID references to unbundled 2-wire non-loaded loop and unbundled ISDN capable loop disaggregations to reflect the retail analogue of ISDN BRI "(designed)," which is how Qwest has historically measured these products.
- d. Update PO-20 to reflect it is fully implemented by making PID and PAP revisions specified in the 2007 Stipulation.
- e. Remove the PIDs specified in the 2007 Stipulation from PAP payment mechanisms to the extent they currently are included in a specific state's PAP, subject to a Reinstatement/Removal process. Also, add a root cause analysis provision.
- f. Add exclusion to MR-6 PID that allows No Trouble Found (NTF) and Test Okay (TOK) trouble reports to be removed when the ticket's duration is one hour or less.
- g. Change the standard for BI-3A PID to a 98% benchmark and add a provision to the PAP for the BI-3A PAP payment calculation, creating a tiered structure of per occurrence amounts and modifying the per measurement cap for the sub-measure.
- h. Add one allowable miss provision to the PAP for individual CLEC results when the CLEC aggregate results have met the standard.
- i. Revise the PAP to change the flat minimum payment amount of \$2000 (\$300/\$600 in Minnesota) with a tiered minimum payment approach that establishes a relationship between the monthly PAP payment and the required minimum payment amount.
- j. Remove the following list of product disaggregations from all applicable OP and MR PIDs in the 13 state PAPs:
  - Resale Centrex; Resale Centrex 21; Resale DS0; E911/911 Trunks; Resale Frame Relay; Resale Basic ISDN; Resale Primary ISDN; Resale PBX; Sub-loop Unbundling; UNE-P POTS; UNE-P Centrex; and UNE-P Centrex 21.
- k. Eliminate six-month cap on Tier 1 escalation payment amounts in several states' PAPs, including Idaho's, so that payments will continue to increase

NOTICE OF 2007 STIPULATION /JOINT MOTION

in the event the payment level indicator increases beyond payment level 6.

**Additional Administrative Change**

11. In addition to the agreed upon changes described in the 2007 Stipulation, Qwest also removed MR-12 from the PAP as illustrated in the attached Exhibits 2 and 3, provided the other Stipulating Parties with the opportunity to review this deletion, and no comments, concerns or objections were noted. Qwest initiated the change because the MR-12 PID was eliminated prior to the initial approval of the PAP but references remained in the text through administrative error.

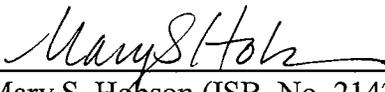
**PID/PAP Change Information Provided to CLECs**

12. Additionally, Qwest will post a summary of all of the changes to its website and provide information regarding the anticipated PID and PAP changes by electronic mail, to CLECs in its region.

The Stipulating Parties, respectfully request that the Commission accept the 2007 Stipulation describing proposed changes to the PAP and PID, apply the changes to any interconnection agreements containing the PAP, and allow the PID to go into effect no later than 60 days after this submission in accordance with 47 U.S.C. § 252(f)(3).

DATED this 26<sup>th</sup> day of June, 2007.

Respectfully submitted,

  
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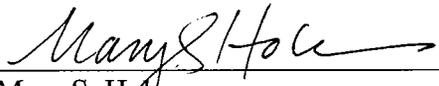
NOTICE OF 2007 STIPULATION /JOINT MOTION

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing **NOTICE OF STIPULATION REGARDING CERTAIN PERFORMANCE INDICATOR DEFINITIONS AND QWEST PERFORMANCE ASSURANCE PLAN PROVISIONS AND JOINT MOTION ON BEHALF OF THE STIPULATING PARTIES TO ACCEPT SAME** was served on the 26th day of June, 2007 as follows:

Jean D. Jewell  
Idaho Public Utilities Commission  
472 West Washington Street  
P.O. Box 83720  
Boise, ID 83702  
Telephone (208) 334-0300  
Facsimile: (208) 334-3762  
[jjewell@puc.state.id.us](mailto:jjewell@puc.state.id.us)

<input checked="" type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	U. S. Mail
<input type="checkbox"/>	Overnight Delivery
<input type="checkbox"/>	Facsimile
<input type="checkbox"/>	Email

  
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Mary S. Hobson  
Attorney for Qwest Corporation

# **EXHIBIT 1**

## **2007 Stipulation**

**Stipulation Regarding Certain Performance Indicator Definitions and the Qwest  
Performance Assurance Plan Provisions**

Qwest Corporation ("Qwest"), Eschelon Telecom, Inc. ("Eschelon"), DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad"), US Link, Inc. d/b/a TDS Metrocom ("TDS Metrocom") and McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") (collectively, the "Stipulating Parties" and individually a "Party") have participated in a series of discussions regarding the current 14-State 271 Performance Indicator Definitions ("PID") and the state Performance Assurance Plans ("PAPs").

1. The discussions have resulted in several agreements regarding certain items impacting the PIDs and the PAPs (the agreements together are known as the "2007 Stipulation" or this "Stipulation"). The agreements are reflected in the redlined Exhibit B and Exhibit K reviewed as part of the Stipulating Parties' discussions and to be filed concurrently with the 2007 Stipulation.

2. Qwest notified CLECs in each of the 14 states of the opportunity to participate in the discussions.

3. Each of the State Commission staffs in the 14-state region was notified.

4. During the discussions, the Stipulating Parties agreed to modify their positions and seek a fair resolution that continues to serve the public interest. While at any one time, all participants may not have specifically agreed with a particular item or items, each participant has participated in the negotiations, the drafting and finalization of this document and has either executed the 2007 Stipulation or agreed to remain neutral. The Stipulating Parties then together recommend that the applicable terms of this Stipulation be approved in each state within the 14-state region that includes Arizona, Colorado, Iowa, Idaho, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. The Stipulating Parties have entered into this 2007 Stipulation with the intent that it be submitted to each of the commissions and be implemented in Qwest's 14-state region.

5. To encourage timely implementation of this stipulation, each Stipulating Party agrees to cooperate in and support the process of submitting this agreement to and receiving a ruling from each state commission in which the Stipulating Party is certified within the 14-state region without the need for

a hearing. Qwest will ask the state commissions, if and when this 2007 Stipulation and the amended PID/PAP is approved by a state commission to order that the approved changes to the PID/PAP will amend Exhibits B and K to the agreements of all CLECs that include either Exhibit, as set forth in the redlined Exhibits B and K. For purposes of this Stipulation, Stipulating CLECs will not oppose Qwest's request. If, any state commission does not approve this 2007 Stipulation in its entirety or any state commission denies Qwest's request to amend CLEC agreements as described, the Stipulating Parties agree that any Party may rescind this 2007 Stipulation as to that particular state.

#### **I. Agreements Applicable to all 14 States**

##### **A. Eliminate Resale DSL from PIDs and Modify PID and PAP References to Qwest DSL**

6. As a result of the Federal Communications Commission's ("FCC") Broadband Order,<sup>1</sup> between January 28, 2006 and November 16, 2006, Qwest grandfathered its retail DSL tariffed product offerings.<sup>2</sup> Beginning November 17, 2006, those DSL products were no longer offered for purchase under the tariff.

7. The Stipulating Parties have agreed that resold DSL product offerings, as information services, will be removed from all PIDs. Additionally, for the remaining wholesale products that are currently subject to a parity evaluation with retail Qwest DSL service, the Stipulating Parties have agreed to new retail analogues.

##### **8. PID and PAP Revisions:**

Though the agreement regarding resale DSL applies in each of the 14 states, some revisions to the PAPs are not applicable in every state; specific state applicability is noted when the change does not impact all 14 states. The revised PID and PAP changes include:

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<sup>1</sup> *In the Matters of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises; Consumer Protection in the Broadband Era, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005), pets for rev. pending, sub nom. Time Warner Telecom v. FCC, No. 05-4769 (and consolidated cases) (3<sup>rd</sup> Cir. Filed Oct. 26, 2005)(Broadband Order).*

<sup>2</sup> QC's tariff FCC No. 1 Section 8.99.4 was changed to specify that the DSL products were only available to existing customers.

- Deletion of pre-order transaction "Resale of Qwest DSL Qualification" from the PO-1 (Pre-Order/Order Response Times) PID and Appendix A of the Minnesota PAP ("MPAP").
- Deletion of the Resale DSL product disaggregation from all PIDs and Appendix A of the MPAP (Product disaggregations are not specified in the other state PAPs).
- Updating the retail analogue for Line Sharing and Line Splitting product disaggregations to "retail RES and BUS POTS" in all OP and MR measures where the current retail analogue is "Qwest DSL."
- Updating the retail analogue for xDSL-I Capable Loops to "retail DS1 Private Line" in the OP-5A, MR-3, MR-4, MR-6, MR-7 and MR-8 measures where the current retail analogue is "Qwest DSL" or "Qwest IDSL."
- Updating the retail analogue for xDSL-I Capable Loops to "retail ISDN BRI (designed)" in the OP-6 measure where the current retail analogue is "Qwest DSL, with dispatch."
- Updating the retail analogue for ADSL Qualified Loops to "retail ISDN BRI (designed)" in all OP and MR measures where the current retail analogue is "Qwest DSL."
- Deletion of "megabit resale" from the Low Volume, Developing Markets section of the AZ, ID, IA, MT, NE, NM, ND, OR, SD, UT, WA and WY PAPs.
- Deletion of references to "DSL" in Appendices A and B in the Colorado PAP ("CPAP") and MPAP.

9. Application of Changes: In addition to the PID and PAP changes, the Stipulating Parties have also agreed to retroactively apply the changes to performance and payment results of each PAP following commission adoption/approval of the 2007 Stipulation subject to the following conditions/limitations:

- If Commission adoption/approval is received on or before August 31, 2007, Qwest will apply retroactively from the effective date of the commission order adopting/approving the 2007 Stipulation for a maximum of six months but no earlier than December 2006 results.
- If Commission adoption/approval is received after August 31, 2007, changes will apply on a going forward basis only.
- For CO and MN: Tier 1A – Six Month Retail Average will be modified as follows:

- o Qwest will begin collection of the new retail analogue data effective with December 06 data. Therefore retail results will not be based on a full six month average until June 07 results. Until six months of data are available, the retail average will be based on as many months as are available.

B. Update PID MR-11 Title

10. During the 2003 Audit of the CPAP, the auditor found that the MR-11 title, "LNP Trouble Reports Cleared within 24 Hours," was inappropriate, given that MR-11A measures trouble reports cleared within four hours and MR-11B measures trouble reports cleared within 48 hours.

11. Stipulating Parties have agreed to change the MR-11 PID title to "LNP Trouble Reports Cleared within Specified Timeframes."

12. PID and PAP Revisions:

The revised PID and PAP changes include:

- Updating the title of MR-11 in the PID.
- Updating the title of MR-11 in Section 3.2 and Attachment 1 in the AZ, ID, IA, MT, NE, ND, OR, SD, UT and WY PAPs.
- Updating the title of MR-11 in Section 3.2 and Appendices A and B in the CPAP.
- Updating the title of MR-11 in Section 3.2 and Appendix A in the MPAP.
- Updating the title of MR-11 in Section 3.2 and Attachments 1 and 3 in the NM and WA PAPs.

C. Clarify Retail Analogue for Unbundled 2-wire Non-Loaded and ISDN Capable Loops

13. During the ROC PAP Audit, the auditor found that OP-5A used ISDN BRI retail orders following the designed provisioning flow as the retail analogue for Unbundled 2-wire Non-Loaded Loops and Unbundled ISDN Capable Loops. The auditor found that Qwest should consider making a clarifying change to the PID.<sup>3</sup>

14. Stipulating Parties have agreed to update the Unbundled 2-wire Non-Loaded Loop and Unbundled ISDN Capable Loop product disaggregations to consistently reflect when the retail analogue of ISDN BRI is limited to orders/tickets following the designed flow by specifying "ISDN BRI (designed)" in

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<sup>3</sup> See Appendix A of the Final Report on the Audit of Qwest's Performance Assurance Plans, Prepared for: The Qwest Regional Oversight Committee, By: The Liberty Consulting Group, dated October 28, 2005, Recommendation 8 page 121.

the applicable OP and MR PIDs. Qwest has represented that this change reflects the way Qwest has historically applied the retail analogue to these products. Stipulating Parties' agreement to update the PID does not indicate any agreement by the Stipulating Parties as to whether this historical application is appropriate.

15. PID and PAP Revisions:

No PAP changes result from this agreement. The OP-3, OP-4, OP-5A, OP-6, OP-15, MR-3, MR-4, MR-6, MR-7 and MR-8 measurements have been updated in the PID.

D. Modify PO-20 to Reflect Implementation of Expanded Measure

16. When the last version of the PID document was issued, the PO-20 measure had future phases defined and the potential to include additional CLEC-specified Feature Detail Field Identifiers ("FIDs") or Blocking Type entries. All PO-20 phases have been implemented without further CLEC identification of additional FIDs or blocking entries.

17. Stipulating Parties have agreed to update PO-20 to reflect that it is fully implemented. Further, the Stipulating Parties acknowledge that the absence of proposals to modify the PO-20 PID in conjunction with the implementation of Phase IV in no way forecloses any party's ability to submit subsequent PID change proposals to modify the PO-20 PID in the future.

18. PID and PAP Revisions:

The revised PID and PAP changes include:

- Updated Availability Section to simply reflect Available and deleted Phase specific implementation dates in the PID.
- Updated Standard Section to remove standards for completed phases in the PID.
- Removed Phase references in the LSR-Service Order Fields Evaluated table in the PID.
- Removed the FEATURE DETAIL and BLOCK (Stage 2) entries referring to CLEC proposed additions in the PID.
- Deleted Stabilization Period references in Attachment 1 in the AZ, ID, IA, MT, NE, NM, ND, OR, SD, UT, WA and WY PAPs.
- Deleted PO-20 from Appendix B in the CPAP and MPAP.

E. Remove PIDs from PAPs Subject to a Reinstatement/Removal Process

19. The Reinstatement/Removal process, included in this Stipulation, removes PIDs from being subject to a PAP's payment mechanism while providing an ongoing evaluation of the PID's performance to ensure that, if warranted, under the terms of the process, the PID will be reinstated as subject to PAP payments. The process also provides terms for evaluating performance after reinstatement to qualify for subsequent removal and a root-cause analysis process for evaluation of PIDs.

20. Stipulating Parties have agreed to remove the the GA-3, GA-4, GA-7, PO-2B, PO-3, PO-5D, PO-7, PO-8, PO-16, OP-7, OP-17, MR-11, BI-4, NI-1, NP-1, and CP-3 PIDs, to the extent they currently are included in a specific state's PAP. Removal in a state specific PAP is specifically subject to the Reinstatement/Removal process.

21. PID and PAP Revisions:

The revised PID and PAP changes include:

- Addition of Reinstatement/Removal provisions in Section 3 of the AZ, ID, IA, MN, MT, NE, NM, ND, OR, SD, UT, WA and WY PAPs.
- Revision of Reinstatement/Removal provisions in Section 3 and Appendix A of the CPAP.
- Addition of the root cause analysis provision in Section 16 of the AZ, ID, IA, MT, NE, NM, ND, OR, SD, UT, WA and WY PAPs.
- Addition of the root cause analysis provision in Section 18 of the MPAP.

F. Modifications to MR-6 and BI-3A

22. Stipulating Parties have agreed to add an exclusion to the MR-6 PID that allows No Trouble Found ("NTF") and Test Okay ("TOK") trouble reports to be removed when the ticket's duration is one hour or less. Stipulating Parties agreed to modify BI-3A. The BI-3A standard will be changed to a 98% benchmark, the PAP payment calculation will be revised by creating a tiered structure of per occurrence amounts, and the per measure cap for the sub-measure will be modified.

23. PID and PAP Revisions:

The revised PID and PAP changes include:

- Addition of an exclusion to MR-6 that allows NTF and TOK trouble reports to be removed when the ticket's duration is one hour or less in the PID.
- Changing the BI-3A standard to 98% in the PID.

- Addition of a new provision describing payment calculation for BI-3A including a new table defining the Per Occurrence and Per Measure Cap amounts in the PAPs.
- Revision to existing PAP provisions to account for the BI-3A changes.

## II. Agreements Applicable to all States excluding CO

### A. One Allowable Miss for Benchmark and Non-interval Parity Measures

24. Stipulating Parties have agreed to add a one allowable miss provision for benchmark and non-interval parity measurements where 100% performance would otherwise be required to meet the standard in cases where the CLEC aggregate results have met the standard. The one allowable miss provision will also apply if the CLEC aggregate results have not met the standard, but would require 100% performance to meet the standard and with one allowable miss at the CLEC aggregate level would result in CLEC aggregate results meeting the standard.

#### 25. PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

- Addition of One Allowable Miss in Section 3.1.2 of the PAPs.
- Revisions to existing PAP provisions to account for the addition of the One Allowable Miss provision.

### B. Modify Minimum Payment Provisions

26. Stipulating Parties have agreed to change the minimum payment provision replacing the flat minimum payment amounts of \$300/\$600 (MN) and \$2000 (the 12 remaining states) with a tiered minimum payment approach that establishes a relationship between the monthly PAP payment and the required minimum payment amount. Moreover, the parties have agreed to replace the monthly minimum payment approach and CLEC certification process in MN with the annual minimum payment determination applicable to the other 12 states.

