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IDAHO PUBLIC
UTILITIES COMMISSION

August 31, 2009

VIA HAND DELIVERY

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

RE: Docket No. QWE-T-09-15

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **Qwest's Petition for Approval of Non-Impairment Status for DS3 Loops in the Boise Main Wire Center and the Affidavits of Renee Albersheim and Rachel Torrence**. The attachments to the Albersheim affidavit are termed "Highly Confidential" under the terms of the proposed Protective Agreement, which is filed as Attachment B to Qwest's Petition and which is similar to the protective agreement that the parties agreed upon in Case No. QWE-T-08-07.

The Highly Confidential attachments to the Albersheim Affidavit are being provided separately and under seal and are accompanied by an **Attorney Certificate**. Qwest intends to serve these Highly Confidential attachments on the Staff once its attorney has signed the proposed Protective Agreement and the individual Staff members have executed the associated exhibits thereto. Intervening CLECs who sign the Protective Agreement and associated exhibits will be provided the versions of the Highly Confidential documents together with the CLEC-specific information pertaining to their own company.

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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Attorneys for Qwest Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF QWEST
CORPORATION'S PETITION FOR
APPROVAL OF NON-IMPAIRMENT
STATUS FOR DS3 LOOPS IN THE
BOISE MAIN WIRE CENTER

Case No. QWE-T-09-*15*

Qwest's Petition for Approval of Non-
Impairment Status for DS3 Loops in the
Boise Main Wire Center

Qwest Corporation ("Qwest") hereby petitions the Commission for approval of non-impairment status for DS3 loops in the Boise Main wire center as an *addition* to its non-impaired wire center list in accordance with the Federal Communications Commission's ("FCC's") *Triennial Review Remand Order* ("TRRO").¹ This petition is made in conformity with and pursuant to the TRRO and this Commission's July 27, 2009 Order No. 30866 in the Commission's initial TRRO non-impaired wire center proceeding, Case No. QWE-T-08-07.

INTRODUCTION AND PERTINENT BACKGROUND

On June 20, 2008, Qwest filed various petitions for state commission approval of its "non-impaired" wire center lists pursuant to the TRRO with various state regulatory

¹ Order on Remand, *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, WC Docket No. 04-313 (FCC rel. February 4, 2005) (hereafter "*Triennial Review Remand Order*" or "TRRO").

commissions, including this Commission. The Commission docketed Qwest's petition regarding its Idaho wire centers as Case No. QWE-T-08-07. Qwest also filed the list of non-impaired wire centers with the FCC.

In support of these filings, Qwest submitted evidence regarding the number of "business lines" and "fiber-based collocators," as those terms are defined in the *TRRO* and the FCC's associated implementation rule, 47 CFR, § 51.5, in Qwest's wire centers to ascertain the appropriate non-impairment "tier" designation. The tier designations were subsequently used to establish non-impairment of those wire centers that qualify as being non-impaired. Here in Idaho, Qwest submitted its business line data, based on December (year-end) 2007 data that it had filed with the FCC in Qwest's April 2008 Automated Reporting Management Information System ("ARMIS") Report 43-08, and its inventory of fiber-based collocators, at the Boise Main and Boise West wire centers.

The primary purpose of Case No. QWE-T-08-07 was for the Commission to determine the quantities of business lines and fiber-based collocators in these two Idaho wire centers so that carriers can implement the Section 251(d)(2) non-impairment standards set forth in the FCC's *TRRO* for high-capacity dedicated transport and loops. The docket also addressed other issues and disputes relating to the *TRRO*, including the process for identifying and adding future new wire centers to the non-impaired wire center list and Qwest's right to assess a charge when converting a former unbundled network element ("UNE") to an alternative service or facility.

