

(THERE WAS NO EXHIBIT B FILED WITH THE APPLICATION)

EXHIBIT C

See Qwest's Wholesale web-site for the Service Interval Guide.

Exhibit D

Date General Information Provided by Qwest: _____

General Agreement : _____

BAN Number(must be assigned before processing): _____

REVISED QWEST RIGHT OF WAY, POLE ATTACHMENT, INNERDUCT OCCUPANCY GENERAL INFORMATION: EFFECTIVE 6/29/01

1. **1. PURPOSE.** The purpose of this General Information document is to share information and provide or deny permission to attach and maintain CLEC's facilities ("Facilities") to Qwest Corporation's ("Qwest") Poles, to place Facilities on or within Qwest's Innerduct (collectively "Poles/Innerduct") and to obtain access to Qwest's private right of way ("ROW"), to the extent Qwest has the right to grant such access. This General Information is necessary to determine if Qwest can meet the needs of the CLEC's request but does not guarantee that physical space or access is currently available. Permission will be granted on a first-come, first-serve basis on the terms and conditions set forth in the appropriate agreement pertaining to "Poles/Innerduct".
2. **2. PROCESS.** The Qwest process is designed to provide the CLEC the information so as to assist CLEC and Qwest to make Poles, Innerduct and ROW decisions in a cost-efficient manner. The Process has these distinct steps:

2.1 **Inquiry Review - Attachment 1.A (Database Search).** The CLEC is requested to review this document and return Attachment 1.A along with two copies of a map and the nonrefundable Inquiry Fee, calculated in accordance with Attachment 1.A hereto. These fees are intended to cover Qwest's expenses associated with performing an internal record (database) review, preparing a cost estimate for the required field survey, setting up an account, and determining time frames for completion of each task to meet the CLEC's Request. Be sure a BAN number is assigned by the Qwest Service Support Representative for each request before sending an Attachment 1.A. To request a BAN number send an email requesting one to: wholesale.servicessupportteam@qwest.com. Include your name, company, phone number, email address, city and state of our inquiry. A BAN number will be assigned to your inquiry and will be emailed to you along with other materials.

As indicated on Attachment 1.A, a copy of the signed Attachment and maps of the desired route must be emailed to wholesale.servicessupportteam@qwest.com while the fee must be sent to the Qwest CLEC Joint Use Manager with the original signed Attachment 1.A. The map should clearly show street names and highways along the entire route, and specific locations of entry and exit of the ROW/duct/pole system. Area Maps should be legible and identify all significant geographic characteristics including, but not limited to, the following: Qwest central offices, streets, cities, states, lakes, rivers, mountains, etc. Qwest reserves the right to reject illegible or incomplete maps. If CLEC wishes to terminate at a particular manhole (such as a POI) it must be indicated on the maps. For ROW: Section, Range and Township, to the ¼ section must also be provided.

Qwest will complete the Inquiry review and prepare and return a Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation (Attachment 1.B) to the CLEC generally within ten (10) days or the applicable federal or state law, rule or regulation that governs this Agreement in the state in which Innerduct attachment is requested. In the case of poles, Qwest will assign a Field Engineer and provide his/her name and phone number to the CLEC. The Field Engineer will check the local database and be available for a joint verification with the CLEC. The Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation will be valid for thirty (30) calendar days from the date of quotation. The Inquiry step results only

Exhibit D

in the location and mapping of Qwest facilities and does not indicate whether space is available. This information is provided with Attachment 1.B.

In the case of ROW, Qwest will prepare and return a ROW information matrix and a copy of agreements listed in the ROW Matrix, within ten (10) days. The ROW Matrix will identify (a) the owner of the ROW as reflected in Qwest's records, and (b) the nature of each ROW (i.e., publicly recorded and non-recorded). The ROW information matrix will also indicate whether or not Qwest has a copy of the ROW agreement in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that, to the extent that real property rights run with the land, the original granting party may not be the current owner of the property.