#### 27. PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

- Revision to Section 6.3 in the AZ PAP.
- Revision to Section 6.4 in the ID, IA, MT, NE, NM, ND, OR, SD, UT, WA and WY PAPs.
- Revision to Section 9 in the MPAP.

28. Application of Changes: In addition to the PAP changes resulting from the agreed upon modification, the Stipulating Parties have also agreed to retroactively apply the changes following commission adoption/approval subject to the following:

- Qwest will apply the revised minimum payment terms retroactively to include all 12 months included in the annual minimum payment determination made in December 2007 except that in Minnesota,
  - The increased amount of any monthly payment resulting from the current MN minimum payment provision will be excluded when determining the annual minimum payment amount under the revised minimum payment provision.
  - The portion of any monthly payment attributable to the current MN minimum payment provision will be used to reduce any additional annual payment due under the revised minimum payment provision. Should total of such amounts exceed the additional annual payment amount, the difference will be treated as a MN overpayment to the CLEC.

C. Remove Low Volume Products from the PAP

29. Stipulating Parties have agreed to remove the following list of product disaggregations from all the applicable OP and MR PIDs in 13 state PAPs. The results for these product disaggregations will continue to be reported in the 271 performance reports.

- Resale Centrex
- Resale Centrex 21
- Resale DS0--Non-Designed and Designed
- E911/911 Trunks
- Resale Frame Relay
- Resale Basic ISDN--Non-Designed and Designed
- Resale Primary ISDN--Non-Designed and Designed
- Resale PBX--Non-Designed and Designed
- Sub-Loop Unbundling
- UNE-P POTS
- UNE-P Centrex
- UNE-P Centrex 21

30. PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

- Modifying Section 10 (all states except MN) to remove UNE-P POTS.
- Addition of footnote in Attachment 1 in all states except MN specifying the exclusion of the list of product disaggregations.
- Removing the Sub-Loop Unbundling product disaggregation from Attachment 3 in the NM and WA PAPs.
- Removing the product disaggregations from Appendix A in the MPAP.
- Addition of notes in Appendix B in the MPAP specifying the exclusion for the list of product disaggregations.

### **III. Agreement Applicable to MT, NE, NM, SD, UT, WA, and WY Only**

#### **A. Modify Tier 2 Payment Provisions**

31. Stipulating Parties have agreed to adopt the MT Tier 2 provision. Under the provision, Tier 2 payments will be based on the number of performance measurements exceeding the critical z-value for three consecutive months unless there have been two misses in any three consecutive months during the last 12 months. If there have been two misses in any three consecutive months during the last 12 months, Tier 2 payments will be triggered by either two consecutive months' misses (for PIDs that are classified as both Tier 1 and Tier 2) or the current month's miss (for PIDs that are Tier 2 only). Qwest has represented that this change reflects the way Qwest has historically applied this provision in Montana. Stipulating Parties' agreement to update the Tier 2 provision does not indicate any agreement by the Stipulating Parties as to whether this historical application is appropriate.

#### **32. PID and PAP Revisions:**

The PID does not have any associated changes. The revised PAP changes include:

- Revising Sections 7.3 and 9 in the NE, NM, SD, UT, WA, and WY PAPs to reflect when Tier 2 payments are required and how they are calculated.
- Correcting Section 9 in the MT PAP to achieve consistency with MT Section 7.3.

### **IV. Agreement Applicable to CO, ID, MN, ND, OR, UT and WA Only**

#### **A. Modify Escalation and CLEC Not Opted In Provisions in the PAP**

33. Stipulating Parties have agreed to modify MPAP escalation language to make it consistent with the OR PAP. They have also agreed to eliminate the six-month cap on Tier 1 escalation

payment amounts in CO, ID, MN, ND, OR, UT and WA, so that payments will continue to increase in the event the payment level indicator increases beyond payment level 6. Additionally, the MPAP is being revised to remove Section 10.3 and reflect that 100% of Tier 1 payments will be made only to those CLECs that have opted into the MPAP.

34. PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

- Revision to Section 8 in the MPAP.
- Eliminating Sections 10.2 and 10.3 in the MPAP.
- Uncapping Table 4 in Section 8 and revising language in Appendix A, Tier 1C Billing in the CPAP.
- Uncapping Table 2 in Section 6 in the ID, ND, OR and WA PAPs.
- Uncapping and eliminating redundancy in Table 2A in Section 6 in the WA PAP.
- Uncapping "Per Measurement Cap" portion of Table 2 in Section 6 and removing 6.2.1 language splitting escalation payments between CLEC and Tier 2 fund in the UT PAP.

**V. Agreement Applicable to AZ and MN Only**

A. Modify Data Retention Provision in the AZ and MN PAPs

35. Stipulating Parties have agreed to revise the data retention requirements in the AZ and MN PAPs from a total of six years to three years with the data being stored in an easy-to-access electronic form for one year after the performance reports have been produced and for an additional two years in an archived format.

36. PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

- Revision to Section 15.6 in the AZ PAP to reduce data retention requirements from six to three years.
- Revision to Section 13.1 in the MPAP to reduce data retention requirements from six to three years.
- Deletion of Section 14.4 in the MPAP.

## VI. Agreements Applicable to MN Only

### A. Eliminate Severity Provisions in the MPAP

37. Stipulating Parties have agreed to eliminate the severity provisions in the MPAP.

### 38. PID and PAP Revisions:

The PID does not have any associated changes. The revised MPAP changes include:

- Deletion of Section 7.4.
- Revision of Appendix A to remove the severity provision related to OP-13A.
- Revisions to other existing provisions to account for deletion of severity.

### B. Modify the Electronic Flow-Through (PO-2) Provisions and Remove Interface Versions Availability (PO-18) from the MPAP

39. Stipulating Parties have agreed to remove PO-2A and PO-18 from the MPAP and to modify the payment structure for PO-2B so that payments are calculated at the rate of \$2000 for each 2.5% that the performance differs from its standard, not to exceed \$16,000 per product disaggregation.

### 40. PID and PAP Revisions:

The revised PID and PAP changes include:

- Correction to the PO-2A Standard, Availability and Notes Sections in the PID.
- Update Appendices A and B to reflect elimination of PO-2A and change in payment calculation amounts for PO-2B.
- Update Appendices A and B to remove PO-18.

This Stipulation may be executed in counterparts including signatures by facsimile. So we all have stipulated as of the \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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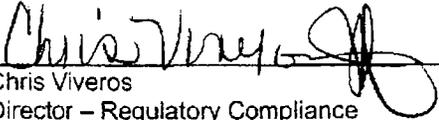
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2007 Stipulation

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PMP Stipulation

This Stipulation may be executed in counterparts including signatures by facsimile. So we all have stipulated as of the 18<sup>th</sup> day of June 2007.

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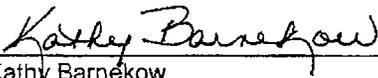
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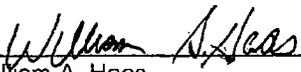
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2007 Stipulation

## **EXHIBIT 2**

**PAP – Redlined**

# Exhibit K

## PERFORMANCE ASSURANCE PLAN

### 1.0 Introduction

1.1 As set forth in this Agreement, Qwest and CLEC voluntarily agree to the terms of the following Performance Assurance Plan ("PAP"), initially prepared in conjunction with Qwest's application for approval under Section 271 of the Telecommunications Act of 1996 (the "Act") to offer in-region long distance service and subsequently modified in accordance with the Commission's orders and, where applicable, by operation of law.

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### 2.0 Plan Structure

2.1 The PAP is a two-tiered, self-executing remedy plan. CLEC shall be provided with Tier 1 payments if, as applicable, Qwest does not provide parity between the service it provides to CLEC and that which it provides to its own retail customers, or Qwest fails to meet applicable benchmarks.

2.1.1 As specified in section 7.0, if Qwest fails to meet parity and benchmark standards on an aggregate CLEC basis, Qwest shall make Tier 2 payments to a Fund established by the state regulatory commission or, if required by existing law, to the state general fund.

2.2 As specified in sections 6.0 and 7.0 and Attachments 1 and 2, payment is generally on a per occurrence basis, (i.e., a set dollar payment times the number of non-conforming service events). For the performance measurements which do not lend themselves to per occurrence payment, payment is on a per measurement basis, (i.e., a set dollar payment). The level of payment also depends upon the number of consecutive months of non-conforming performance, (i.e., an escalating payment the longer the duration of non-conforming performance) unless otherwise specified.<sup>1</sup>

2.3 Qwest shall be in conformance with the parity standard when service Qwest provides to CLEC is equivalent to that which it provides to its retail customers. The PAP relies upon statistical scoring to determine whether any difference between CLEC and Qwest performance results is significant, that is, not attributable to simple random variation. Statistical parity shall exist when performance results for CLEC and for Qwest retail analogue result in a z-value that is no greater than the critical z-values listed in the Critical Z-Statistical Table in section 5.0.

2.4 For performance measurements that have no Qwest retail analogue, agreed upon benchmarks shall be used. Benchmarks shall be evaluated using a "stare and compare" method. For example, if the benchmark is for a particular performance measurement is 95% or better, Qwest performance results must be at least 95% to

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<sup>1</sup> Stipulation Issue I.F: BI-3A.

# Exhibit K

meet the benchmark. Percentage benchmarks will be adjusted to round the allowable number of misses up or down to the closest integer, except when a benchmark standard and low CLEC volume are such that a 100% performance result would be required to meet the standard and has not been attained in which case section 3.1.2 applies.<sup>2</sup>

## 3.0 Performance Measurements

3.1 The performance measurements that are in the PAP and either (1) subject to the PAP payment mechanisms or (2) not subject to the PAP payment mechanisms but subject to the Reinstatement/Removal Process set forth in section 3.2 below are identified in Attachment 1 and sections 6.3 and 7.4.<sup>3</sup> Each performance measurement identified is defined in the Performance Indicator Definitions ("PIDs") included in the SGAT at Exhibit B.

3.1.1 On Attachment 1, the measurements have been designated as Tier 1, Tier 2, or both Tier 1 and Tier 2 and given a High, Medium, or Low designation.

3.1.2 Where applicable elsewhere in the PAP, this provision modifies other provisions and operates as follows: For any Tier 1 or Tier 2 benchmark or non-interval parity performance sub-measure, Qwest shall apply one allowable miss to a sub-measure disaggregation that otherwise would require 100% performance before the performance is considered as non-conforming to standard (1) if at the CLEC-aggregate level, the performance standard is met or (2) where the CLEC-aggregate performance must be 100% to meet the standard, the CLEC-aggregate performance is conforming after applying one allowable miss at that level.<sup>4</sup>

3.2 The following measures, which are listed in Attachment 1 or section 7.4, are not subject to the payment mechanisms of the PAP; however, they are subject to the PID Reinstatement/Removal Process. All other measures listed in Attachment 1, section 6.3 or section 7.4 are subject to the PAP payment mechanisms, but they are not subject to the PID Reinstatement/Removal Process.

- GA-3 Gateway Availability EB-TA
- GA-4 System Availability EXACT
- GA-7 Timely Outage Resolution following Software Releases
- PO-3 LSR Rejection Notice Interval
- PO-5D Firm Order Confirmations (FOCs) On Time (ASRs for LIS Trunks)
- PO-7 Billing Completion Notification Timeliness
- PO-8 Jeopardy Notice Interval
- PO-16 Timely Release Notifications

<sup>2</sup> Stipulation Issue II.A.

<sup>3</sup> Stipulation Issue I.E.

<sup>4</sup> Stipulation Issue II.A.

**Deleted:** In such a situation, the determination of whether Qwest meets or fails the benchmark standard will be made using performance results for the month in question, plus a sufficient number of consecutive months so that a 100% performance result would not be required to meet the standard. For purposes of section 6.2, a meet or fail determined by this procedure shall count as a single month.¶

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OP-17 Timeliness of Disconnects Associated with LNP Orders  
MR-11 LNP Trouble Reports Cleared within Specified Timeframes<sup>5</sup>  
BI-4 Billing Completeness  
NI-1 Trunk Blocking  
NP-1 NXX Code Activation

3.3 PID Reinstatement/Removal Process:<sup>6</sup> If Qwest's performance for any sub-measure of the PIDs listed in section 3.2 above does not conform to the established PID standard as set forth in the PAP for three consecutive months, that sub-measure will be reinstated (i.e., be subject to the PAP payment mechanisms) subject to the retroactive payment provision of section 3.3.2 and subject to the PAP payment mechanisms effective in the month following the three consecutive months. The determination of whether a PID sub-measure is reinstated is made no later than at the end of the second month following the third consecutive month of non-conforming performance. The sub-measure will remain subject to the PAP payment mechanisms until Qwest's performance for that sub-measure satisfies the established standards for three consecutive months. Effective the month following such conforming performance, the sub-measure will no longer be subject to the PAP payment mechanisms but will continue to be subject to the PID Reinstatement/Removal Process. The determination of whether a PID sub-measure is removed from being subject to the PAP payment mechanisms is made no later than the end of the second month following the third consecutive month of conforming performance. Where applicable elsewhere in the PAP, this PID Reinstatement/Removal Process modifies other provisions and operates as follows:

3.3.1 Disaggregation and Reporting Levels: Performance will be evaluated at the lowest level of disaggregation defined in Exhibit B of the SGAT on a CLEC-aggregated or other-aggregated basis such that performance is evaluated for the purposes of administering the Reinstatement/Removal Process on a statewide or regionwide level, as applicable per the PID.

3.3.2 Retroactive Payments: To calculate retroactive payments for the sub-measures reinstated, PAP payment mechanisms will be applied to the three consecutive months in which the standard was missed, which triggered reinstatement. These retroactive payments will be made to applicable CLECs or the Tier 2 Fund, depending upon the tier designation of the PID, at the end of the third month after the month in which performance triggered reinstatement.

3.3.2.1 Accounting for Payments: In support of retroactive payments (section 3.3.2 above), Qwest will account separately for PAP payments that would have been made to individual CLECs or to the Tier 2 Fund for a sub-measure as though it had been subject to the PAP payment mechanisms, where automatic reinstatement applies, and account

<sup>5</sup> Stipulation Issue I.B.

<sup>6</sup> Stipulation Issue I.E.

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## Exhibit K

separately in the same manner for the time between when it is determined that a sub-measure met the standard for automatic removal and the effective date of removal (the month following the three consecutive "met" months). With regard to sub-measures that are subsequently removed again through this process, any PAP payments made during the three consecutive months which triggers automatic removal will not be recovered by Qwest.

3.3.2.2 Interest: In the case of automatic reinstatement, retroactive payments will include interest calculated at the prime rate as reported in the *Wall Street Journal* from the date a payment would have been made to the date the payment is actually made.

3.3.2.3 Tracking: Qwest will track and report service and payment results, including retroactive and avoided (i.e., during periods of removal) PAP payments and the disposition of the avoided payments on a CLEC, PID sub-measure and aggregate basis each month.

3.3.3 Public Website: Qwest will maintain a public website showing the PAP status of each PID or sub-measure with respect to the applicability of the PAP payment mechanisms (i.e., reinstated or removed), which eliminates the requirement to make filings with the Commission to modify the PAP due to the application of the PID Reinstatement/Removal Process.

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### 4.0 Statistical Measurement

4.1 Qwest uses a statistical test, namely the modified "z-test," for evaluating the difference between two means (i.e., Qwest and CLEC service or repair intervals) or two percentages (e.g., Qwest and CLEC proportions), to determine whether a parity condition exists between the results for Qwest and the CLEC(s). The modified z-tests shall be applicable if the number of data points are greater than 30 for a given measurement. For testing measurements for which the number of data points are 30 or less, Qwest will use a permutation test to determine the statistical significance of the difference between Qwest and CLEC.

4.2 Qwest shall be in conformance when the monthly performance results for parity measurements (whether in the form of means, percents, or proportions and at the equivalent level of disaggregation) are such that the calculated z-test statistics are not greater than the critical z-values as listed in Table 1, section 5.0.

4.3 Qwest shall be in conformance with benchmark measurements when the monthly performance result equals or exceeds the benchmark, if a higher value means better performance, and when the monthly performance result equals or is less than the benchmark if a lower value means better performance.

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The formula for determining parity using the modified z-test is:

$$z = \text{DIFF} / \sigma_{\text{DIFF}}$$

Where:

$$\text{DIFF} = M_{\text{Qwest}} - M_{\text{CLEC}}$$

$M_{\text{QWEST}}$  = Qwest average or proportion

$M_{\text{CLEC}}$  = CLEC average or proportion

$\sigma_{\text{DIFF}}$  = square root  $\sigma^2_{\text{Qwest}} (1/n_{\text{CLEC}} + 1/n_{\text{Qwest}})$

$\sigma^2_{\text{Qwest}}$  = calculated variance for Qwest

$n_{\text{Qwest}}$  = number of observations or samples used in Qwest measurement

$n_{\text{CLEC}}$  = number of observations or samples used in CLEC measurement

The modified z-tests will be applied to reported parity measurements that contain more than 30 data points.

In calculating the difference between Qwest and CLEC performance, the above formula applies when a larger Qwest value indicates a better level of performance. In cases where a smaller Qwest value indicates a higher level of performance, the order is reversed, i.e.,  $M_{\text{CLEC}} - M_{\text{QWEST}}$ .