Thereafter, on July 27, 2009, after prefiled testimony, briefing and a stipulation that waived the scheduled evidentiary hearing and that submitted the record to the Commission for decision, the Commission issued its Order No. 30866 in Case No. QWE-T-08-07, in which it resolved certain issues and disputes between Qwest and the "Joint CLECs" (Integra and

360networks) that had intervened in the docket. The Commission also found that Qwest's Boise Main wire center, with five fiber-based collocators, is a "Tier 1" wire center and, therefore, is non-impaired with regard to DS1 and DS3 transport services, and that Qwest's Boise West wire center, with three fiber-based collocators, is a "Tier 2" wire center and, therefore, is non-impaired with regard to DS3 transport services.

However, in Order No. 30866, the Commission declined to make a determination of non-impairment for *DS3 loops* at the Boise Main wire center. The Commission stated: "The record does not reveal whether the *2008 year-end data* supports a find of non-impairment for DS3 loops in the Boise Main wire center." Order No. 30866, p. 5. (Emphasis added.)

Accordingly, Qwest now files this petition requesting the Commission's approval of non-impairment status for DS3 loops at the Boise Main wire center. DS3 loop non-impairment results when a wire center houses a minimum of four "fiber-based collocators" *and* supports at least 38,000 "business lines," as those terms are defined in the *TRRO* and the FCC's associated implementation rule, 47 CFR, § 51.5. *See e.g.*, 47 CFR, § 51.319(a)(5)(i). Qwest files concurrently with this petition the affidavits of Renée Albersheim and Rachel Torrence regarding the number of business lines and the number of fiber-based collocators, respectively, at the Boise Main wire center, including the highly-confidential data supporting Qwest's petition that the Boise Main wire center is a non-impaired wire center for DS3 loops.

As stated, this Commission has already designated the Boise Main wire center as being a "Tier 1" wire center for DS1 and DS3 transport by virtue of having exceeded the *TRRO*'s minimum number of four fiber-based collocators, and as such, the Boise Main wire center will remain a Tier 1 non-impaired wire center in perpetuity. In other words, this wire center already meets the minimum fiber-based collocator requirement for DS3 loop non-impairment.

Accordingly, because this Commission has already established the Boise Main wire center as a Tier 1 non-impaired wire center, based on the number of fiber-based collocators in that wire center, Qwest does not believe that the number of fiber-based collocators in this wire center needs to be readdressed for purposes of a finding that such wire center has the requisite number of fiber-based collocators for DS3 loop non-impairment. Nevertheless, Qwest has reviewed the number of fiber-based collocators in the Boise Main wire center and has once again confirmed the presence of five fiber-based collocators in that wire center, which is sufficient for such DS3 loop non-impairment status. *See* Affidavit of Rachel Torrence.

In addition, the Commission in Order No. 30866 in Case No. QWE-T-08-07 ruled that Qwest would need to show that its 2008 business line data met the *TRRO*'s 38,000 business line DS3 loop non-impairment threshold for the Boise Main wire center. (As stated above, the evidence regarding business lines at the Boise Main wire center that Qwest had presented in Case No. QWE-T-08-07 was based on 2007 data.) Accordingly, Qwest submits with this petition the Affidavit of Renée Albersheim, and its highly-confidential exhibits, that show, based on *December 2008* business line data, that Qwest meets the *TRRO*'s non-impairment threshold for DS3 loops at the Boise Main wire center. *See* Affidavit of Renée Albersheim.²

² Order No. 30866 requires Qwest to give notice to all impacted CLECs of the filing of any non-impairment petition or application at least 10 days in advance, and to request that all parties sign a protective order for confidential information. *See* Order No. 30866, p. 6. Qwest provided notice to all impacted CLECs of its intent to file this petition on or about August 19, 2009. *See* Attachment A. In that notice, Qwest also gave notice to the impacted CLECs that it will use a protective agreement governing the confidential data supporting its petition, and that it intends to use a protective agreement similar to the one that the parties agreed upon in Case No. QWE-T-08-07. Qwest submits a copy of such a protective agreement as Attachment B.