In the case of MDUs, Qwest will prepare and return an MDU information matrix, within ten (10) days, which will identify (a) the owner of the MDU as reflected in Qwest's records, and (b) whether or not Qwest has a copy of the agreement between Qwest and the owner of a specific multi-dwelling unit that grants Qwest access to the multi-dwelling unit in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that the original landowner may not be the current owner of the property.

Qwest will provide to CLEC a copy of agreements listed in the Matrices that have not been publicly recorded if CLEC obtains authorization for such disclosure from the third party owner(s) of the real property at issue by an executed version of the Consent to Disclosure form, which is included in Attachment 4. Qwest will redact all dollar figures from copies of agreements listed in the Matrices that have not been publicly recorded that Qwest provides to CLEC. Alternatively, in order to secure any agreement that has not been publicly recorded, a CLEC may provide a legally binding and satisfactory agreement to indemnify Qwest in the event of any legal action arising out of Qwest's provision of such agreement to CLEC. In that event, the CLEC shall not be required to execute the Consent to Disclosure form.

If there is no other effective agreement (i.e., an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

2.2 Attachment 1.B (Verification) & Attachment 4 (Access Agreement Preparation). With respect to Poles and Innerduct, upon review and acceptance of signed Attachment 1.B and payment of the estimated verification costs by the CLEC, Qwest will conduct facilities verification and provide the requested information which may or may not include the following: a review of public and/or internal Qwest right-of-ways records for restrictions, identification of additional rights-of-way required; a field survey and site investigation of the Innerduct, including the preparation of distances and drawings, to determine availability on existing Innerduct; identification of any make-ready costs required to be paid by the CLEC, if applicable, prior to installing its facilities. In the case of Poles, Attachment 1.B orders the field verification which may be done jointly. A copy of the signed Attachment 1.B should be emailed to wholesale.servicessupportteam@qwest.com while the appropriate fees should be sent to the Qwest-CLEC Joint Use Manager with the original signed Attachment 1.B. Upon completion of the verification, Attachment 2 will be sent to the CLEC by Qwest.

With respect to ROW, upon review and acceptance of signed Attachment 1.B and payment of the ROW conveyance consideration, Qwest will deliver to the CLEC an executed and acknowledged Access Agreement to the CLEC in the form attached hereto as Attachment 4 (the "Access

Exhibit D

Agreement"). In the event that the ROW in question was created by a publicly recorded document and Qwest has a copy of such document in its files, a copy of the Right-of-Way Agreement, as defined in the Access Agreement, will be attached to the Access Agreement and provided to the CLEC at the time of delivery of the Access Agreement. If the ROW was created by a document that is not publicly recorded, or if Qwest does not have a copy of the Right-of-Way Agreement in its possession, the Access Agreement will not have a copy of the Right-of-Way Agreement attached. If the ROW was created by a non-publicly recorded document, but Qwest does not have a copy of the Right-of-Way Agreement in its possession, the CLEC must obtain a copy of the Right-of-Way Agreement or other suitable documentation reasonably satisfactory to Qwest to describe the real property involved and the underlying rights giving rise to the Access Agreement.

Although Qwest will provide the identity of the original grantor of the ROW, as reflected in Qwest's records, the CLEC is responsible for determining the current owner of the property and obtaining the proper signature and acknowledgement to the Access Agreement. If Qwest does not have a copy of the Right-of-Way Agreement in its records, it is the responsibility of the CLEC to obtain a copy of the Right-of-Way Agreement. If the ROW was created by a publicly recorded document, the CLEC must record the Access Agreement (with the Right-of-Way Agreement attached) in the real property records of the county in which the property is located. If the ROW was created by a grant or agreement that is not publicly recorded, CLEC must provide Qwest with a copy of the properly executed and acknowledged Access Agreement and, if applicable, properly executed Consent Regarding Disclosure form or letter of indemnification.

Qwest is required to respond to each Attachment 1.B. submitted by CLEC within 35 days of receiving the Attachment 1.B. In the event that Qwest believes that circumstances require a longer duration to undertake the activities reasonably required to deny or approve a request, it may petition for relief before the Commission or under the escalation and dispute resolution procedures generally applicable under the interconnection agreement, if any, between Qwest and CLEC.