4.3.1 For parity measurements where the number of data points is 30 or less, Qwest will apply a permutation test to test for statistical significance. Permutation analysis will be applied to calculate the z-statistic using the following logic:

Calculate the modified z-statistic for the actual arrangement of the data Pool and mix the CLEC and Qwest data sets

Perform the following 1000 times:

Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set ( $n_{\text{CLEC}}$ ) and one reflecting the remaining data points, and one reflecting the remaining data points, (which is equal to the size of the original Qwest data set or  $n_{\text{QWEST}}$ ).

Compute and store the modified z-test score ( $Z_s$ ) for this sample.

Count the number of times the z-statistic for a permutation of the data is greater than the actual modified z-statistic

Compute the fraction of permutations for which the statistic for the rearranged data is greater than the statistic for the actual samples

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If the fraction is greater than  $\alpha$ , the significance level of the test, the hypothesis of no difference is not rejected, and the test is passed. The  $\alpha$  shall be .05 when the critical z value is 1.645 and .15 when the critical z value is 1.04.

## 5.0 Critical Z-Value

5.1 The following table shall be used to determine the critical z-value that is referred to in section 6.0. It is based on the monthly business volume of the CLEC for the particular performance measurements for which statistic testing is being performed.

**TABLE 1: CRITICAL Z-VALUE**

CLEC volume (Sample size)	LIS Trunks, Resale, UBL-DS1 and DS- 3	UDITs, All Other
1-10	1.04*	1.645
11-150	1.645	1.645
151-300	2.0	2.0
301-600	2.7	2.7
601-3000	3.7	3.7
3001 and above	4.3	4.3

\* The 1.04 applies for individual month testing for performance measurements involving LIS trunks and DS-1 and DS-3 that are UDITs, Resale, or Unbundled Loops. The performance measurements are OP-3d/e, OP-4d/e, OP-5a, OP-6-4/5, MR-5a/b, MR-7d/e, and MR-8.

For purposes of determining consecutive month misses, 1.645 shall be used. Where performance measurements disaggregate to zone 1 and zone 2, the zones shall be combined for purposes of statistical testing.

## 6.0 Tier 1 Payments to CLEC

6.1 Tier 1 payments to CLEC shall be made solely for the performance measurements designated as Tier 1 on Attachment 1. The payment amount for non-conforming service varies depending upon the designation of performance measurements as High, Medium, and Low and the duration of the non-conforming service condition as described below. Non-conforming service is defined in section 4.0.

6.1.1 Determination of Non-Conforming Measurements: The number of performance measurements that are determined to be non-conforming and, therefore, eligible for Tier 1 payments, are limited according to the critical z-value shown in Table 1, section 5.0. The critical z-values are the statistical standard that

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determines for each CLEC performance measurement whether Qwest has met parity. The critical z-value is selected from Table 1 according to the monthly CLEC volume for the performance measurement. For instance, if the CLEC sample size for that month is 100, the critical z-value is 1.645 for the statistical testing of that parity performance measurement.

6.2 Determination of the Amount of Payment: Tier 1 payments to CLEC, except as provided for in sections 6.2.3,<sup>7</sup> 6.3 and 10.0, are calculated and paid monthly based on the number of performance measurements exceeding the critical z-value. Payments will be made on either a per occurrence or per measurement basis, depending upon the performance measurement, using the dollar amounts specified in Table 2 below. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low and escalate depending upon the number of consecutive months for which Qwest has not met the standard for the particular measurement.

6.2.1 The escalation of payments for consecutive months of non-conforming service will be matched month for month with de-escalation of payments for every month of conforming service. For example, if Qwest has four consecutive monthly "misses" it will make payments that escalate from month 1 to month 4 as shown in Table 2. If, in the next month, service meets the standard, Qwest makes no payment. A payment "indicator" de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 2 because that is where the payment "indicator" presently sits. If Qwest misses again the following month, it will make payments that escalate back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon conforming service sufficient to move the payment "indicator" back to the month 1 level.

6.2.2 For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measurement Caps," excluding BI-3A, payment to a CLEC in a single month shall not exceed the amount listed in Table 2 below for the "Per Measurement Cap" category. For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measurement Payments," if any should be added at a later time, payment to a CLEC will be the amount set forth in Table 2 below under the section labeled "Per Measurement Cap."<sup>8</sup>

**TABLE 2: TIER 1 PAYMENTS TO CLEC<sup>9</sup>**

Per Occurrence Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6,	Each following month

<sup>7</sup> Stipulation Issue I.F: BI-3A.

<sup>8</sup> Stipulation Issue I.F: BI-3A and Administrative.

<sup>9</sup> Stipulation Issue IV.A.

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							after Month 6 add
High	\$150	\$250	\$500	\$600	\$700	\$800	\$100
Medium	\$ 75	\$150	\$300	\$400	\$500	\$600	\$100
Low	\$ 25	\$ 50	\$100	\$200	\$300	\$400	\$100
Per Measurement Cap							
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Each following month after Month 6 add
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000	\$25,000
Medium	\$10,000	\$20,000	\$30,000	\$ 40,000	\$ 50,000	\$ 60,000	\$10,000
Low	\$ 5,000	\$10,000	\$15,000	\$20,000	\$ 25,000	\$ 30,000	\$ 5,000

6.2.3 For the BI-3A performance measurement,<sup>10</sup> the dollar payment amount for non-conforming performance varies depending upon the Total Bill Adjustment Amount for the CLEC. The payment amount is calculated using Table 2A below by multiplying the per occurrence amount times the number of occurrences based on the Total Bill Adjustment Amount,<sup>11</sup> capped at the amount shown in the table for that Total Bill Adjustment Amount. The escalation of payments for consecutive months as stated in section 6.2.1 does not apply.

**TABLE 2A: TIER 1 PAYMENTS TO CLECS FOR BI-3A**

Total Bill Adjustment Amount	Per Occurrence Amount	Cap
\$0 - \$0.99	\$0	\$0
\$1 - \$199.99	\$1	\$200
\$200 - \$999.99	\$10	\$5,000
\$1,000 - \$9,999.99	\$10	\$10,000
\$10,000 - \$49,999.99	\$15	\$15,000
\$50,000 - \$99,999.99	\$20	\$20,000
\$100,000 and over	\$25	\$25,000

6.3 For collocation, CP-2 and CP-4 performance measurements shall be relied upon for delineation of collocation business rules. For purposes of calculating Tier 1 payments, collocation jobs and collocation feasibility studies that are later than the due date will have a per day payment applied according to Table 3. The per day payment will be applied to any collocation job in which the feasibility study is provided or the collocation installation is completed later than the scheduled date. The calculation of the payment amount will be performed by applying the per day

<sup>10</sup> Stipulation Issue I.F. BI-3A.

<sup>11</sup> [This will be a permanent footnote.] Total Bill Adjustment Amount is determined by subtracting the BI-3A numerator from the BI-3A denominator as defined in the BI-3 PID formula.

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payment amounts as specified in Table 3. Thus, for days 1 through 10, the payment is \$150 per day. For days 11 through 20, the payment is \$300 per day and so on.

**TABLE 3: TIER-1 COLLOCATION PAYMENTS TO CLECS**

Days Late	Completion Date	Feasibility Study
1 to 10 days	\$150/day	\$45/day
11 to 20 days	\$300/day	\$90/day
21 to 30 days	\$450/day	\$135/day
31 to 40 days	\$600/day	\$180/day
More than 40 days	\$1,000/day	\$300/day

6.4 A minimum payment calculation shall be performed by Qwest at the end of each year for each CLEC with annual order volumes of no more than 1,200. The payment shall be calculated by adding the applicable minimum payment amount in Table 4 below for each month in which at least one payment was due to the CLEC. To the extent that the actual CLEC payment for the year is less than the product of the preceding calculation, Qwest shall make an additional payment equal to the difference.

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**TABLE 4: MINIMUM PAYMENTS TO CLECS<sup>12</sup>**

Total Monthly Payment:	Minimum Payment Amount:
Less than \$200	\$ 0
Between \$200 and \$800	\$ 1,500
Between \$801 and \$1,400	\$ 2,000
Over \$1,400	\$ 2,500

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## 7.0 Tier 2 Payments to the State

7.1 Payments to the State shall be limited to the performance measurements designated in section 7.4 for Tier 2 per measurement payments and in Attachment 1 for per occurrence payments and which have at least 10 data points each month for the period payments are being calculated. Similar to the Tier 1 structure, Tier 2 measurements are categorized as High, Medium, and Low and the amount of payments for non-conformance varies according to this categorization.

7.2 Determination of Non-Conforming Measurements: The determination of non-conformance will be based upon the aggregate of all CLEC data for each Tier 2 performance measurement. Non-conforming service is defined in section 4.2 (for parity measurements) and 4.3 (for benchmark measurements), except that a 1.645 critical z-value shall be used for Tier 2 parity measurements that have Tier 1

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<sup>12</sup> Stipulation Issue II.B.

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counterparts. The critical z-value is the statistical standard that determines for each performance measurement whether Qwest has met parity.

7.3 Determination of the Amount of Payment: Except as provided in section 7.4, Tier 2 payments are calculated and paid monthly based on the number of performance measurements failing performance standards for a third consecutive month, or if two out of three consecutive months in the 12 month period have been missed, the second consecutive month for Tier 2 measurements with Tier 1 counterparts. For Tier 2 measurements that do not have Tier 1 counterparts, payments are calculated and paid monthly based on the number of performance measurements exceeding the critical z-values, identified in section 5.1, in any single month. Payment will be made on either a per occurrence or per measurement basis, whichever is applicable to the performance measurement, using the dollar amounts specified in Table 5 or Table 6 below. Except as provided in section 7.4, the dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low.

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7.3.1 For those Tier 2 measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measurement Caps," payment to the State in a single month shall not exceed the amount listed in Table 5 for the "Per Measurement Cap" category.

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**TABLE 5: TIER 2 PAYMENTS TO STATE FUNDS**

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Per Occurrence

Measurement Group	
High	\$500
Medium	\$300
Low	\$200

Per Measurement Cap

Measurement Group	
High	\$75,000
Medium	\$30,000
Low	\$20,000

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7.4 Performance Measurements Subject to Per Measurement Payment: The following Tier 2 performance measurements shall have their performance results measured on a region-wide (14 state) basis. Failure to meet the performance standard, therefore, will result in a per measurement payment in each of the Qwest in-region 14 states adopting this PAP. The performance measurements are:

- GA-1: Gateway Availability - IMA-GUI
- GA-2: Gateway Availability - IMA-EDI
- GA-3: Gateway Availability - EB-TA
- GA-4: System Availability - EXACT

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GA-6: Gateway Availability – GUI-Repair  
 PO-1: Pre-Order/Order Response Times  
 OP-2: Call Answered within Twenty Seconds – Interconnect Provisioning Center  
 MR-2: Calls Answered within Twenty Seconds – Interconnect Repair Center

GA-1 has two sub-measurements: GA-1A, and GA-1D. PO-1 shall have two sub-measurements: PO-1A and PO-1B. PO-1A and PO-1B shall have their transaction types aggregated together.

For these measurements, Qwest will make a Tier 2 payment based upon monthly performance results according to Table 6: Tier 2 Per Measurement Payments to State Funds.

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**TABLE 6: TIER 2 PER MEASUREMENT PAYMENTS TO STATE FUNDS**

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Measurement	Performance	State Payment	14 State Payment
GA-1,2,3,4,6	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$10,000	\$140,000
	>3% to 5%	\$20,000	\$280,000
	>5%	\$30,000	\$420,000
PO-1	2 sec. Or less	\$1,000	\$14,000
	>2 sec. to 5 sec.	\$5,000	\$70,000
	>5 sec. to 10 sec.	\$10,000	\$140,000
	>10 sec.	\$15,000	\$210,000
OP-2/MR-2	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$5,000	\$70,000
	>3% to 5%	\$10,000	\$140,000
	>5%	\$15,000	\$210,000

### 8.0 Step by Step Calculation of Monthly Tier 1 Payments to CLEC

8.1 Application of the Critical Z-Values: Qwest shall identify the Tier 1 parity performance measurements that measure the service provided to CLEC by Qwest for the month in question and the critical z-value from Table 1 in section 5.0 that shall be used for purposes of statistical testing for each particular performance measurement. The statistical testing procedures described in section 4.0 shall be applied. For the purpose of determining the critical z-values, each disaggregated category of a performance measurement is treated as a separate sub-measurement. The critical z-value to be applied is determined by the CLEC volume at each level of disaggregation or sub-measurement.

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## 8.2 Performance Measurements for which Tier 1 Payment is Per Occurrence:

### 8.2.1 Performance Measurements that are Averages or Means:

8.2.1.1 Step 1: For each performance measurement, the average or the mean that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

8.2.1.2 Step 2: The percentage differences between the actual averages and the calculated averages shall be calculated. The calculation is  $\% \text{ diff} = (\text{CLEC result} - \text{Calculated Value}) / \text{Calculated Value}$ . The percent difference shall be capped at a maximum of 100%. In all calculations of percent differences in sections 8.0 and 9.0, the calculated percent differences is capped at 100%.

8.2.1.2 Step 3: For each performance measurement, the total number of data points shall be multiplied by the percentage calculated in the previous step and the per occurrence dollar amounts from the Tier 1 Payment Table shall determine the payment to the CLEC for each non-conforming performance measurement.

### 8.2.2 Performance Measurements that are Percentages:

8.2.2.1 Step 1: For each performance measurement, the percentage that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z- statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

8.2.2.2 Step 2: The difference between the actual percentages for the CLEC and the calculated percentages shall be determined.

8.2.2.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference in percentage calculated in the previous step, and the per occurrence dollar amount taken from the Tier 1 Payment Table, to determine the payment to the CLEC for each non-conforming performance measurement.

### 8.2.3 Performance Measurements that are Ratios or Proportions:

8.2.3.1 Step 1: For each performance measurement the ratio that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

8.2.3.2 Step 2: The absolute difference between the actual rate for the CLEC and the calculated rate shall be determined.

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8.2.3.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference calculated in the previous step, and the per occurrence dollar amount taken from the Tier 1 Payment Table, to determine the payment to the CLEC for each non-conforming performance measurement.

8.3 Performance Measurements for which Tier 1 Payment is Per Measure:

8.3.1 For each performance measurement where Qwest fails to meet the standard, the payment to the CLEC shall be the dollar amount shown on the "per measure" portion of Table 2: Tier 1 Payments to CLEC.

### 9.0 Step by Step Calculation of Monthly Tier 2 Payments to State Funds

9.1.1 Application of the Critical Z-Value: Qwest shall identify the Tier 2 parity performance measurements that measure the service provided by Qwest to all CLECs for the month in question. The statistical testing procedures described in section 4.0 shall be applied, except that a 1.645 critical z-value shall be used for Tier 2 parity measurements that have Tier 1 counterparts. For Tier 2 parity measurements that do not have Tier 1 counterparts, the statistical testing procedures described section 4.0 shall be applied using the critical z-values identified in section 5.1.

9.1.2 To determine if Tier 2 payments for performance measurements listed on Attachment 1 shall be made in the current month, the following shall be determined. For Tier 2 measurements that have Tier 1 counterparts, it shall be determined whether Qwest missed the performance standard for three consecutive months, or if Qwest has missed the standard in any two out of three consecutive months for the 12 month period and for an additional two consecutive months. For Tier 2 measurements that do not have Tier 1 counterparts, it shall be determined whether Qwest missed the performance standard for a single month. If any of these conditions are met and there are at least 10 data points for the measurement in each month, a Tier 2 payment will be calculated and paid as described below and will continue in each succeeding month until Qwest's performance meets the applicable standard. For Tier 2 measures that have Tier 1 counterparts, the most recent three months of nonconforming performance data that results in payment liability shall be averaged to determine payment.

9.2 Performance Measurements for which Tier 2 Payment is Per Occurrence:

9.2.1 Performance Measurements that are Averages or Means:

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9.2.1.1 Step 1: The monthly average or the mean for each performance measurement that would yield the critical z-value for each month shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

9.2.1.2 Step 2: The percentage difference between the actual averages and the calculated averages for the relevant month(s) shall be calculated. The calculation for parity measurements is  $\% \text{ diff} = (\text{actual average} - \text{calculated average}) / \text{calculated average}$ . The percent difference shall be capped at a maximum of 100%. In all calculations of percent differences in section 8.0 and section 9.0, the calculated percent difference is capped at 100%.

9.2.1.3 Step 3: For each performance measurement, the total number of data points for the relevant month(s) shall be multiplied by the percentage calculated in the previous step. The amount (average amount, if more than one month) (rounded to the nearest integer) is then multiplied by the result of the per occurrence dollar amount taken from the Tier 2 Payment Table to determine the payment to the State for each non-conforming performance measurement.

### 9.3 Performance Measurements that are Percentages:

9.3.1 Step 1: For each performance measurement, the monthly percentage that would yield the critical z-value for each month shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

9.3.1.2 Step 2: The difference between the actual percentages and the calculated percentages for the relevant month(s) shall be calculated. The calculation for parity measurement is  $\text{diff} = (\text{CLEC result} - \text{calculated percentage})$ . This formula shall be applicable where a high value is indicative of poor performance. The formula shall be reversed where high performance is indicative of good performance.

9.3.1.3 Step 3: For each performance measurement, the total number of data points for the relevant month(s) shall be multiplied by the difference in percentage calculated in the previous step. The amount (average amount, if more than one month)(rounded to the nearest integer) is then multiplied by the result of the per occurrence dollar amounts taken from the Tier 2 Payment Table to determine the payment to the State.