As stated, the only wire center that Qwest is seeking to add to its Idaho list of non-impaired wire centers, based on the highly-confidential data filed concurrently with this petition, is the Boise Main wire center. The pertinent information is as follows:

STATE	WIRE CENTER	CLLI	TIER	NON-IMPAIRMENT FOR
ID	Boise Main	BOISIDMA		DS3 Loops

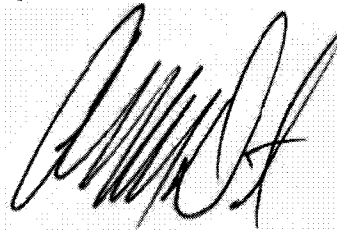
CONCLUSION

Accordingly, Qwest respectfully requests the Commission process this petition by Modified Procedure and approve Qwest's addition to its Idaho non-impaired wire center list to include the Boise Main wire center for DS3 loops, for which Qwest concurrently files its highly-confidential supporting data.

Dated: August 31, 2009

Respectfully submitted,

QWEST CORPORATION



By _____

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August 19, 2009

Gary Liberman
 New Edge Network Inc.
 3000 Columbia House Blvd - Suite 106
 Vancouver, WA 98661
 gliberman@newedgenetworks.com

TO: Gary Liberman

Announcement Date: August 19, 2009
Filing Date: August 31, 2009
Document Number: NETW.ANNC.08.19.09.F.06805.Add_Non_IM_Wire_Ctr
Notification Category: Contract/Network Notice
Target Audience: CLECs Operating in the State of Idaho
Subject: Additions to Non-Impaired Wire Center Lists

On August 31, 2009, Qwest will file a petition with the Idaho Public Utilities Commission for approval of the non-impairment status of DS3 loops in the Boise Main wire center.

Qwest offers this Notice pursuant to Idaho Commission Order No. 30866 in Docket No. QWE-T-08-07, in which the Commission found (at page 5) that had not previously made a request in its petition in that docket that the Commission determine whether the non-impaired standard for DS3 loops was met at the Boise Main wire center. Accordingly, Qwest will make such request in its August 31, 2009 petition.

Pursuant to Idaho Commission Order No. No. 30866 in Docket No. QWE-T-08-07, Qwest will use a protective agreement governing the confidential data supporting this addition, and intends to use a protective agreement similar to the one that the parties agreed upon in that docket.

STATE	WIRE CENTER	CLLI8	TIER	NO IMPAIRMENT FOR
ID	Boise Main	BOISIDMA	Tier 1	DS3 Loops

If you have any questions or would like to discuss this notice please contact your Qwest Service Manager, Sandra Branch-O'Neill on (770) 777-5691. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,

Qwest Corporation

If you would like to subscribe, unsubscribe or change your current profile to Qwest Wholesale mailouts please go to the 'Subscribe/Unsubscribe' web site and follow the subscription instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Lee Hoar
Sandra Branch-O'Neill

Qwest Communications, 120 Lenora St, 11th Floor, Seattle WA 98121

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Attorneys for Qwest Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF QWEST CORPORATION'S PETITION FOR APPROVAL OF NON-IMPAIRMENT STATUS FOR DS3 LOOPS IN THE BOISE MAIN WIRE CENTER	Case No. QWE-T-09- PROTECTIVE AGREEMENT
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WHEREAS, Qwest Corporation ("Qwest"), and any intervening parties (hereinafter with Qwest jointly referred to as "Participating Parties") anticipate that they may make available for review, or make requests to provide, certain information considered by its custodian to be of a trade secret, privileged, or confidential nature in the above-referenced docket (hereinafter "Proceedings"), and

WHEREAS, the Staff of the Idaho Public Utilities Commission ("Staff") may need to review certain information considered by the Participating Parties to be a trade secret, privileged or confidential, and

WHEREAS, the Participating Parties and Staff agree that entering into a Protective Agreement will expedite the production of documents; will afford the necessary protection to valuable and confidential, trade secret, and business information;

will establish clear parameter for use of Confidential Information and thereby afford necessary protection to the employees and/or representatives of the Participating Parties and Staff who might, during the course of the Proceedings, review the information and subsequently be requested to reveal its contents; and will protect the use of Confidential Information provided during the course of the Proceedings, now therefore,