2.3 Poles/Duct Order Attachment 2 (Access). In the case of Poles and Innerduct, upon completion of the inquiry and verification work described in Section 2.2 above, Qwest will provide the CLEC a Poles/Innerduct Order (Attachment 2) containing annual recurring charges, estimated Make-ready costs. Upon receipt of the executed Attachment 2 Order form from the CLEC and applicable payment for the Make-Ready Fees identified, Qwest will assign the CLEC's requested space; Qwest will also commence the Make-ready work within 30 days following payment of the Make-Ready Fees. Qwest will notify CLEC when Poles/Innerduct are ready for attachment or placement of Facilities. A copy of the signed Attachment 2 form should be emailed to wholesale.servicessupportteam@qwest.com while the payment should go to the Joint Use Manager along with the original signed Attachment 2.

NOTE: Make-ready work performed by Qwest concerns labor only. For Poles it involves rearrangement to accommodate the new attachment. For Innerduct, it involves placing the standard three innerducts in the conduit to accommodate fiber cable where spare conduit exists. Segments without conduit space are considered "blocked". Qwest will consider repair or clearing damaged facilities, but may not construct new facilities as part of Make-ready work.

Construction work to place conduit or replace poles may be required where facilities are blocked. The CLEC may contract separately with a Qwest-approved contractor to complete the construction provided a Qwest inspector inspects the work during and after construction. If other parties benefit from construction, the costs may be divided among the beneficiaries. Construction

Exhibit D

costs are not included in Attachment 2. The CLEC is not encouraged to sign the Poles/Innerduct Order (Attachment 2) until provisions have been made for construction.

2.4 Provision of ROW/Poles/Innerduct. Qwest agrees to issue to CLEC for any lawful telecommunications purpose, a nonexclusive, revocable Order authorizing CLEC to install, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct to the extent owned or controlled by Qwest. Qwest provides access to Poles/Innerduct/ROW in accordance with the applicable federal, state, or local law, rule, or regulation, incorporated herein by this reference, and said body of law, which governs this Agreement in the state in which Poles/Innerduct is provided. Any and all rights granted to CLEC shall be subject to and subordinate to any future federal, state, and/or local requirements. Nothing in this General Information shall be construed to require or compel Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by the CLEC.

The costs included in the Poles/Innerduct Verification Fee are used to cover the costs incurred by Qwest in determining if Poles/Innerduct space is available to meet the CLEC's request; however, the CLEC must agree and will be responsible for payment of the actual costs incurred if such costs exceed the estimate. If the actual costs are less than the estimate, an appropriate credit can be provided upon request. If Qwest denies access, Qwest shall do so in writing, specifying the reasons for denial within 45 days of the initial inquiry.

Likewise, the fees included in the ROW processing costs quotation are used to cover the costs incurred by Qwest in searching its databases and preparing the Access Agreement. In the event that complications arise with respect to preparing the Access Agreement or any other aspect of conveying access to Qwest's ROW, the CLEC agrees to be responsible for payment of the actual costs incurred if such costs exceed the standard fees; actual costs shall include, without limitation, personnel time, including attorney time.

3. DISPUTE RESOLUTION

3.1. Other than those claims over which a federal or state regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.

3.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

3.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

3.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the

Exhibit D

party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

Exhibit D

**ATTACHMENT 1. A
Poles/Innerduct/ or ROW Inquiry Preparation Fee**

General Agreement _____

BAN Number (one for each route must be assigned before processing): _____

Date Submitted: _____ Date Replied to CLEC: _____

CLEC Name _____ Contact name: _____

Billing Address: _____

Phone Number: _____ e-mail address: _____

State and city of inquiry: _____

**Poles/Innerduct Permit Database Search Costs Quotation
(One Mile Minimum)**

	<u>Costs</u>	<u>Est. Miles</u>	<u>Total</u>
1. Pole Inquiry Fee	(see attached pricing chart) X _____		= \$ _____
2. Innerduct Inquiry Fee	(see attached pricing chart) X _____		= \$ _____
3. ROW Records Inquiry	(see attached pricing chart) X _____		= \$ _____
4. Estimated Interval for Completion of Items 1, 2 or 3:	_____	10	Days
5. Additional requirements of CLEC:	_____		