### 9.4 Performance Measurements that are Ratios or Proportions:

9.4.1 Step 1: For each performance measurement, the ratio that would yield the critical z-value for each month shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

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9.4.1.1 Step 2: The difference between the actual rate for the CLEC and the calculated rate for the relevant month(s) shall be calculated. The calculation is: diff = (CLEC rate – calculated rate). This formula shall apply where a high value is indicative of poor performance. The formula shall be reversed where high performance is indicative of good performance.

9.4.1.2 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference calculated in the previous step for each month. The amount (average amount, if more than one month)(rounded to the nearest integer) is then multiplied by the result of the per occurrence dollar amounts taken from the Tier 2 Payment Table to determine the payment to the State.

9.5 Performance Measurements for which Tier 2 Payment is Per Measure:

9.5.1 For each performance measurement where Qwest fails to meet the standard, the payment to the State Fund shall be the dollar amount shown on the “per measure” portion of the Tier 2 Payment Table.

## 10.0 Low Volume, Developing Markets

10.1 For certain qualifying performance standards, if the aggregate monthly volumes of CLECs participating in the PAP are more than 10, but less than 100, Qwest will make Tier 1 payments to CLECs for failure to meet the parity or benchmark standard for the qualifying performance sub-measurements. The qualifying sub-measurements are the<sup>1314</sup> ADSL qualified loop product disaggregations of OP-3, OP-4, OP-5a, MR-3, MR-5, MR-7, and MR-8. If the aggregate monthly CLEC volume is greater than 100, the provisions of this section shall not apply to the qualifying performance sub-measurement.

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10.2 The determination of whether Qwest has met the parity or benchmark standards will be made using aggregate volumes of CLECs participating in the PAP. In the event Qwest does not meet the applicable performance standards, a total payment to affected CLECs will be determined in accordance with the high, medium, low designation for each performance measurement (see Attachment 1) and as described in section 8.0, except that CLEC aggregate volumes will be used. In the event the calculated total payment amount to CLECs is less than \$5,000, a minimum payment of \$5,000 shall be made. The resulting total payment amount to CLECs will be apportioned to the affected CLECs based upon each CLEC's relative share of the number of total service misses.

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<sup>13</sup> Stipulation Issue II.C.

<sup>14</sup> Stipulation Issue I.A.

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10.3 At the six (6)-month reviews, Qwest will consider adding to the above list of qualifying performance sub-measurements, new products disaggregation representing new modes of CLEC entry into developing markets.

### 11.0 Payment

11.1 Payments to CLEC, the State, or the Special Fund shall be made one month following the due date of the performance measurement report for the month for which payment is being made. Qwest will pay interest on any late payment and underpayment at the prime rate as reported in the Wall Street Journal. On any overpayment, Qwest is allowed to offset future payments by the amount of the overpayment plus interest at the prime rate.

11.2 Payment to CLEC shall be made via bill credits. Bill credits shall be identified on a summary format substantially similar to that distributed as a prototype to the CLECs and the Commissions. To the extent that a monthly payment owed to CLEC under this PAP exceeds the amount owed to Qwest by CLEC on a monthly bill, Qwest will issue a check or wire transfer to CLEC in the amount of the overage. Payment to the State shall be made via check or wire transfer.

11.3 A Special Fund shall be created for the purpose of payment of an independent auditor and audit costs as specified in section 15.0 and payment of other expenses incurred by the participating Commissions in the regional administration of the PAP.

11.3.1 Qwest shall establish the Special Fund as an interest bearing escrow account upon the first FCC section 271 approval of the PAP applicable to a participating state Commission. Qwest shall be authorized to withhold and deposit into the Special Fund one-half of all Tier 2 payments. The cost of the escrow account will be paid for from account funds.

11.3.2 Commissions participating in the Special Fund shall appoint a person designated to administer and authorize disbursement of funds. All claims against the fund shall be presented to the Commissions' designates and shall be the responsibility of the participating Commissions.

11.3.3 Qwest shall advance funds to meet initial claims against the Special Fund to the extent Tier 2 contributions are insufficient. Such funds shall not exceed \$500,000 and shall be reduced appropriately in the event that at least six states in which the QPAP is in effect do not agree to participate in the Special Fund. Upon a determination by the participating Commissions that the Special Fund has become self-sustaining or is no longer required, Qwest shall be allowed to recover any such advances plus interest at the rate that the escrow account would have earned.

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11.3.4 Upon the execution of a memorandum of understanding with the Idaho Commission, Qwest shall establish an Idaho Discretionary Fund as a separate interest bearing escrow account. Qwest shall deposit into the Discretionary Fund the remaining balance of Tier 2 payments after disbursement of Tier 2 payments to the Special Fund pursuant to section 13.3.1. The Commission shall appoint a person designated to administer and authorize disbursements of funds from the Discretionary Fund. Disbursements from the Discretionary Fund shall be limited to competitively neutral Idaho telecommunications initiatives. The costs of the Discretionary Fund will be paid for from the account's funds.

### 12.0 Cap on Tier 1 and Tier 2 Payments

12.1 There shall be a cap on the total payments made by Qwest for a 12 month period beginning with the effective date of the PAP for the State of Idaho. The annual cap for the State of Idaho shall be 36% of ARMIS Net Return, recalculated each year based upon the prior year's Idaho ARMIS results, subject to any applicable adjustment permitted pursuant to section 12.2. Qwest shall submit to the Commission the calculation of each year's cap no later than 30 days after submission of ARMIS results to the FCC. CLEC agrees that this amount constitutes a maximum annual cap that shall apply to the aggregate total of Tier 1 liquidated damages, including any such damages paid pursuant to this Agreement, any other interconnection agreement, or any other payments made for the same underlying activity or omission under any other contract, order or rule and Tier 2 assessments or payments made by Qwest for the same underlying activity or omission under any other contract, order or rule.

12.2 The 36% annual cap may be increased to 44% or decreased to 30% of ARMIS Net Return as follows:

12.2.1 An increase in the cap of a maximum of 4 percentage points at any one time (i.e., first to 40 percent) shall occur upon order by the Commission if the cap has been exceeded for any consecutive period of 24 months by that same 4 percent or more, provided that: (a) the Commission has determined that the preponderance of the evidence shows Qwest could have remained beneath the cap through reasonable and prudent effort, and (b) the Commission has made that determination after having available to it on the record the results of audits and root cause analyses, and provided an opportunity for Qwest to be heard.

12.2.2 A decrease in the cap of a maximum of 4 percentage points at any one time shall occur upon order by the Commission after performance for any consecutive period of 24 months in which total payments are 8 or more percentage points below the cap amount, provided that: (a) the Commission has determined that the preponderance of the evidence shows the performance results underlying those payments results from an adequate Qwest commitment to meeting its responsibilities to provide adequate wholesale service and to keeping open its local markets and (b)

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the Commission shall have made that determination after providing all interested parties an opportunity to be heard.

12.2.3 The provisions of 12.2.1 and 12.2.2 shall be in effect for the next 24 month period commencing with the end of the 24 month period upon which the Commission's order is based.

12.3 If the annual cap is reached, each CLEC shall, as of the end of the year, be entitled to receive the same percentage of its total calculated Tier 1 payments. In order to preserve the operation of the annual cap, the percentage equalization shall take place as follows:

12.3.1 The amount by which any month's total year-to-date Tier 1 and Tier 2 payments exceeds the cumulative monthly cap (defined as 1/12<sup>th</sup> of the annual cap times the cumulative number of months to date) shall be calculated and apportioned between Tier 1 and Tier 2 according to the percentage that each bore of total payments for the year-to-date. The Tier 1 apportionment resulting of this calculation shall be known as the "Tracking Account."

12.3.2 The Tier 1 apportionment shall be debited against the monthly payment due to each CLEC, by applying to the year-to-date payments received by each the percentage necessary to generate the required total Tier 1 amount.

12.3.3 The Tracking Amount shall be apportioned among all CLECs so as to provide each with payments equal in percentage of its total year to date Tier 1 payment calculations.

12.3.4 This calculation shall take place in the first month that the year-to-date total Tier 1 and Tier 2 payments are expected to exceed the cumulative monthly cap and for each month of that year thereafter. Qwest shall recover any debited amounts by reducing payments due to any CLEC for that month and any succeeding months, as necessary.

### 13.0 Limitations

13.1 The PAP shall not become available in the State unless and until Qwest receives effective section 271 authority from the FCC for that State.

13.2 Qwest will not be liable for Tier 1 payments to CLEC in an FCC approved state until the Commission has approved an interconnection agreement between CLEC and Qwest which adopts the provisions of this PAP.

13.3 Qwest shall not be obligated to make Tier 1 or Tier 2 payments for any measurement if and to the extent that non-conformance for that measurement was the result of any of the following: 1) with respect to performance measurements with

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a benchmark standard, a Force Majeure event as defined in section 5.7 of the SGAT. Qwest will provide notice of the occurrence of a Force Majeure event within 72 hours of the time Qwest learns of the event or within a reasonable time frame that Qwest should have learned of it; 2) an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with Qwest or under federal or state law; an act or omission by CLEC that is in bad faith. Examples of bad faith conduct include, but are not limited to: unreasonably holding service orders and/or applications, "dumping" orders or applications in unreasonably large batches, "dumping" orders or applications at or near the close of a business day, on a Friday evening or prior to a holiday, and failing to provide timely forecasts to Qwest for services or facilities when such forecasts are explicitly required by the SGAT; 3) problems associated with third-party systems or equipment, which could not have been avoided by Qwest in the exercise of reasonable diligence, *provided, however*, that this third party exclusion will not be raised in the State more than three times within a calendar year. If a Force Majeure event or other excusing event recognized in this section merely suspends Qwest's ability to timely perform an activity subject to a performance measurement that is an interval measure, the applicable time frame in which Qwest's compliance with the parity or benchmark criterion is measured will be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the excusing event.

13.3.1 Qwest will not be excused from Tier 1 or Tier 2 payments for any reason except as described in Section 13.0. Qwest will have the burden of demonstrating that its non-conformance with the performance measurement was excused on one of the grounds described in this PAP. A party may petition the Commission to require Qwest to deposit disputed payments into an escrow account when the requesting party can show cause, such as grounds provided in the Uniform Commercial Code for cases of commercial uncertainty.

13.3.2 Notwithstanding any other provision of section 13 of this QPAP, Qwest shall not be excused for failing to provide such performance that Qwest could reasonably have been expected to deliver assuming that it had designed, implemented, staffed, provisioned, and otherwise provided for resources reasonably required to meet foreseeable volumes and patterns of demands upon its resources by CLECs.

13.4 Qwest's agreement to implement these enforcement terms, and specifically its agreement to pay any "liquidated damages" or "assessments" hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating in whole or in part to the same performance.

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13.4.1 CLEC may not use: 1) the existence of this enforcement plan; or 2) Qwest's payment of Tier -1 "liquidated damages" or Tier 2 "assessments" as evidence that Qwest has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. Qwest's conduct underlying its performance measures, however are not made inadmissible by its terms.

13.4.2 By accepting this performance remedy plan, CLEC agrees that Qwest's performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. (Nothing herein is intended to preclude Qwest from introducing evidence of any Tier 1 "liquidated damages" under these provisions for the purpose of offsetting the payment against any other damages or payments a CLEC might recover.) The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether Qwest has met or continues to meet the requirements of section 271 of the Act.

13.5 By incorporating these liquidated damages terms into the PAP, Qwest and CLEC accepting this PAP agree that proof of damages from any non-conforming performance measurement would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damages that may result from a non-conforming performance measurement. Qwest and CLEC further agree that Tier 1 payments made pursuant to this PAP are not intended to be a penalty. The application of the assessments and damages provided for herein is not intended to foreclose other noncontractual legal and non-contractual regulatory claims and remedies that may be available to a CLEC.

13.6 This PAP contains a comprehensive set of performance measurements, statistical methodologies, and payment mechanisms that are designed to function together, and only together, as an integrated whole. To elect the PAP, CLEC must adopt the PAP in its entirety, in its interconnection agreement with Qwest. By electing remedies under the PAP, CLEC waives any causes of action based on a contractual theory of liability, and any right of recovery under any other theory of liability (including but not limited to a state utility regulatory commission or Federal Communications Commission rule or order) to the extent such recovery is related to harm compensable under a contractual theory of liability (even though it is sought through a noncontractual claim, theory, or cause of action).

13.7

If for any reason a CLEC agreeing to this QPAP is awarded compensation for the same harm for which it received payment under the QPAP, the court or other adjudicatory body hearing such a claim may offset the damages resulting from such claim against payments made for the same harm.

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13.8 Qwest shall not be liable for both Tier 2 payments under the PAP and assessments, sanctions, or other payments for the same underlying activity or omission pursuant to any Commission order or service quality rules.

13.9 Whenever a Qwest Tier 1 payment to an individual CLEC exceeds \$3 million in a month, Qwest may commence a proceeding to demonstrate why it should not be required to pay any amount in excess of the \$3 million. Upon timely commencement of the proceeding, Qwest must pay the balance of payments owed in excess of \$3 million into escrow, to be held by a third-party pending the outcome of the proceeding. To invoke these escrow provisions, Qwest must file, not later than the due date of the Tier 1 payments, its application. Qwest will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to make the payments in excess of \$3 million. If Qwest reports non-conforming performance to CLEC for three consecutive months on 20% or more of the measurements reported to CLEC and has incurred no more than \$1 million in liability to CLEC, then CLEC may commence a similar proceeding. In any such proceeding CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires Qwest to make payments in excess of the amount calculated pursuant to the terms of the PAP. The disputes identified in this section shall be resolved in a manner specified in the Dispute Resolution section of the SGAT with the CLEC.

### 14.0 Reporting

14.1 Upon receiving effective section 271 authority from the FCC for a state, Qwest will provide CLEC that has an approved interconnection agreement with Qwest, a monthly report of Qwest's performance for the measurements identified in the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Qwest will collect, analyze, and report performance data for the measurements listed on Attachment 1 in accordance with the most recent version of the PIDs. Upon CLEC's request, data files of the CLEC's raw data, or any subset thereof, will be transmitted, without charge, to CLEC in a mutually acceptable format, protocol, and transmission medium.

14.2 Qwest will also provide the Commission a monthly report of aggregate CLEC performance results pursuant to the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Individual CLEC reports of participating CLECs will also be available to the Commission upon request. By accepting this PAP, CLEC consents to Qwest

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providing CLEC's report and raw data to the State Commission. Pursuant to the terms of an order of the Commission, Qwest may provide CLEC-specific data that relates to the PAP, provided that Qwest shall first initiate any procedures necessary to protect the confidentiality and to prevent the public release of the information pending any applicable Commission procedures and further provided that Qwest provides such notice as the Commission directs to the CLEC involved, in order to allow it to prosecute such procedures to their completion. Data files of participating CLEC raw data, or any subset thereof, will be transmitted, without charge, to the Commission in a mutually acceptable format, protocol, and transmission form.

14.3 In the event Qwest does not provide CLEC and the Commission with a monthly report by the last day of the month following the month for which performance results are being reported, Qwest will pay to the State a total of \$500 for each business day for which performance reports are 6 to 10 business days past the due date; \$1,000 for each business day for which performance reports are 11 to 15 business days past the due date; and \$2,000 for each business day for which performance results are more than 15 business days past the due date. If reports are on time but are missing performance results, Qwest will pay to the State a total of one-fifth of the late report amount for each missing performance measurement, subject to a cap of the full late report amount. These amounts represent the total payments for omitting performance measurements or missing any report deadlines, rather than a payment per report. Prior to the date of a payment for late reports, Qwest may file a request for a waiver of the payment, which states the reasons for the waiver. The Commission may grant the waiver, deny the waiver, or provide any other relief that may be appropriate.

14.4 To the extent that Qwest recalculates payments made under this PAP, such recalculation shall be limited to the preceding three years (measured from the later of the provision of a monthly credit statement or payment due date). Qwest shall retain sufficient records to demonstrate fully the basis for its calculations for long enough to meet this potential recalculation obligation. CLEC verification or recalculation efforts should be made reasonably contemporaneously with Qwest measurements. In any event, Qwest shall maintain the records in a readily useable format for one year. For the remaining two years, the records may be retained in archived format. Any payment adjustments shall be subject to the interest rate provisions of section 11.1.

### 15.0 Integrated Audit Program/Investigations of Performance Results

15.1 Audits of the PAP shall be conducted in a two-year cycle under the auspices of the participating Commissions in accordance with a detailed audit plan developed by an independent auditor retained for a two-year period. The participating Commissions shall select the independent auditor with input from Qwest and CLECs.

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15.1.1 The participating Commissions shall form an oversight committee of Commissioners who will choose the independent auditor and approve the audit plan. Any disputes as to the choice of auditor or the scope of the audit shall be resolved through a vote of the chairs of the participating commissions pursuant to Section 15.1.4.

15.1.2 The audit plan shall be conducted over two years. The audit plan will identify the specific performance measurements to be audited, the specific tests to be conducted, and the entity to conduct them. The audit plan will give priority to auditing the higher risk areas identified in the OSS report. The two-year cycle will examine risks likely to exist across that period and the past history of testing, in order to determine what combination of high and more moderate areas of risk should be examined during the two-year cycle. The first year of a two-year cycle will concentrate on areas most likely to require follow-up in the second year.