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. (A) Confidential Information. All documents, data, studies and other materials furnished pursuant to any requests for information, subpoenas or other modes of discovery (formal or informal), and including depositions, and other requests for information, that are claimed to be proprietary or confidential (herein referred to as “Confidential Information”), shall be so marked by the providing party by stamping the same with a “Confidential” designation. In addition, all notes or other materials that refer to, derive from, or otherwise contain parts of the Confidential Information will be marked by the receiving party as Confidential Information. Access to and review of Confidential Information shall be strictly controlled by the terms of this Agreement

(B) Use of Confidential Information -- Proceedings. All persons who may be entitled to review, or who are afforded access to any Confidential Information by reason of this Agreement shall neither use nor disclose the Confidential Information for purposes of business or competition, or any purpose other than the purpose of preparation for and conduct of proceedings in the above-captioned docket or before the Federal Communications Commission (“FCC”), and any subsequent appeals (collectively, the “Wire Center Docket”), and shall keep the Confidential Information secure as

confidential or proprietary information and in accordance with the purposes, intent and requirements of this Agreement.

(C) Persons Entitled to Review. Each party that receives Confidential Information pursuant to this Agreement must execute the Nondisclosure Agreement described in section (D) immediately below and limit access to such Confidential Information to (1) attorneys employed or retained by the party in the Wire Center Docket and the attorneys' staff; (2) experts, consultants and advisors who need access to the material to assist the party in the Wire Center Docket; (3) only those employees of the party who are directly involved in the Wire Center Docket, provided that counsel for the party represents that no such employee is engaged in the sale or marketing of that party's products or services. In addition, access to Confidential Information may be provided to Commissioners. Disclosure of Confidential Information and Highly Confidential Information to members of Staff and consultants employed Staff shall be under the same terms and conditions as described herein for Participating Parties.

(D) Nondisclosure Agreement. Confidential Information shall not be disclosed to any person, except persons who are described in section 1(c) above and who have signed a Nondisclosure Agreement in the form that is attached hereto and incorporated herein as Exhibit "A." Court reporters shall also be required to sign an Exhibit "A" and comply with the terms of the Nondisclosure Agreement.

The Nondisclosure Agreement (Exhibit "A") requires the person(s) to whom disclosure is to be made to read a copy of this Protective Agreement and to certify in writing that they have reviewed the same and have consented to be bound by its terms. In each instance, Exhibit "A" shall contain the signatory's full name, employer, business

address and the name of the Participating Party with whom the signatory is associated. Such agreement shall be delivered to counsel for the providing party before disclosure is made, and if no objection thereto is registered to the Commission within three (3) business days, then disclosure shall follow. An attorney who makes Confidential Information available to any person listed in subsection (c) above shall be responsible for having each such person execute an original of Exhibit "A" and a copy of all such signed Exhibit "A"s shall be circulated to all other counsel of record promptly after execution.

2. (A) Notes. Limited notes regarding Confidential Information may be taken by counsel and experts for the express purpose of preparing pleadings, cross-examinations, briefs, motions and argument in connection with this proceeding, or in the case of persons designated in paragraph 1(c) of this Protective Agreement, to prepare for participation in this proceeding. Such notes shall then be treated as Confidential Information for purposes of this Agreement, and shall be destroyed after the final settlement or conclusion of the Wire Center Docket in accordance with subsection 2(b) below.

(B) Return. All notes, to the extent they contain Confidential Information and are protected by the attorney-client privilege or the work product doctrine, shall be destroyed after the final settlement or conclusion of the Wire Center Docket. The party destroying such Confidential Information shall advise the providing party of that fact within a reasonable time from the date of destruction.