This Inquiry will result in (a) for Poles and Innerduct: a drawing of the duct or innerduct structure fitting the requested route, if available, and a quote of the charges for field verification, and/or (b) in the case of ROW, a ROW identification matrix, a quote of the charges for preparation of and consideration for, the necessary Access Agreements, and copies of ROW documents in Qwest's Possession. (c) For Poles, the name and telephone number of the Field Engineer are provided so that the CLEC may contact the Qwest Field engineer and discuss attachment plans. If a field verification of poles is required, Attachment 1.B must be completed and the appropriate charges paid. Innerduct verification is always needed.

By signing below and providing payment of the Estimated Costs identified above, the CLEC desires Qwest to proceed with the processing of its database/records search and acknowledges receipt of this General Information, including the General Terms and Conditions under which Qwest offers such Poles/Innerduct. Quotes expire in 30 days.

	Qwest Corporation
Signature	Signature
Name Typed or Printed	Name Typed or Printed
Title	Title
Date	Date

This signed form (original) must be sent with a check for the Inquiry amount (to "Qwest") to:

Exhibit D

Manager, Qwest Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112 303-784-0387
A copy of this form must be sent with two acceptably-detailed maps showing the requested route to:
Qwest Service Representative at: wholesale.servicessupportteam@qwest.com. Put "Agree" on signature line.

Exhibit D

ATTACHMENT 1.B

General Agreement _____
 BAN Number: _____

Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation

Date Nonrefundable Received: _____ Date Replied to CLEC: _____

****NOTE: THIS ATTACHMENT WILL BE COMPLETED BY QWEST AND SENT TO THE CLEC FOR SIGNATURE AFTER THE DATABASE INQUIRY IS COMPLETE.****

	Estimated Costs	Number	Total Charge
1. Pole Field Verification Fee (10 pole minimum)	_____	_____	\$ _____
2. Innerduct Field Verification Fee	_____	_____	\$ _____
3. Preparation of private ROW documents	_____	_____	\$ _____
4. Access Agreement Prep. and Consideration \$10/ Access Agreement	_____	_____	\$ _____
5. Estimated Interval to Complete Items 1 or 2 or 3 and/or 4: _____ Working Days			

Comments: _____

By signing below and providing payment of the Total Estimated Costs identified above, the CLEC desires Qwest to proceed with the processing of its field survey/preparation of Access Agreements, and acknowledges receipt of this General Information, including the General Terms and Conditions under which Qwest offers such ROW/Poles/Innerduct. The CLEC acknowledges the above costs are estimates only and CLEC may be financially responsible for final actual costs which exceed this estimate, or receive credit if requested. Quotes expire in 30 days.

	Qwest Corporation
Signature	Signature
Name Typed or Printed	Name Typed or Printed
Title	Title
Date	Date

The original signed form must be sent with a check for the verification amount to:

Exhibit D

Manager, Qwest CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112

An email copy of this form must be sent to: wholesale.servicessupportteam@qwest.com, with "Agree" on the signature line.

Exhibit D

Title		Title
Date		Date

Exhibit D

ATTACHMENT 3

General Agreement: _____

QWEST RIGHT OF WAY ACCESS, POLE ATTACHMENT AND/OR INNERDUCT OCCUPANCY GENERAL TERMS AND CONDITIONS

This is an Agreement between _____ ("CLEC") and Qwest Corporation ("Qwest"), for one or more Orders for the CLEC to obtain access to Qwest's Right-of-Way ("ROW") and/or to install/attach and maintain their communications facilities ("Facilities") to Qwest's Poles and/or placement of Facilities on or within Qwest's Innerduct (collectively "Poles/Innerduct") described in the General Information and CLEC Map, which are incorporated herein by this reference (singularly "Order" or collectively, "Orders"). If there is no other effective agreement (*i.e.*, an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then this Agreement/Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