15.1.3 The audit plan shall be coordinated with other audit plans that may be conducted by other state commissions so as to avoid duplication, shall not impede Qwest's ability to comply with the other provisions of the PAP and should be of a nature and scope that can be conducted in accordance with the reasonable course of Qwest's business operations.

15.1.4 Any dispute arising out of the audit plan, the conduct of the audit, or audit results shall be resolved by the oversight committee of Commissioners. Decisions of the oversight committee of Commissioners may be appealed to a committee of the chairs of the participating Commissions.

15.2 Qwest may make management processes more accurate or more efficient to perform without sacrificing accuracy. These changes are at Qwest's discretion but will be reported to the independent auditor in quarterly meetings in which the auditor may ask questions about changes made in the Qwest measurement regimen. The meetings, which will be limited to Qwest and the independent auditor, will permit an independent assessment of the materiality and propriety of any Qwest changes, including, where necessary, testing of the change details by the independent auditor. The information gathered by the independent auditor may be the basis for reports by the independent auditor to the participating Commissions and, where the Commissions deem it appropriate, to other participants.

15.3 In the event of a disagreement between Qwest and CLEC as to any issue regarding the accuracy or integrity of data collected, generated, and reported pursuant to the PAP, Qwest and the CLEC shall first consult with one another and attempt in good faith to resolve the issue. If an issue is not resolved within 45 days after a request for consultation, CLEC and Qwest may, upon a demonstration of good cause, (e.g., evidence of material errors or discrepancies) request an independent audit to be conducted, at the initiating party's expense. The independent auditor will

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assess the need for an audit based upon whether there exists a material deficiency in the data or whether there exists an issue not otherwise addressed by the audit plan for the current cycle. The dispute resolution provision of section 18.0 is available to any party questioning the independent auditor's decision to conduct or not conduct a CLEC requested audit and the audit findings, should such an audit be conducted. An audit may not proceed until dispute resolution is completed. Audit findings will include: (a) general applicability of findings and conclusions (i.e., relevance to CLECs or jurisdictions other than the ones causing test initiation), (b) magnitude of any payment adjustments required and, (c) whether cost responsibility should be shifted based upon the materiality and clarity of any Qwest non-conformance with measurement requirements (no pre-determined variance is appropriate, but should be based on the auditor's professional judgment). CLEC may not request an audit of data more than three years from the later of the provision of a monthly credit statement or payment due date.

15.4 Expenses for the audit of the PAP and any other related expenses, except that which may be assigned under section 15.3, shall be paid first from the Tier 2 funds in the Special Fund. For Idaho, the remainder of the audit expenses will be paid by Qwest.

15.5 Qwest will investigate any second consecutive Tier 2 miss to determine the cause of the miss and to identify the action needed in order to meet the standard set forth in the performance measurements. To the extent an investigation determines that a CLEC was responsible in whole or in part for the Tier 2 misses, Qwest shall receive credit against future Tier 2 payments in an amount equal to the Tier 2 payments that should not have been made. The relevant portion of subsequent Tier 2 payments will not be owed until any responsible CLEC problems are corrected. For the purposes of this sub-section, Tier 1 performance measurements that have not been designated as Tier 2 will be aggregated and the aggregate results will be investigated pursuant to the terms of this Agreement.

### 16.0 Reviews

16.1 Every six (6) months, beginning six months after the effective date of section 271 approval by the FCC for the state of Idaho, Qwest, CLECs, or the Idaho Public Utilities Commission may initiate a review of the performance measurements to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measurement to High, Medium, or Low, Tier 1 or Tier 2. The criterion for reclassification of a measurement shall be whether the actual volume of data points was less or greater than anticipated. Criteria for review of performance measurements, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. Any disputes regarding adding, deleting, or modifying performance measurements shall

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be resolved pursuant to a proceeding before the Commission and subject to judicial review. No new performance measurements shall be added to this PAP that have not been subject to observation as diagnostic measurements for a period of 6 months. Any changes made at the six-month review pursuant to this section shall apply to and modify this agreement between Qwest and CLEC, subject to a stay, modification or reversal upon appeal or judicial review.

16.1.1 Notwithstanding section 16.1, if any agreements on adding, modifying or deleting performance measurements as permitted by section 16.1 are reached between Qwest and CLECs participating in an industry Regional Oversight Committee (ROC) PID administration forum, those agreements shall be incorporated into the QPAP and modify the agreement between CLEC and Qwest at any time those agreements are submitted to the Commission, whether before or after a six-month review.

16.1.2 For the first twelve months that any changes made pursuant to paragraphs 16.1 or 16.1.1 are in effect, Qwest's liability for such changes shall be limited to 10% of the monthly payments that Qwest would have made absent the effect of such changes as a whole. This provision shall be referred to as "the 10% payment collar." Such payment limitation shall be accomplished by factoring the payments resulting from the changes to ensure that such payments remain within 10% of the payments Qwest would have made absent such changes.

16.1.3 In the event that the Commission adds, modifies, or reclassifies a performance measurement that has not been agreed upon in the ROC PID administration forum process in 16.1.1, the 10% payment collar shall remain in effect unless removed by the Commission pursuant to this section. If, after a minimum of 6 months of payments to a CLEC, Qwest's payments have been limited by the 10% payment collar to 80% or less of what the total payments would have been absent the collar for the preceding 6-month period, the Commission may, upon motion by an affected CLEC, conduct a record proceeding to determine whether the 10% payment collar should be removed from any such performance measure. The Commission can prospectively remove the 10% collar for Tier 1 payments to affected CLEC(s) for any such performance measure upon a demonstration through a record proceeding and a Commission determination that the total payments to the CLEC(s) under the QPAP were inadequate to compensate CLEC(s) for actual harm incurred during the same period and upon a determination that such change is otherwise necessary and appropriate and in the public interest.

16.1.4 Notwithstanding section 16.1, any party may submit a root cause analysis to the Commission requesting removal of a PID or sub-measure from the PAP or requesting exemption of a PID or sub-measure from the application of the trigger mechanism for reinstatement or subsequent removal. In the analysis and recommendations concerning the root cause analysis, the Commission is to consider, at a minimum, whether the root cause analysis provides evidence of no harm, the same harm as covered by other PID measures, non-Qwest related causes, or other

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factors which directly relate to the harm or circumstances specific to the PID or sub-measure being analyzed.<sup>15</sup>

16.2 Two years after the effective date of the first FCC 271 approval of the PAP, the participating Commissions may conduct a joint review by a independent third party to examine the continuing effectiveness of the PAP as a means of inducing compliant performance. This review shall not be used to open the PAP generally to amendment, but would serve to assist Commissions in determining existing conditions and reporting to the FCC on the continuing adequacy of the PAP to serve its intended functions. The expense of the reviews shall be paid from the Special Fund.

16.3 Qwest will make the PAP available for CLEC interconnection agreements until such time as Qwest eliminates its Section 272 affiliate. At that time, the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary. However, in the event Qwest exits the interLATA market, that State PAP shall be rescinded immediately.

### 17.0 Voluntary Performance Assurance Plan

This PAP represents Qwest's voluntary offer to provide performance assurance. Nothing in the PAP or in any conclusion of non-conformance of Qwest's service performance with the standards defined in the PAP shall be construed to be, of itself, non-conformance with the Act.

### 18.0 Dispute Resolution

For the purpose of resolving disputes over the meaning of the provisions of the PAP and how they should be applied, the dispute resolution provisions of the SGAT, section 5.18, shall apply whether the CLEC uses the SGAT in its entirety or elects to make the PAP part of its interconnection agreements (i.e., the unique dispute resolution provisions of interconnection agreements should not apply).

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<sup>15</sup> Stipulation Issue I.E.

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## Attachment 1: Tier 1 and Tier 2 Performance Measurements Subject to Per Occurrence Payment

Performance Measurement		Tier 1 Payments			Tier 2 Payments			Formatted Table
		Low	Med	High	Low	Med	High	Deleted:
<b>GATEWAY</b>								Deleted:
Timely Outage Resolution	GA-7						X	
<b>PRE-ORDER/ORDERS</b>								
LSR Rejection Notice Interval	PO-3 <sup>a</sup>	X						
Firm Order Confirmations On Time	PO-5	X				X		
Work Completion Notification Timeliness	PO-6 <sup>b</sup>	X						
Billing Completion Notification Timeliness	PO-7 <sup>b</sup>	X						
Jeopardy Notice Interval	PO-8	X						
Timely Jeopardy Notices	PO-9	X						
Release Notifications	PO-16						X	
(Expanded) – Manual Service Order Accuracy	PO-20		X					Deleted: <sup>c</sup>
<b>ORDERING AND PROVISIONING</b>								
Installation Commitments Met	OP-3 <sup>a</sup>			X		X		Formatted: Superscript
Installation Intervals	OP-4 <sup>a,g</sup>			X		X		Deleted: <sup>d</sup>
New Service Quality	OP-5a <sup>a</sup> , b <sup>d,g</sup>			X		X		Deleted: <sup>e</sup>
Delayed Days	OP-6 <sup>a,g</sup>			X		X		Deleted: <sup>f</sup>
Number Portability Timeliness	OP-8			X		X		
Coordinated Cuts On Time – Unbundled Loops	OP-13a			X		X		
LNP Disconnect Timeliness	OP-17			X		X		
<b>MAINTENANCE AND REPAIR</b>								
Out of Service Cleared within 24 hours	MR-3 <sup>a</sup>			X				Formatted: Superscript
All Troubles Cleared within 4 hours	MR-5 <sup>a</sup>			X				Formatted: Superscript
Mean time to Restore	MR-6a <sup>a</sup> , b <sup>a</sup> , c <sup>a</sup> , d <sup>f</sup> , e <sup>f</sup>			X				Deleted: <sup>g</sup>
Repair Repeat Report Rate	MR-7 <sup>a</sup>			X		X		Deleted: <sup>g</sup>
Trouble Rate	MR-8 <sup>a</sup>			X		X		Formatted: Superscript
LNP Trouble Reports Cleared within Specified Timeframes <sup>16</sup>	MR-11			X		X		Formatted: Superscript
<b>BILLING</b>								Deleted: 24 Hours
Time to Provide Recorded Usage Records	BI-1	X					X	Deleted: LNP Trouble Reports— Mean Time to Restore ... [1]
Billing Accuracy-Adjustments for Errors	BI-3	X						
Billing Completeness	BI-4	X				X		
<b>NETWORK PERFORMANCE</b>								
Trunk Blocking	NI-1			X			X	
NXX Code Activation	NP-1			X			X	Deleted: Fifth
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<sup>16</sup> Stipulation Issue I.B.

<sup>17</sup> Administrative.

# Exhibit K

a. PO-3 is limited to PO-3a-1, PO-3b-1, and PO-3c.

b. PO-6 is included with PO-7 as two "families:" PO-6a/PO-7a and PO-6b/PO-7b. Measurements within each family share a single payment opportunity with only the measurements with the highest payment being paid.

<sup>1819</sup> c. OP-4 is included with OP-6 as five "families:" OP-4a/OP-6-1, OP-4b/OP-6-2, OP-4c/OP-6-3, OP-4d/OP-6-4, and OP-4e/OP-6-5. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.

d. Section 3.1.2 applies to OP-5b only if the number of orders with trouble in OP-5a is no more than one. <sup>20</sup>

e. For purposes of the PAP, OP-6a and OP-6b will be combined and treated as one. The combined OP-6 breaks down to OP-6-1 (within MSA), OP-6-2 (outside MSA), OP-6-3 (no dispatch), OP-6-4 (zone 1), and OP-6-5 (zone 2).

f. Applicable only to xDSL-I capable loops.

g. Excludes the following product disaggregations as applicable to this PID: Resale Centrex, Resale Centrex 21, Resale DS0 (non-designed), Resale DS0 (designed), Resale DS0, E911/911 Trunks, Resale Frame Relay, Resale Basic ISDN (non-designed), Resale Basic ISDN (designed), Resale Basic ISDN, Resale Primary ISDN (non-designed), Resale Primary ISDN (designed), Resale Primary ISDN, Resale PBX (non-designed), Resale PBX (designed), Resale PBX, Sub-Loop Unbundling, UNE-P (POTS), UNE-P (Centrex), and UNE-P (Centrex 21). <sup>21</sup>

**Deleted:** c. Low Volume Exception:

**Deleted:** In lieu of Section 2.4 for PO-20, where CLEC order volumes for a given month are less than 17 in Phase 1, less than 13 in Phase 2, and less than 10 in Phase 3 and subsequent phases, a benchmark standard of "no more than one order with PO-20 errors" is applied. Under this provision, no payment applies if there is only one order with errors. ¶

¶ Stabilization Period:

**Deleted:** For each phase beginning with Phase 1, there will be no more than a 3-month measurement stabilization period for all fields introduced in that phase. Performance results that include all such fields are not subject to payments during the measurement stabilization period.¶

¶

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**Deleted:** Low volume treatment for

**Deleted:** will apply

**Deleted:** both (1) the CLEC volume of orders is less than or equal to 29 (the denominator of OP-5t) and (2)

**Deleted:** When these two conditions are met, a standard of no more than one order with new service trouble applies.

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<sup>18</sup> Stipulation Issue II.A.

<sup>19</sup> Stipulation Issue I.D.

<sup>20</sup> Stipulation Issue II.A.

<sup>21</sup> Stipulation Issue II.C.

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# Exhibit K

## Attachment 2: Performance Measurements Subject to Per Measurement Caps

### Billing

- Time to Provide Recorded Usage Records – BI-1 (Tier 1/Tier 2)
- Billing Accuracy – Adjustments for Errors – BI-3 (Tier 1)
- Billing Completeness – BI-4 (Tier 1/Tier 2)

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LNP Trouble Reports—Mean Time to Restore <sup>1</sup>	MR-12			X		X	
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<sup>1</sup> Administrative.

# **EXHIBIT 3**

**PAP – Clean**

# Exhibit K

## PERFORMANCE ASSURANCE PLAN

### 1.0 Introduction

1.1 As set forth in this Agreement, Qwest and CLEC voluntarily agree to the terms of the following Performance Assurance Plan ("PAP"), initially prepared in conjunction with Qwest's application for approval under Section 271 of the Telecommunications Act of 1996 (the "Act") to offer in-region long distance service and subsequently modified in accordance with the Commission's orders and, where applicable, by operation of law.

### 2.0 Plan Structure

2.1 The PAP is a two-tiered, self-executing remedy plan. CLEC shall be provided with Tier 1 payments if, as applicable, Qwest does not provide parity between the service it provides to CLEC and that which it provides to its own retail customers, or Qwest fails to meet applicable benchmarks.

2.1.1 As specified in section 7.0, if Qwest fails to meet parity and benchmark standards on an aggregate CLEC basis, Qwest shall make Tier 2 payments to a Fund established by the state regulatory commission or, if required by existing law, to the state general fund.

2.2 As specified in sections 6.0 and 7.0 and Attachments 1 and 2, payment is generally on a per occurrence basis, (i.e., a set dollar payment times the number of non-conforming service events). For the performance measurements which do not lend themselves to per occurrence payment, payment is on a per measurement basis, (i.e., a set dollar payment). The level of payment also depends upon the number of consecutive months of non-conforming performance, (i.e., an escalating payment the longer the duration of non-conforming performance) unless otherwise specified.

2.3 Qwest shall be in conformance with the parity standard when service Qwest provides to CLEC is equivalent to that which it provides to its retail customers. The PAP relies upon statistical scoring to determine whether any difference between CLEC and Qwest performance results is significant, that is, not attributable to simple random variation. Statistical parity shall exist when performance results for CLEC and for Qwest retail analogue result in a z-value that is no greater than the critical z-values listed in the Critical Z-Statistical Table in section 5.0.

2.4 For performance measurements that have no Qwest retail analogue, agreed upon benchmarks shall be used. Benchmarks shall be evaluated using a "stare and compare" method. For example, if the benchmark is for a particular performance measurement is 95% or better, Qwest performance results must be at least 95% to meet the benchmark. Percentage benchmarks will be adjusted to round the

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allowable number of misses up or down to the closest integer, except when a benchmark standard and low CLEC volume are such that a 100% performance result would be required to meet the standard and has not been attained in which case section 3.1.2 applies.

### 3.0 Performance Measurements

3.1 The performance measurements that are in the PAP and either (1) subject to the PAP payment mechanisms or (2) not subject to the PAP payment mechanisms but subject to the Reinstatement/Removal Process set forth in section 3.2 below are identified in Attachment 1 and sections 6.3 and 7.4. Each performance measurement identified is defined in the Performance Indicator Definitions ("PIDs") included in the SGAT at Exhibit B.

3.1.1 On Attachment 1, the measurements have been designated as Tier 1, Tier 2, or both Tier 1 and Tier 2 and given a High, Medium, or Low designation.

3.1.2 Where applicable elsewhere in the PAP, this provision modifies other provisions and operates as follows: For any Tier 1 or Tier 2 benchmark or non-interval parity performance sub-measure, Qwest shall apply one allowable miss to a sub-measure disaggregation that otherwise would require 100% performance before the performance is considered as non-conforming to standard (1) if at the CLEC-aggregate level, the performance standard is met or (2) where the CLEC-aggregate performance must be 100% to meet the standard, the CLEC-aggregate performance is conforming after applying one allowable miss at that level.