3. Highly Confidential Information: Any person, whether a party or non-party, may designate certain competitively sensitive Confidential Information as "Highly Confidential Information" if it determines in good faith that it would be competitively disadvantaged by the disclosure of such information to its competitors. Highly

Confidential Information includes, but is not limited to, documents, pleadings, briefs and appropriate portions of deposition transcripts, that contain information regarding the market share of, number of access lines served by, or number of customers receiving a specified type of service from a particular provider or other information that relates to marketing, business planning or business strategies.

Parties must scrutinize carefully responsive documents and information and limit their designations as Highly Confidential Information to information that truly might impose a serious business risk if disseminated without the heightened protections provided in this section. The first page and individual pages of a document determined in good faith to include Highly Confidential Information must be marked by a stamp that reads:

**“HIGHLY CONFIDENTIAL—USE RESTRICTED PER PROTECTIVE AGREEMENT
IN DOCKET NO. QWE-T-09- .”**

Placing a “Highly Confidential” stamp on the first page of a document indicates only that one or more pages contain Highly Confidential Information and will not serve to protect the entire contents of a multi-page document. Each page that contains Highly Confidential Information must be marked separately to indicate Highly Confidential Information, even where that information has been redacted. The unredacted versions of each page containing Highly Confidential Information, and provided under seal, should be submitted on paper distinct in color from non-confidential information and “Confidential Information” described in section 1 of this Protective Agreement.

Parties seeking disclosure of Highly Confidential Information must designate the person(s) to whom they would like the Highly Confidential Information disclosed in

advance of disclosure by the providing party. Such designation may occur through the submission of Exhibit "B." Parties seeking disclosure of Highly Confidential Information shall not designate more than (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Confidential Information; (2) five in-house experts; and (3) a reasonable number of outside counsel and outside experts to review materials marked as "Highly Confidential." Disclosure of Highly Confidential Information to Staff members shall be limited to persons to whom disclosure is necessary. The Exhibit "B" also shall describe in detail the duties or responsibilities of the person being designated to see Highly Confidential Information and the person's role in the proceeding. Highly Confidential Information may not be disclosed to persons engaged in strategic or competitive decision making for any party, including the sale or marketing of products or services on behalf of any party.

Any party providing either Confidential Information or Highly Confidential Information may object to the designation of any individual as a person who may review Confidential Information and/or Highly Confidential Information. Such objection shall be made in writing to counsel submitting the challenged individual's Exhibit "A" or "B" within three (3) business days after receiving the challenged individual's signed Exhibit "A" or "B". Any such objection must demonstrate good cause to exclude the challenged individual from the review of Confidential Information and/or Highly Confidential Information. Written response to any objection shall be made within three (3) business days after receipt of an objection. If, after receiving a written response to a party's objection, the objecting party still objects to the disclosure of either Confidential Information or Highly Confidential Information to the challenged individual, the

Commission shall determine whether the Confidential Information or Highly Confidential Information must be disclosed to the challenged individual.

Copies of Highly Confidential Information may be provided to the in-house attorneys, outside counsel and outside experts who have signed Exhibit "B". The in-house experts who have signed Exhibit "B" may inspect, review and make notes from the in-house attorney's copies of Highly Confidential Information.

Persons authorized to review the Highly Confidential Information will maintain the documents and any notes reflecting their contents in a secure location to which only designated counsel and experts have access. No additional copies will be made, except for use during hearings and then such disclosure and copies shall be subject to the provisions of Section 6. Any testimony or exhibits prepared that reflect Highly Confidential Information must be maintained in the secure location until removed to the hearing room for production under seal and under circumstances that will ensure continued protection from disclosure to persons not entitled to review Highly Confidential Information.

Unless specifically addressed in this section, all other sections of this Protective Agreement applicable to Confidential Information also apply to Highly Confidential Information.

4. Objections to Admissibility. The furnishing of any document, data, study or other materials pursuant to this Protective Agreement shall in no way limit the right of the providing party to object to its relevance or admissibility in proceedings before this Commission.