1. SCOPE.

- 1.1 Subject to the provisions of this Agreement, Qwest agrees to issue to CLEC for any lawful telecommunications purpose, (a) one or more nonexclusive, revocable Orders authorizing CLEC to attach, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned or controlled by Qwest, and/or (b) access to Qwest's ROW to the extent that (i) such ROW exists, and (ii) Qwest has the right to grant access to the CLEC. Any and all rights granted to CLEC shall be subject to and subordinate to any future local, state and/or federal requirements, and in the case of ROW, to the original document granting the ROW to Qwest or its predecessors.
- 1.2 Except as expressly provided herein, nothing in this Agreement shall be construed to require or compel Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by CLEC or to obtain any ROW for CLEC's use.
- 1.3 Qwest agrees to provide access to ROW/Poles/Innerduct in accordance with the applicable local, state or federal law, rule, or regulation, incorporated herein by this reference, which governs this Agreement in the state in which Poles/Innerduct is provided.

2. **TERM.** Any Order issued under this Agreement for Pole attachments or Innerduct occupancy shall continue in effect for the term specified in the Order. Any access to ROW shall be non-exclusive and perpetual, subject to the terms and conditions of the Access Agreement (as hereinafter defined) and the original instrument granting the ROW to Qwest. This Agreement shall continue during such time CLEC is providing Poles/Innerduct attachments under any Order to this Agreement.

3. TERMINATION WITHOUT CAUSE.

- 3.1 To the extent permitted by law, either party may terminate this Agreement (which will have the effect of terminating all Orders hereunder), or any individual Order(s) hereunder, without cause, by providing notice of such termination in writing and by certified Mail to the other party. The written notice for termination without cause shall be dated as of the day it

Exhibit D

is mailed and shall be effective no sooner than one hundred twenty (120) calendar days from the date of such notice.

- 3.2. Termination of this Agreement or any Order hereunder does not release either party from any liability under this Agreement that may have accrued or that arises out of any claim that may have been accruing at the time of termination, including indemnity, warranties, and confidential information.
- 3.3. If Qwest terminates this Agreement for Cause, or if CLEC terminates this Agreement without Cause, CLEC shall pay termination charges equal to the amount of fees and charges remaining on the terminated Order(s) and shall remove its Facilities from the Poles/Innerduct within sixty (60) days, or cause Qwest to remove its Facilities from the Poles/Innerduct at CLEC's expense; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's Facilities are physically removed. Notwithstanding anything herein to the contrary, upon the termination of this Agreement for any reason whatsoever, all Orders hereunder shall simultaneously terminate.
- 3.4. If this Agreement or any Order is terminated for reasons other than Cause, then CLEC shall remove its Facilities from Poles/Innerduct within one hundred and eighty (180) days from the date of termination; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's Facilities are physically removed.
- 3.5. Qwest may abandon or sell any Poles/Innerduct at any time by giving written notice to the CLEC. Upon abandonment of Poles/Innerduct, and with the concurrence of the other CLEC(s), if necessary, CLEC shall, within sixty (60) days of such notice, either apply for usage with the new owner or purchase the Poles/Innerduct from Qwest, or remove its Facilities therefrom. Failure to remove its Facilities within sixty (60) days shall be deemed an election to purchase the Poles/Innerduct at the current market value.

4. CHARGES AND BILLING.

- 4.1. CLEC agrees to pay Qwest Poles/Innerduct usage fees ("Fees") as specified in the Order. Fees will be computed in compliance with applicable local, state and Federal law, regulations and guidelines. Such Fees will be assessed, in advance on an annual basis. Annual Fees will be assessed as of January 1st of each year. Fees are not refundable except as expressly provided herein. CLEC shall pay all applicable Fees and charges specified herein within thirty (30) days from receipt of invoice. Any outstanding invoice will be subject to applicable finance charges.
- 4.2. Qwest has the right to revise Fees, at its sole discretion, upon written notice to CLEC within at least sixty (60) days prior to the end of any annual billing period.

5. INSURANCE. The CLEC shall obtain and maintain at its own cost and expense the following insurance during the life of the Contract:

- 5.1. Workers' Compensation and/or Longshoremen's and Harbor Workers Compensation insurance with (1) statutory limits of coverage for all employees as required by statute; and (2) although not required by statute, coverage for any employee on the job site; and