3.2 The following measures, which are listed in Attachment 1 or section 7.4, are not subject to the payment mechanisms of the PAP; however, they are subject to the PID Reinstatement/Removal Process. All other measures listed in Attachment 1, section 6.3 or section 7.4 are subject to the PAP payment mechanisms, but they are not subject to the PID Reinstatement/Removal Process.

- GA-3 Gateway Availability EB-TA
- GA-4 System Availability EXACT
- GA-7 Timely Outage Resolution following Software Releases
- PO-3 LSR Rejection Notice Interval
- PO-5D Firm Order Confirmations (FOCs) On Time (ASRs for LIS Trunks)
- PO-7 Billing Completion Notification Timeliness
- PO-8 Jeopardy Notice Interval
- PO-16 Timely Release Notifications
- OP-17 Timeliness of Disconnects Associated with LNP Orders
- MR-11 LNP Trouble Reports Cleared within Specified Timeframes
- BI-4 Billing Completeness

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- NI-1 Trunk Blocking
- NP-1 NXX Code Activation

3.3 PID Reinstatement/Removal Process: If Qwest's performance for any sub-measure of the PIDs listed in section 3.2 above does not conform to the established PID standard as set forth in the PAP for three consecutive months, that sub-measure will be reinstated (i.e., be subject to the PAP payment mechanisms) subject to the retroactive payment provision of section 3.3.2 and subject to the PAP payment mechanisms effective in the month following the three consecutive months. The determination of whether a PID sub-measure is reinstated is made no later than at the end of the second month following the third consecutive month of non-conforming performance. The sub-measure will remain subject to the PAP payment mechanisms until Qwest's performance for that sub-measure satisfies the established standards for three consecutive months. Effective the month following such conforming performance, the sub-measure will no longer be subject to the PAP payment mechanisms but will continue to be subject to the PID Reinstatement/Removal Process. The determination of whether a PID sub-measure is removed from being subject to the PAP payment mechanisms is made no later than the end of the second month following the third consecutive month of conforming performance. Where applicable elsewhere in the PAP, this PID Reinstatement/Removal Process modifies other provisions and operates as follows:

3.3.1 Disaggregation and Reporting Levels: Performance will be evaluated at the lowest level of disaggregation defined in Exhibit B of the SGAT on a CLEC-aggregated or other-aggregated basis such that performance is evaluated for the purposes of administering the Reinstatement/Removal Process on a statewide or regionwide level, as applicable per the PID.

3.3.2 Retroactive Payments: To calculate retroactive payments for the sub-measures reinstated, PAP payment mechanisms will be applied to the three consecutive months in which the standard was missed, which triggered reinstatement. These retroactive payments will be made to applicable CLECs or the Tier 2 Fund, depending upon the tier designation of the PID, at the end of the third month after the month in which performance triggered re-instatement.

3.3.2.1 Accounting for Payments: In support of retroactive payments (section 3.3.2 above), Qwest will account separately for PAP payments that would have been made to individual CLECs or to the Tier 2 Fund for a sub-measure as though it had been subject to the PAP payment mechanisms, where automatic reinstatement applies, and account separately in the same manner for the time between when it is determined that a sub-measure met the standard for automatic removal and the effective date of removal (the month following the three consecutive "met" months). With regard to sub-measures that are subsequently removed again through this process, any PAP payments

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made during the three consecutive months which triggers automatic removal will not be recovered by Qwest.

3.3.2.2 Interest: In the case of automatic reinstatement, retroactive payments will include interest calculated at the prime rate as reported in the *Wall Street Journal* from the date a payment would have been made to the date the payment is actually made.

3.3.2.3 Tracking: Qwest will track and report service and payment results, including retroactive and avoided (i.e., during periods of removal) PAP payments and the disposition of the avoided payments on a CLEC, PID sub-measure and aggregate basis each month.

3.3.3 Public Website: Qwest will maintain a public website showing the PAP status of each PID or sub-measure with respect to the applicability of the PAP payment mechanisms (i.e., reinstated or removed), which eliminates the requirement to make filings with the Commission to modify the PAP due to the application of the PID Reinstatement/Removal Process.

### 4.0 Statistical Measurement

4.1 Qwest uses a statistical test, namely the modified "z-test," for evaluating the difference between two means (i.e., Qwest and CLEC service or repair intervals) or two percentages (e.g., Qwest and CLEC proportions), to determine whether a parity condition exists between the results for Qwest and the CLEC(s). The modified z-tests shall be applicable if the number of data points are greater than 30 for a given measurement. For testing measurements for which the number of data points are 30 or less, Qwest will use a permutation test to determine the statistical significance of the difference between Qwest and CLEC.

4.2 Qwest shall be in conformance when the monthly performance results for parity measurements (whether in the form of means, percents, or proportions and at the equivalent level of disaggregation) are such that the calculated z-test statistics are not greater than the critical z-values as listed in Table 1, section 5.0.

4.3 Qwest shall be in conformance with benchmark measurements when the monthly performance result equals or exceeds the benchmark, if a higher value means better performance, and when the monthly performance result equals or is less than the benchmark if a lower value means better performance.

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The formula for determining parity using the modified z-test is:

$$z = \text{DIFF} / \sigma_{\text{DIFF}}$$

Where:

$$\text{DIFF} = M_{\text{Qwest}} - M_{\text{CLEC}}$$

$M_{\text{QWEST}}$  = Qwest average or proportion

$M_{\text{CLEC}}$  = CLEC average or proportion

$$\sigma_{\text{DIFF}} = \text{square root } [\sigma^2_{\text{Qwest}} (1/n_{\text{CLEC}} + 1/n_{\text{Qwest}})]$$

$\sigma^2_{\text{Qwest}}$  = calculated variance for Qwest

$n_{\text{Qwest}}$  = number of observations or samples used in Qwest measurement

$n_{\text{CLEC}}$  = number of observations or samples used in CLEC measurement

The modified z-tests will be applied to reported parity measurements that contain more than 30 data points.

In calculating the difference between Qwest and CLEC performance, the above formula applies when a larger Qwest value indicates a better level of performance. In cases where a smaller Qwest value indicates a higher level of performance, the order is reversed, i.e.,  $M_{\text{CLEC}} - M_{\text{QWEST}}$ .

4.3.1 For parity measurements where the number of data points is 30 or less, Qwest will apply a permutation test to test for statistical significance. Permutation analysis will be applied to calculate the z-statistic using the following logic:

Calculate the modified z-statistic for the actual arrangement of the data

Pool and mix the CLEC and Qwest data sets

Perform the following 1000 times:

Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set ( $n_{\text{CLEC}}$ ) and one reflecting the remaining data points, and one reflecting the remaining data points, (which is equal to the size of the original Qwest data set or  $n_{\text{QWEST}}$ ).

Compute and store the modified z-test score ( $Z_s$ ) for this sample.

Count the number of times the z-statistic for a permutation of the data is greater than the actual modified z-statistic

Compute the fraction of permutations for which the statistic for the rearranged data is greater than the statistic for the actual samples

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If the fraction is greater than  $\alpha$ , the significance level of the test, the hypothesis of no difference is not rejected, and the test is passed. The  $\alpha$  shall be .05 when the critical z value is 1.645 and .15 when the critical z value is 1.04.

### 5.0 Critical Z-Value

5.1 The following table shall be used to determine the critical z-value that is referred to in section 6.0. It is based on the monthly business volume of the CLEC for the particular performance measurements for which statistic testing is being performed.

**TABLE 1: CRITICAL Z-VALUE**

CLEC volume (Sample size)	LIS Trunks, Resale, UBL-DS1 and DS-3	UDITs, and DS-3	All Other
1-10	1.04*		1.645
11-150	1.645		1.645
151-300	2.0		2.0
301-600	2.7		2.7
601-3000	3.7		3.7
3001 and above	4.3		4.3

\* The 1.04 applies for individual month testing for performance measurements involving LIS trunks and DS-1 and DS-3 that are UDITs, Resale, or Unbundled Loops. The performance measurements are OP-3d/e, OP-4d/e, OP-5a, OP-6-4/5, MR-5a/b, MR-7d/e, and MR-8.

For purposes of determining consecutive month misses, 1.645 shall be used. Where performance measurements disaggregate to zone 1 and zone 2, the zones shall be combined for purposes of statistical testing.

### 6.0 Tier 1 Payments to CLEC

6.1 Tier 1 payments to CLEC shall be made solely for the performance measurements designated as Tier 1 on Attachment 1. The payment amount for non-conforming service varies depending upon the designation of performance measurements as High, Medium, and Low and the duration of the non-conforming service condition as described below. Non-conforming service is defined in section 4.0.

6.1.1 Determination of Non-Conforming Measurements: The number of performance measurements that are determined to be non-conforming and, therefore, eligible for Tier 1 payments, are limited according to the critical z-value shown in Table 1, section 5.0. The critical z-values are the statistical standard that

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determines for each CLEC performance measurement whether Qwest has met parity. The critical z-value is selected from Table 1 according to the monthly CLEC volume for the performance measurement. For instance, if the CLEC sample size for that month is 100, the critical z-value is 1.645 for the statistical testing of that parity performance measurement.

6.2 Determination of the Amount of Payment: Tier 1 payments to CLEC, except as provided for in sections 6.2.3, 6.3 and 10.0, are calculated and paid monthly based on the number of performance measurements exceeding the critical z-value. Payments will be made on either a per occurrence or per measurement basis, depending upon the performance measurement, using the dollar amounts specified in Table 2 below. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low and escalate depending upon the number of consecutive months for which Qwest has not met the standard for the particular measurement.

6.2.1 The escalation of payments for consecutive months of non-conforming service will be matched month for month with de-escalation of payments for every month of conforming service. For example, if Qwest has four consecutive monthly "misses" it will make payments that escalate from month 1 to month 4 as shown in Table 2. If, in the next month, service meets the standard, Qwest makes no payment. A payment "indicator" de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 2 because that is where the payment "indicator" presently sits. If Qwest misses again the following month, it will make payments that escalate back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon conforming service sufficient to move the payment "indicator" back to the month 1 level.

6.2.2 For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measurement Caps," excluding BI-3A, payment to a CLEC in a single month shall not exceed the amount listed in Table 2 below for the "Per Measurement Cap" category. For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measurement Payments," if any should be added at a later time, payment to a CLEC will be the amount set forth in Table 2 below under the section labeled "Per Measurement Cap."

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### TABLE 2: TIER 1 PAYMENTS TO CLEC

Per Occurrence							
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Each following month after Month 6 add
High	\$150	\$250	\$500	\$600	\$700	\$800	\$100
Medium	\$ 75	\$150	\$300	\$400	\$500	\$600	\$100
Low	\$ 25	\$ 50	\$100	\$200	\$300	\$400	\$100
Per Measurement Cap							
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Each following month after Month 6 add
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000	\$25,000
Medium	\$10,000	\$20,000	\$30,000	\$ 40,000	\$ 50,000	\$ 60,000	\$10,000
Low	\$ 5,000	\$10,000	\$15,000	\$ 20,000	\$ 25,000	\$ 30,000	\$ 5,000

6.2.3 For the BI-3A performance measurement, the dollar payment amount for non-conforming performance varies depending upon the Total Bill Adjustment Amount for the CLEC. The payment amount is calculated using Table 2A below by multiplying the per occurrence amount times the number of occurrences based on the Total Bill Adjustment Amount,<sup>1</sup> capped at the amount shown in the table for that Total Bill Adjustment Amount. The escalation of payments for consecutive months as stated in section 6.2.1 does not apply.

### TABLE 2A: TIER 1 PAYMENTS TO CLECS FOR BI-3A

Total Bill Adjustment Amount	Per Occurrence Amount	Cap
\$0 - \$0.99	\$0	\$0
\$1 - \$199.99	\$1	\$200
\$200 - \$999.99	\$10	\$5,000
\$1,000 - \$9,999.99	\$10	\$10,000
\$10,000 - \$49,999.99	\$15	\$15,000
\$50,000 - \$99,999.99	\$20	\$20,000
\$100,000 and over	\$25	\$25,000

6.3 For collocation, CP-2 and CP-4 performance measurements shall be relied upon for delineation of collocation business rules. For purposes of calculating Tier 1 payments, collocation jobs and collocation feasibility studies that are later than the

<sup>1</sup> Total Bill Adjustment Amount is determined by subtracting the BI-3A numerator from the BI-3A denominator as defined in the BI-3 PID formula.

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due date will have a per day payment applied according to Table 3. The per day payment will be applied to any collocation job in which the feasibility study is provided or the collocation installation is completed later than the scheduled date. The calculation of the payment amount will be performed by applying the per day payment amounts as specified in Table 3. Thus, for days 1 through 10, the payment is \$150 per day. For days 11 through 20, the payment is \$300 per day and so on.

**TABLE 3: TIER-1 COLLOCATION PAYMENTS TO CLECS**

Days Late	Completion Date	Feasibility Study
1 to 10 days	\$150/day	\$45/day
11 to 20 days	\$300/day	\$90/day
21 to 30 days	\$450/day	\$135/day
31 to 40 days	\$600/day	\$180/day
More than 40 days	\$1,000/day	\$300/day

6.4 A minimum payment calculation shall be performed by Qwest at the end of each year for each CLEC with annual order volumes of no more than 1,200. The payment shall be calculated by adding the applicable minimum payment amount in Table 4 below for each month in which at least one payment was due to the CLEC. To the extent that the actual CLEC payment for the year is less than the product of the preceding calculation, Qwest shall make an additional payment equal to the difference.

**TABLE 4: MINIMUM PAYMENTS TO CLECS**

Total Monthly Payment:	Minimum Payment Amount:
Less than \$200	\$ 0
Between \$200 and \$800	\$ 1,500
Between \$801 and \$1,400	\$ 2,000
Over \$1,400	\$ 2,500

### 7.0 Tier 2 Payments to the State

7.1 Payments to the State shall be limited to the performance measurements designated in section 7.4 for Tier 2 per measurement payments and in Attachment 1 for per occurrence payments and which have at least 10 data points each month for the period payments are being calculated. Similar to the Tier 1 structure, Tier 2 measurements are categorized as High, Medium, and Low and the amount of payments for non-conformance varies according to this categorization.

7.2 Determination of Non-Conforming Measurements: The determination of non-conformance will be based upon the aggregate of all CLEC data for each Tier 2

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performance measurement. Non-conforming service is defined in section 4.2 (for parity measurements) and 4.3 (for benchmark measurements), except that a 1.645 critical z-value shall be used for Tier 2 parity measurements that have Tier 1 counterparts. The critical z-value is the statistical standard that determines for each performance measurement whether Qwest has met parity.

7.3 Determination of the Amount of Payment: Except as provided in section 7.4, Tier 2 payments are calculated and paid monthly based on the number of performance measurements failing performance standards for a third consecutive month, or if two out of three consecutive months in the 12 month period have been missed, the second consecutive month for Tier 2 measurements with Tier 1 counterparts. For Tier 2 measurements that do not have Tier 1 counterparts, payments are calculated and paid monthly based on the number of performance measurements exceeding the critical z-values, identified in section 5.1, in any single month. Payment will be made on either a per occurrence or per measurement basis, whichever is applicable to the performance measurement, using the dollar amounts specified in Table 5 or Table 6 below. Except as provided in section 7.4, the dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low.

7.3.1 For those Tier 2 measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measurement Caps," payment to the State in a single month shall not exceed the amount listed in Table 5 for the "Per Measurement Cap" category.

**TABLE 5: TIER 2 PAYMENTS TO STATE FUNDS**

Per Occurrence

Measurement Group	
High	\$500
Medium	\$300
Low	\$200

Per Measurement Cap

Measurement Group	
High	\$75,000
Medium	\$30,000
Low	\$20,000

7.4 Performance Measurements Subject to Per Measurement Payment: The following Tier 2 performance measurements shall have their performance results measured on a region-wide (14 state) basis. Failure to meet the performance standard, therefore, will result in a per measurement payment in each of the Qwest in-region 14 states adopting this PAP. The performance measurements are:

- GA-1: Gateway Availability - IMA-GUI
- GA-2: Gateway Availability - IMA-EDI
- GA-3: Gateway Availability - EB-TA
- GA-4: System Availability - EXACT

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- GA-6: Gateway Availability – GUI-Repair
- PO-1: Pre-Order/Order Response Times
- OP-2: Call Answered within Twenty Seconds – Interconnect Provisioning Center
- MR-2: Calls Answered within Twenty Seconds – Interconnect Repair Center

GA-1 has two sub-measurements: GA-1A, and GA-1D. PO-1 shall have two sub-measurements: PO-1A and PO-1B. PO-1A and PO-1B shall have their transaction types aggregated together.

For these measurements, Qwest will make a Tier 2 payment based upon monthly performance results according to Table 6: Tier 2 Per Measurement Payments to State Funds.

**TABLE 6: TIER 2 PER MEASUREMENT PAYMENTS TO STATE FUNDS**

Measurement	Performance	State Payment	14 State Payment
GA-1,2,3,4,6	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$10,000	\$140,000
	>3% to 5%	\$20,000	\$280,000
	>5%	\$30,000	\$420,000
PO-1	2 sec. or less	\$1,000	\$14,000
	>2 sec. to 5 sec.	\$5,000	\$70,000
	>5 sec. to 10 sec.	\$10,000	\$140,000
	>10 sec.	\$15,000	\$210,000
OP-2/MR-2	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$5,000	\$70,000
	>3% to 5%	\$10,000	\$140,000
	>5%	\$15,000	\$210,000

### 8.0 Step by Step Calculation of Monthly Tier 1 Payments to CLEC

8.1 Application of the Critical Z-Values: Qwest shall identify the Tier 1 parity performance measurements that measure the service provided to CLEC by Qwest for the month in question and the critical z-value from Table 1 in section 5.0 that shall be used for purposes of statistical testing for each particular performance measurement. The statistical testing procedures described in section 4.0 shall be applied. For the purpose of determining the critical z-values, each disaggregated category of a performance measurement is treated as a separate sub-measurement. The critical z-value to be applied is determined by the CLEC volume at each level of disaggregation or sub-measurement.

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### 8.2 Performance Measurements for which Tier 1 Payment is Per Occurrence:

#### 8.2.1 Performance Measurements that are Averages or Means:

8.2.1.1 Step 1: For each performance measurement, the average or the mean that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

8.2.1.2 Step 2: The percentage differences between the actual averages and the calculated averages shall be calculated. The calculation is  $\% \text{ diff} = (\text{CLEC result} - \text{Calculated Value}) / \text{Calculated Value}$ . The percent difference shall be capped at a maximum of 100%. In all calculations of percent differences in sections 8.0 and 9.0, the calculated percent differences is capped at 100%.

8.2.1.2 Step 3: For each performance measurement, the total number of data points shall be multiplied by the percentage calculated in the previous step and the per occurrence dollar amounts from the Tier 1 Payment Table shall determine the payment to the CLEC for each non-conforming performance measurement.

#### 8.2.2 Performance Measurements that are Percentages:

8.2.2.1 Step 1: For each performance measurement, the percentage that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z- statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

8.2.2.2 Step 2: The difference between the actual percentages for the CLEC and the calculated percentages shall be determined.

8.2.2.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference in percentage calculated in the previous step, and the per occurrence dollar amount taken from the Tier 1 Payment Table, to determine the payment to the CLEC for each non-conforming performance measurement.

#### 8.2.3 Performance Measurements that are Ratios or Proportions:

8.2.3.1 Step 1: For each performance measurement the ratio that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

8.2.3.2 Step 2: The absolute difference between the actual rate for the CLEC and the calculated rate shall be determined.

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8.2.3.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference calculated in the previous step, and the per occurrence dollar amount taken from the Tier 1 Payment Table, to determine the payment to the CLEC for each non-conforming performance measurement.

8.3 Performance Measurements for which Tier 1 Payment is Per Measure:

8.3.1 For each performance measurement where Qwest fails to meet the standard, the payment to the CLEC shall be the dollar amount shown on the "per measure" portion of Table 2: Tier 1 Payments to CLEC.

### **9.0 Step by Step Calculation of Monthly Tier 2 Payments to State Funds**

9.1.1 Application of the Critical Z-Value: Qwest shall identify the Tier 2 parity performance measurements that measure the service provided by Qwest to all CLECs for the month in question. The statistical testing procedures described in section 4.0 shall be applied, except that a 1.645 critical z-value shall be used for Tier 2 parity measurements that have Tier 1 counterparts. For Tier 2 parity measurements that do not have Tier 1 counterparts, the statistical testing procedures described section 4.0 shall be applied using the critical z-values identified in section 5.1.

9.1.2 To determine if Tier 2 payments for performance measurements listed on Attachment 1 shall be made in the current month, the following shall be determined. For Tier 2 measurements that have Tier 1 counterparts, it shall be determined whether Qwest missed the performance standard for three consecutive months, or if Qwest has missed the standard in any two out of three consecutive months for the 12 month period and for an additional two consecutive months. For Tier 2 measurements that do not have Tier 1 counterparts, it shall be determined whether Qwest missed the performance standard for a single month. If any of these conditions are met and there are at least 10 data points for the measurement in each month, a Tier 2 payment will be calculated and paid as described below and will continue in each succeeding month until Qwest's performance meets the applicable standard. For Tier 2 measures that have Tier 1 counterparts, the most recent three months of nonconforming performance data that results in payment liability shall be averaged to determine payment.

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### 9.2 Performance Measurements for which Tier 2 Payment is Per Occurrence:

#### 9.2.1 Performance Measurements that are Averages or Means:

9.2.1.1 Step 1: The monthly average or the mean for each performance measurement that would yield the critical z-value for each month shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

9.2.1.2 Step 2: The percentage difference between the actual averages and the calculated averages for the relevant month(s) shall be calculated. The calculation for parity measurements is  $\% \text{ diff} = (\text{actual average} - \text{calculated average}) / \text{calculated average}$ . The percent difference shall be capped at a maximum of 100%. In all calculations of percent differences in section 8.0 and section 9.0, the calculated percent difference is capped at 100%.

9.2.1.3 Step 3: For each performance measurement, the total number of data points for the relevant month(s) shall be multiplied by the percentage calculated in the previous step. The amount (average amount, if more than one month) (rounded to the nearest integer) is then multiplied by the result of the per occurrence dollar amount taken from the Tier 2 Payment Table to determine the payment to the State for each non-conforming performance measurement.

#### 9.3 Performance Measurements that are Percentages:

9.3.1 Step 1: For each performance measurement, the monthly percentage that would yield the critical z-value for each month shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

9.3.1.2 Step 2: The difference between the actual percentages and the calculated percentages for the relevant month(s) shall be calculated. The calculation for parity measurement is  $\text{diff} = (\text{CLEC result} - \text{calculated percentage})$ . This formula shall be applicable where a high value is indicative of poor performance. The formula shall be reversed where high performance is indicative of good performance.

9.3.1.3 Step 3: For each performance measurement, the total number of data points for the relevant month(s) shall be multiplied by the difference in percentage calculated in the previous step. The amount (average amount, if more than one month)(rounded to the nearest integer) is then multiplied by the result of the per occurrence dollar amounts taken from the Tier 2 Payment Table to determine the payment to the State.

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### 9.4 Performance Measurements that are Ratios or Proportions:

9.4.1 Step 1: For each performance measurement, the ratio that would yield the critical z-value for each month shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used. (For benchmark measurements, the benchmark value shall be used.)

9.4.1.1 Step 2: The difference between the actual rate for the CLEC and the calculated rate for the relevant month(s) shall be calculated. The calculation is:  $\text{diff} = (\text{CLEC rate} - \text{calculated rate})$ . This formula shall apply where a high value is indicative of poor performance. The formula shall be reversed where high performance is indicative of good performance.

9.4.1.2 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference calculated in the previous step for each month. The amount (average amount, if more than one month)(rounded to the nearest integer) is then multiplied by the result of the per occurrence dollar amounts taken from the Tier 2 Payment Table to determine the payment to the State.

### 9.5 Performance Measurements for which Tier 2 Payment is Per Measure:

9.5.1 For each performance measurement where Qwest fails to meet the standard, the payment to the State Fund shall be the dollar amount shown on the "per measure" portion of the Tier 2 Payment Table.

## 10.0 Low Volume, Developing Markets

10.1 For certain qualifying performance standards, if the aggregate monthly volumes of CLECs participating in the PAP are more than 10, but less than 100, Qwest will make Tier 1 payments to CLECs for failure to meet the parity or benchmark standard for the qualifying performance sub-measurements. The qualifying sub-measurements are the ADSL qualified loop product disaggregations of OP-3, OP-4, OP-5a, MR-3, MR-5, MR-7, and MR-8. If the aggregate monthly CLEC volume is greater than 100, the provisions of this section shall not apply to the qualifying performance sub-measurement.

10.2 The determination of whether Qwest has met the parity or benchmark standards will be made using aggregate volumes of CLECs participating in the PAP. In the event Qwest does not meet the applicable performance standards, a total payment to affected CLECs will be determined in accordance with the high, medium, low designation for each performance measurement (see Attachment 1) and as described in section 8.0, except that CLEC aggregate volumes will be used. In the event the calculated total payment amount to CLECs is less than \$5,000, a minimum payment of \$5,000 shall be made. The resulting total payment amount to CLECs will

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be apportioned to the affected CLECs based upon each CLEC's relative share of the number of total service misses.

10.3 At the six (6)-month reviews, Qwest will consider adding to the above list of qualifying performance sub-measurements, new products disaggregation representing new modes of CLEC entry into developing markets.

### **11.0 Payment**

11.1 Payments to CLEC, the State, or the Special Fund shall be made one month following the due date of the performance measurement report for the month for which payment is being made. Qwest will pay interest on any late payment and underpayment at the prime rate as reported in the Wall Street Journal. On any overpayment, Qwest is allowed to offset future payments by the amount of the overpayment plus interest at the prime rate.

11.2 Payment to CLEC shall be made via bill credits. Bill credits shall be identified on a summary format substantially similar to that distributed as a prototype to the CLECs and the Commissions. To the extent that a monthly payment owed to CLEC under this PAP exceeds the amount owed to Qwest by CLEC on a monthly bill, Qwest will issue a check or wire transfer to CLEC in the amount of the overage. Payment to the State shall be made via check or wire transfer.

11.3 A Special Fund shall be created for the purpose of payment of an independent auditor and audit costs as specified in section 15.0 and payment of other expenses incurred by the participating Commissions in the regional administration of the PAP.

11.3.1 Qwest shall establish the Special Fund as an interest bearing escrow account upon the first FCC section 271 approval of the PAP applicable to a participating state Commission. Qwest shall be authorized to withhold and deposit into the Special Fund one-half of all Tier 2 payments. The cost of the escrow account will be paid for from account funds.

11.3.2 Commissions participating in the Special Fund shall appoint a person designated to administer and authorize disbursement of funds. All claims against the fund shall be presented to the Commissions' designates and shall be the responsibility of the participating Commissions.

11.3.3 Qwest shall advance funds to meet initial claims against the Special Fund to the extent Tier 2 contributions are insufficient. Such funds shall not exceed \$500,000 and shall be reduced appropriately in the event that at least six states in which the QPAP is in effect do not agree to participate in the Special Fund. Upon a determination by the participating Commissions that the Special Fund has become

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self-sustaining or is no longer required, Qwest shall be allowed to recover any such advances plus interest at the rate that the escrow account would have earned.

11.3.4 Upon the execution of a memorandum of understanding with the Idaho Commission, Qwest shall establish an Idaho Discretionary Fund as a separate interest bearing escrow account. Qwest shall deposit into the Discretionary Fund the remaining balance of Tier 2 payments after disbursement of Tier 2 payments to the Special Fund pursuant to section 13.3.1. The Commission shall appoint a person designated to administer and authorize disbursements of funds from the Discretionary Fund. Disbursements from the Discretionary Fund shall be limited to competitively neutral Idaho telecommunications initiatives. The costs of the Discretionary Fund will be paid for from the account's funds.

### **12.0 Cap on Tier 1 and Tier 2 Payments**

12.1 There shall be a cap on the total payments made by Qwest for a 12 month period beginning with the effective date of the PAP for the State of Idaho. The annual cap for the State of Idaho shall be 36% of ARMIS Net Return, recalculated each year based upon the prior year's Idaho ARMIS results, subject to any applicable adjustment permitted pursuant to section 12.2. Qwest shall submit to the Commission the calculation of each year's cap no later than 30 days after submission of ARMIS results to the FCC. CLEC agrees that this amount constitutes a maximum annual cap that shall apply to the aggregate total of Tier 1 liquidated damages, including any such damages paid pursuant to this Agreement, any other interconnection agreement, or any other payments made for the same underlying activity or omission under any other contract, order or rule and Tier 2 assessments or payments made by Qwest for the same underlying activity or omission under any other contract, order or rule.

12.2 The 36% annual cap may be increased to 44% or decreased to 30% of ARMIS Net Return as follows:

12.2.1 An increase in the cap of a maximum of 4 percentage points at any one time (i.e., first to 40 percent) shall occur upon order by the Commission if the cap has been exceeded for any consecutive period of 24 months by that same 4 percent or more, provided that: (a) the Commission has determined that the preponderance of the evidence shows Qwest could have remained beneath the cap through reasonable and prudent effort, and (b) the Commission has made that determination after having available to it on the record the results of audits and root cause analyses, and provided an opportunity for Qwest to be heard.

12.2.2 A decrease in the cap of a maximum of 4 percentage points at any one time shall occur upon order by the Commission after performance for any consecutive period of 24 months in which total payments are 8 or more percentage points below the cap amount, provided that: (a) the Commission has determined that the

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preponderance of the evidence shows the performance results underlying those payments results from an adequate Qwest commitment to meeting its responsibilities to provide adequate wholesale service and to keeping open its local markets and (b) the Commission shall have made that determination after providing all interested parties an opportunity to be heard.

12.2.3 The provisions of 12.2.1 and 12.2.2 shall be in effect for the next 24 month period commencing with the end of the 24 month period upon which the Commission's order is based.

12.3 If the annual cap is reached, each CLEC shall, as of the end of the year, be entitled to receive the same percentage of its total calculated Tier 1 payments. In order to preserve the operation of the annual cap, the percentage equalization shall take place as follows:

12.3.1 The amount by which any month's total year-to-date Tier 1 and Tier 2 payments exceeds the cumulative monthly cap (defined as  $1/12^{\text{th}}$  of the annual cap times the cumulative number of months to date) shall be calculated and apportioned between Tier 1 and Tier 2 according to the percentage that each bore of total payments for the year-to-date. The Tier 1 apportionment resulting of this calculation shall be known as the "Tracking Account."

12.3.2 The Tier 1 apportionment shall be debited against the monthly payment due to each CLEC, by applying to the year-to-date payments received by each the percentage necessary to generate the required total Tier 1 amount.

12.3.3 The Tracking Amount shall be apportioned among all CLECs so as to provide each with payments equal in percentage of its total year to date Tier 1 payment calculations.

12.3.4 This calculation shall take place in the first month that the year-to-date total Tier 1 and Tier 2 payments are expected to exceed the cumulative monthly cap and for each month of that year thereafter. Qwest shall recover any debited amounts by reducing payments due to any CLEC for that month and any succeeding months, as necessary.

### **13.0 Limitations**

13.1 The PAP shall not become available in the State unless and until Qwest receives effective section 271 authority from the FCC for that State.

13.2 Qwest will not be liable for Tier 1 payments to CLEC in an FCC approved state until the Commission has approved an interconnection agreement between CLEC and Qwest which adopts the provisions of this PAP.

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13.3 Qwest shall not be obligated to make Tier 1 or Tier 2 payments for any measurement if and to the extent that non-conformance for that measurement was the result of any of the following: 1) with respect to performance measurements with a benchmark standard, a Force Majeure event as defined in section 5.7 of the SGAT. Qwest will provide notice of the occurrence of a Force Majeure event within 72 hours of the time Qwest learns of the event or within a reasonable time frame that Qwest should have learned of it; 2) an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with Qwest or under federal or state law; an act or omission by CLEC that is in bad faith. Examples of bad faith conduct include, but are not limited to: unreasonably holding service orders and/or applications, “dumping” orders or applications in unreasonably large batches, “dumping” orders or applications at or near the close of a business day, on a Friday evening or prior to a holiday, and failing to provide timely forecasts to Qwest for services or facilities when such forecasts are explicitly required by the SGAT; 3) problems associated with third-party systems or equipment, which could not have been avoided by Qwest in the exercise of reasonable diligence, *provided, however*, that this third party exclusion will not be raised in the State more than three times within a calendar year. If a Force Majeure event or other excusing event recognized in this section merely suspends Qwest’s ability to timely perform an activity subject to a performance measurement that is an interval measure, the applicable time frame in which Qwest’s compliance with the parity or benchmark criterion is measured will be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the excusing event.

13.3.1 Qwest will not be excused from Tier 1 or Tier 2 payments for any reason except as described in Section 13.0. Qwest will have the burden of demonstrating that its non-conformance with the performance measurement was excused on one of the grounds described in this PAP. A party may petition the Commission to require Qwest to deposit disputed payments into an escrow account when the requesting party can show cause, such as grounds provided in the Uniform Commercial Code for cases of commercial uncertainty.

13.3.2 Notwithstanding any other provision of section 13 of this QPAP, Qwest shall not be excused for failing to provide such performance that Qwest could reasonably have been expected to deliver assuming that it had designed, implemented, staffed, provisioned, and otherwise provided for resources reasonably required to meet foreseeable volumes and patterns of demands upon its resources by CLECs.

13.4 Qwest’s agreement to implement these enforcement terms, and specifically its agreement to pay any “liquidated damages” or “assessments” hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating in whole or in part to the same performance.

13.4.1 CLEC may not use: 1) the existence of this enforcement plan; or 2) Qwest’s payment of Tier –1 “liquidated damages” or Tier 2 “assessments” as evidence that

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Qwest has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. Qwest's conduct underlying its performance measures, however are not made inadmissible by its terms.

13.4.2 By accepting this performance remedy plan, CLEC agrees that Qwest's performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. (Nothing herein is intended to preclude Qwest from introducing evidence of any Tier 1 "liquidated damages" under these provisions for the purpose of offsetting the payment against any other damages or payments a CLEC might recover.) The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether Qwest has met or continues to meet the requirements of section 271 of the Act.

13.5 By incorporating these liquidated damages terms into the PAP, Qwest and CLEC accepting this PAP agree that proof of damages from any non-conforming performance measurement would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damages that may result from a non-conforming performance measurement. Qwest and CLEC further agree that Tier 1 payments made pursuant to this PAP are not intended to be a penalty. The application of the assessments and damages provided for herein is not intended to foreclose other noncontractual legal and non-contractual regulatory claims and remedies that may be available to a CLEC.

13.6 This PAP contains a comprehensive set of performance measurements, statistical methodologies, and payment mechanisms that are designed to function together, and only together, as an integrated whole. To elect the PAP, CLEC must adopt the PAP in its entirety, in its interconnection agreement with Qwest. By electing remedies under the PAP, CLEC waives any causes of action based on a contractual theory of liability, and any right of recovery under any other theory of liability (including but not limited to a state utility regulatory commission or Federal Communications Commission rule or order) to the extent such recovery is related to harm compensable under a contractual theory of liability (even though it is sought through a noncontractual claim, theory, or cause of action).

13.7 If for any reason a CLEC agreeing to this QPAP is awarded compensation for the same harm for which it received payment under the QPAP, the court or other adjudicatory body hearing such a claim may offset the damages resulting from such claim against payments made for the same harm.

13.8 Qwest shall not be liable for both Tier 2 payments under the PAP and assessments, sanctions, or other payments for the same underlying activity or omission pursuant to any Commission order or service quality rules.

13.9 Whenever a Qwest Tier 1 payment to an individual CLEC exceeds \$3 million in a month, Qwest may commence a proceeding to demonstrate why it should not be

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required to pay any amount in excess of the \$3 million. Upon timely commencement of the proceeding, Qwest must pay the balance of payments owed in excess of \$3 million into escrow, to be held by a third-party pending the outcome of the proceeding. To invoke these escrow provisions, Qwest must file, not later than the due date of the Tier 1 payments, its application. Qwest will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to make the payments in excess of \$3 million. If Qwest reports non-conforming performance to CLEC for three consecutive months on 20% or more of the measurements reported to CLEC and has incurred no more than \$1 million in liability to CLEC, then CLEC may commence a similar proceeding. In any such proceeding CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires Qwest to make payments in excess of the amount calculated pursuant to the terms of the PAP. The disputes identified in this section shall be resolved in a manner specified in the Dispute Resolution section of the SGAT with the CLEC.

### **14.0 Reporting**

14.1 Upon receiving effective section 271 authority from the FCC for a state, Qwest will provide CLEC that has an approved interconnection agreement with Qwest, a monthly report of Qwest's performance for the measurements identified in the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Qwest will collect, analyze, and report performance data for the measurements listed on Attachment 1 in accordance with the most recent version of the PIDs. Upon CLEC's request, data files of the CLEC's raw data, or any subset thereof, will be transmitted, without charge, to CLEC in a mutually acceptable format, protocol, and transmission medium.

14.2 Qwest will also provide the Commission a monthly report of aggregate CLEC performance results pursuant to the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Individual CLEC reports of participating CLECs will also be available to the Commission upon request. By accepting this PAP, CLEC consents to Qwest providing CLEC's report and raw data to the State Commission. Pursuant to the terms of an order of the Commission, Qwest may provide CLEC-specific data that relates to the PAP, provided that Qwest shall first initiate any procedures necessary to protect the confidentiality and to prevent the public release of the information pending any applicable Commission procedures and further provided that Qwest provides such notice as the Commission directs to the CLEC involved, in order to allow it to prosecute such procedures to their completion. Data files of participating

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CLEC raw data, or any subset thereof, will be transmitted, without charge, to the Commission in a mutually acceptable format, protocol, and transmission form.

14.3 In the event Qwest does not provide CLEC and the Commission with a monthly report by the last day of the month following the month for which performance results are being reported, Qwest will pay to the State a total of \$500 for each business day for which performance reports are 6 to 10 business days past the due date; \$1,000 for each business day for which performance reports are 11 to 15 business days past the due date; and \$2,000 for each business day for which performance results are more than 15 business days past the due date. If reports are on time but are missing performance results, Qwest will pay to the State a total of one-fifth of the late report amount for each missing performance measurement, subject to a cap of the full late report amount. These amounts represent the total payments for omitting performance measurements or missing any report deadlines, rather than a payment per report. Prior to the date of a payment for late reports, Qwest may file a request for a waiver of the payment, which states the reasons for the waiver. The Commission may grant the waiver, deny the waiver, or provide any other relief that may be appropriate.

14.4 To the extent that Qwest recalculates payments made under this PAP, such recalculation shall be limited to the preceding three years (measured from the later of the provision of a monthly credit statement or payment due date). Qwest shall retain sufficient records to demonstrate fully the basis for its calculations for long enough to meet this potential recalculation obligation. CLEC verification or recalculation efforts should be made reasonably contemporaneously with Qwest measurements. In any event, Qwest shall maintain the records in a readily useable format for one year. For the remaining two years, the records may be retained in archived format. Any payment adjustments shall be subject to the interest rate provisions of section 11.1.

### **15.0 Integrated Audit Program/Investigations of Performance Results**

15.1 Audits of the PAP shall be conducted in a two-year cycle under the auspices of the participating Commissions in accordance with a detailed audit plan developed by an independent auditor retained for a two-year period. The participating Commissions shall select the independent auditor with input from Qwest and CLECs.

15.1.1 The participating Commissions shall form an oversight committee of Commissioners who will choose the independent auditor and approve the audit plan. Any disputes as to the choice of auditor or the scope of the audit shall be resolved through a vote of the chairs of the participating commissions pursuant to Section 15.1.4.

15.1.2 The audit plan shall be conducted over two years. The audit plan will identify the specific performance measurements to be audited, the specific tests to be conducted, and the entity to conduct them. The audit plan will give priority to auditing

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the higher risk areas identified in the OSS report. The two-year cycle will examine risks likely to exist across that period and the past history of testing, in order to determine what combination of high and more moderate areas of risk should be examined during the two-year cycle. The first year of a two-year cycle will concentrate on areas most likely to require follow-up in the second year.

15.1.3 The audit plan shall be coordinated with other audit plans that may be conducted by other state commissions so as to avoid duplication, shall not impede Qwest's ability to comply with the other provisions of the PAP and should be of a nature and scope that can be conducted in accordance with the reasonable course of Qwest's business operations.

15.1.4 Any dispute arising out of the audit plan, the conduct of the audit, or audit results shall be resolved by the oversight committee of Commissioners. Decisions of the oversight committee of Commissioners may be appealed to a committee of the chairs of the participating Commissions.

15.2 Qwest may make management processes more accurate or more efficient to perform without sacrificing accuracy. These changes are at Qwest's discretion but will be reported to the independent auditor in quarterly meetings in which the auditor may ask questions about changes made in the Qwest measurement regimen. The meetings, which will be limited to Qwest and the independent auditor, will permit an independent assessment of the materiality and propriety of any Qwest changes, including, where necessary, testing of the change details by the independent auditor. The information gathered by the independent auditor may be the basis for reports by the independent auditor to the participating Commissions and, where the Commissions deem it appropriate, to other participants.

15.3 In the event of a disagreement between Qwest and CLEC as to any issue regarding the accuracy or integrity of data collected, generated, and reported pursuant to the PAP, Qwest and the CLEC shall first consult with one another and attempt in good faith to resolve the issue. If an issue is not resolved within 45 days after a request for consultation, CLEC and Qwest may, upon a demonstration of good cause, (e.g., evidence of material errors or discrepancies) request an independent audit to be conducted, at the initiating party's expense. The independent auditor will assess the need for an audit based upon whether there exists a material deficiency in the data or whether there exists an issue not otherwise addressed by the audit plan for the current cycle. The dispute resolution provision of section 18.0 is available to any party questioning the independent auditor's decision to conduct or not conduct a CLEC requested audit and the audit findings, should such an audit be conducted. An audit may not proceed until dispute resolution is completed. Audit findings will include: (a) general applicability of findings and conclusions (i.e., relevance to CLECs or jurisdictions other than the ones causing test initiation), (b) magnitude of any payment adjustments required and, (c) whether cost responsibility should be shifted based upon the materiality and clarity of any Qwest non-conformance with measurement requirements (no pre-determined variance is appropriate, but should

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be based on the auditor's professional judgment). CLEC may not request an audit of data more than three years from the later of the provision of a monthly credit statement or payment due date.

15.4 Expenses for the audit of the PAP and any other related expenses, except that which may be assigned under section 15.3, shall be paid first from the Tier 2 funds in the Special Fund. For Idaho, the remainder of the audit expenses will be paid by Qwest.

15.5 Qwest will investigate any second consecutive Tier 2 miss to determine the cause of the miss and to identify the action needed in order to meet the standard set forth in the performance measurements. To the extent an investigation determines that a CLEC was responsible in whole or in part for the Tier 2 misses, Qwest shall receive credit against future Tier 2 payments in an amount equal to the Tier 2 payments that should not have been made. The relevant portion of subsequent Tier 2 payments will not be owed until any responsible CLEC problems are corrected. For the purposes of this sub-section, Tier 1 performance measurements that have not been designated as Tier 2 will be aggregated and the aggregate results will be investigated pursuant to the terms of this Agreement.

### **16.0 Reviews**

16.1 Every six (6) months, beginning six months after the effective date of section 271 approval by the FCC for the state of Idaho, Qwest, CLECs, or the Idaho Public Utilities Commission may initiate a review of the performance measurements to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measurement to High, Medium, or Low, Tier 1 or Tier 2. The criterion for reclassification of a measurement shall be whether the actual volume of data points was less or greater than anticipated. Criteria for review of performance measurements, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. Any disputes regarding adding, deleting, or modifying performance measurements shall be resolved pursuant to a proceeding before the Commission and subject to judicial review. No new performance measurements shall be added to this PAP that have not been subject to observation as diagnostic measurements for a period of 6 months. Any changes made at the six-month review pursuant to this section shall apply to and modify this agreement between Qwest and CLEC, subject to a stay, modification or reversal upon appeal or judicial review.

16.1.1 Notwithstanding section 16.1, if any agreements on adding, modifying or deleting performance measurements as permitted by section 16.1 are reached between Qwest and CLECs participating in an industry Regional Oversight Committee (ROC) PID administration forum, those agreements shall be incorporated

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into the QPAP and modify the agreement between CLEC and Qwest at any time those agreements are submitted to the Commission, whether before or after a six-month review.

16.1.2 For the first twelve months that any changes made pursuant to paragraphs 16.1 or 16.1.1 are in effect, Qwest's liability for such changes shall be limited to 10% of the monthly payments that Qwest would have made absent the effect of such changes as a whole. This provision shall be referred to as "the 10% payment collar." Such payment limitation shall be accomplished by factoring the payments resulting from the changes to ensure that such payments remain within 10% of the payments Qwest would have made absent such changes.

16.1.3 In the event that the Commission adds, modifies, or reclassifies a performance measurement that has not been agreed upon in the ROC PID administration forum process in 16.1.1, the 10% payment collar shall remain in effect unless removed by the Commission pursuant to this section. If, after a minimum of 6 months of payments to a CLEC, Qwest's payments have been limited by the 10% payment collar to 80% or less of what the total payments would have been absent the collar for the preceding 6-month period, the Commission may, upon motion by an affected CLEC, conduct a record proceeding to determine whether the 10% payment collar should be removed from any such performance measure. The Commission can prospectively remove the 10% collar for Tier 1 payments to affected CLEC(s) for any such performance measure upon a demonstration through a record proceeding and a Commission determination that the total payments to the CLEC(s) under the QPAP were inadequate to compensate CLEC(s) for actual harm incurred during the same period and upon a determination that such change is otherwise necessary and appropriate and in the public interest.

16.1.4 Notwithstanding section 16.1, any party may submit a root cause analysis to the Commission requesting removal of a PID or sub-measure from the PAP or requesting exemption of a PID or sub-measure from the application of the trigger mechanism for reinstatement or subsequent removal. In the analysis and recommendations concerning the root cause analysis, the Commission is to consider, at a minimum, whether the root cause analysis provides evidence of no harm, the same harm as covered by other PID measures, non-Qwest related causes, or other factors which directly relate to the harm or circumstances specific to the PID or sub-measure being analyzed.

16.2 Two years after the effective date of the first FCC 271 approval of the PAP, the participating Commissions may conduct a joint review by an independent third party to examine the continuing effectiveness of the PAP as a means of inducing compliant performance. This review shall not be used to open the PAP generally to amendment, but would serve to assist Commissions in determining existing conditions and reporting to the FCC on the continuing adequacy of the PAP to serve its intended functions. The expense of the reviews shall be paid from the Special Fund.

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16.3 Qwest will make the PAP available for CLEC interconnection agreements until such time as Qwest eliminates its Section 272 affiliate. At that time, the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary. However, in the event Qwest exits the interLATA market, that State PAP shall be rescinded immediately.

### **17.0 Voluntary Performance Assurance Plan**

This PAP represents Qwest's voluntary offer to provide performance assurance. Nothing in the PAP or in any conclusion of non-conformance of Qwest's service performance with the standards defined in the PAP shall be construed to be, of itself, non-conformance with the Act.

### **18.0 Dispute Resolution**

For the purpose of resolving disputes over the meaning of the provisions of the PAP and how they should be applied, the dispute resolution provisions of the SGAT, section 5.18, shall apply whether the CLEC uses the SGAT in its entirety or elects to make the PAP part of its interconnection agreements (i.e., the unique dispute resolution provisions of interconnection agreements should not apply).

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### Attachment 1: Tier 1 and Tier 2 Performance Measurements Subject to Per Occurrence Payment

Performance Measurement		Tier 1 Payments			Tier 2 Payments		
		Low	Med	High	Low	Med	High
<b>GATEWAY</b>							
Timely Outage Resolution	GA-7						X
<b>PRE-ORDER/ORDERS</b>							
LSR Rejection Notice Interval	PO-3 <sup>a</sup>	X					
Firm Order Confirmations On Time	PO-5	X				X	
Work Completion Notification Timeliness	PO-6 <sup>b</sup>	X					
Billing Completion Notification Timeliness	PO-7 <sup>b</sup>	X					
Jeopardy Notice Interval	PO-8	X					
Timely Jeopardy Notices	PO-9	X					
Release Notifications	PO-16						X
(Expanded) – Manual Service Order Accuracy	PO-20		X				
<b>ORDERING AND PROVISIONING</b>							
Installation Commitments Met	OP-3 <sup>g</sup>			X		X	
Installation Intervals	OP-4 <sup>c,g</sup>			X		X	
New Service Quality	OP-5a <sup>g</sup> ,b <sup>d,g</sup>			X		X	
Delayed Days	OP-6 <sup>e,g</sup>			X		X	
Number Portability Timeliness	OP-8			X		X	
Coordinated Cuts On Time – Unbundled Loops	OP-13a			X		X	
LNP Disconnect Timeliness	OP-17			X		X	
<b>MAINTENANCE AND REPAIR</b>							
Out of Service Cleared within 24 hours	MR-3 <sup>g</sup>			X			
All Troubles Cleared within 4 hours	MR-5 <sup>g</sup>			X			
Mean time to Restore	MR-6a <sup>g</sup> ,b <sup>g</sup> ,c <sup>g</sup> ,d <sup>f</sup> ,e <sup>f</sup>			X			
Repair Repeat Report Rate	MR-7 <sup>g</sup>			X		X	
Trouble Rate	MR-8 <sup>g</sup>			X		X	
LNP Trouble Reports Cleared within Specified Timeframes	MR-11			X		X	
<b>BILLING</b>							
Time to Provide Recorded Usage Records	BI-1	X					X
Billing Accuracy-Adjustments for Errors	BI-3	X					
Billing Completeness	BI-4	X				X	
<b>NETWORK PERFORMANCE</b>							
Trunk Blocking	NI-1			X			X
NXX Code Activation	NP-1			X			X

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- a. PO-3 is limited to PO-3a-1, PO-3b-1, and PO-3c.
- b. PO-6 is included with PO-7 as two "families:" PO-6a/PO-7a and PO-6b/PO-7b. Measurements within each family share a single payment opportunity with only the measurements with the highest payment being paid.
- c. OP-4 is included with OP-6 as five "families:" OP-4a/OP-6-1, OP-4b/OP-6-2, OP-4c/OP-6-3, OP-4d/OP-6-4, and OP-4e/OP-6-5. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.
- d. Section 3.1.2 applies to OP-5b only if the number of orders with trouble in OP-5a is no more than one.
- e. For purposes of the PAP, OP-6a and OP-6b will be combined and treated as one. The combined OP-6 breaks down to OP-6-1 (within MSA), OP-6-2 (outside MSA), OP-6-3 (no dispatch), OP-6-4 (zone 1), and OP-6-5 (zone 2).
- f. Applicable only to xDSL-I capable loops.
- g. Excludes the following product disaggregations as applicable to this PID: Resale Centrex, Resale Centrex 21, Resale DS0 (non-designed), Resale DS0 (designed), Resale DS0, E911/911 Trunks, Resale Frame Relay, Resale Basic ISDN (non-designed), Resale Basic ISDN (designed), Resale Basic ISDN, Resale Primary ISDN (non-designed), Resale Primary ISDN (designed), Resale Primary ISDN, Resale PBX (non-designed), Resale PBX (designed), Resale PBX, Sub-Loop Unbundling, UNE-P (POTS), UNE-P (Centrex), and UNE-P (Centrex 21).

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## **Attachment 2: Performance Measurements Subject to Per Measurement Caps**

### Billing

Time to Provide Recorded Usage Records – BI-1 (Tier 1/Tier 2)

Billing Accuracy – Adjustments for Errors – BI-3 (Tier 1)

Billing Completeness – BI-4 (Tier 1/Tier 2)