5. Small Company Exemption. Notwithstanding the restrictions in sections 1 and 3 applicable to persons who may access Confidential Information and/or Highly Confidential Information, a Small Company may designate any employee or in-house expert to review Confidential Information and/or Highly Confidential Information if the producing party, upon request, gives prior written authorization for that person to review Confidential Information and/or Highly Confidential Information. If the producing party refuses to give such written authorization, the reviewing party may, for good cause shown, request an order from the Commission allowing a prohibited person(s) to review Confidential Information and/or Highly Confidential Information. The producing party shall be given the opportunity to respond to the Small Company's request before an order is issued. "Small Company" means a party with fewer than 5000 employees, including the employees of affiliates' U.S. ILEC, CLEC, and IXC operations within a common holding company.

6. Challenge to Confidentiality. This Agreement establishes a procedure for the expeditious handling of information that a party claims is Confidential or Highly Confidential. It shall not be construed as an agreement or ruling on the confidentiality of any document. Any party may challenge the characterization of any information, document, data or study claimed by the providing party to be confidential in the following manner:

(A) A party seeking to challenge the confidentiality of any materials pursuant to this Agreement shall first contact counsel for the providing party and attempt to resolve any differences by stipulation;

(B) In the event that the parties cannot agree as to the character of the information challenged, any party challenging the confidentiality shall do so by appropriate pleading. This pleading shall:

- (1) Designate the document, transcript or other material challenged in a manner that will specifically isolate the challenged material from other material claimed as confidential; and
- (2) State with specificity the grounds upon which the documents, transcript or other material are deemed to be non-confidential by the challenging party.

(C) A ruling on the confidentiality of the challenged information, document, data or study shall be made by the Commission after proceedings in camera, which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such confidential materials shall be present. This hearing shall commence no earlier than five (5) business days after service on the providing party of the pleading required by subsection 5(b) above.

(D) The record of said in camera hearing shall be marked "CONFIDENTIAL-SUBJECT TO PROTECTIVE AGREEMENT IN DOCKET NO. QWE-T-09- ." Court reporter notes of such hearing shall be transcribed only upon agreement by the parties or order of the Commission and in that event shall be separately bound, segregated, sealed, and withheld from inspection by any person not bound by the terms of this Protective Agreement.

(E) In the event that the Commission rules that any information, document, data or study should be removed from the restrictions imposed by this Agreement, no party shall disclose such information, document, data or study or use it in the public

record for five (5) business days unless authorized by the providing party to do so. The provisions of this subsection are intended to enable the providing party to seek a stay or other relief from an order removing the restriction of this Agreement from materials claimed by the providing party to be confidential.

7. (A) Receipt into Evidence. Provision is hereby made for receipt into evidence in this proceeding materials claimed to be confidential in the following manner:

- (1) Prior to the use of or substantive reference to any Confidential or Highly Confidential Information, the parties intending to use such information shall make that intention known to the providing party.
- (2) The requesting party and the providing party shall make a good-faith effort to reach an agreement so the Confidential Information or Highly Confidential Information can be used in a manner that will not reveal its trade secret, confidential or proprietary nature.
- (3) If such efforts fail, the providing party shall separately identify which portions, if any, of the documents to be offered or referenced shall be placed in a sealed record.
- (4) Only one (1) copy of the documents designated by the providing party to be placed in a sealed record shall be made.
- (5) The copy of the documents to be placed in the sealed record shall be tendered by counsel for the providing party to the Commission, and maintained in accordance with the terms of this Agreement.

(B) Seal. While in the custody of the Commission, materials containing Confidential Information shall be marked "CONFIDENTIAL – SUBJECT TO PROTECTIVE AGREEMENT IN DOCKET NO. QWE-T-09- " and Highly Confidential Information shall be marked "HIGHLY CONFIDENTIAL—USE RESTRICTED PER PROTECTIVE AGREEMENT IN DOCKET NO. QWE-T-09- " and shall not be examined by any person except under the conditions set forth in this Agreement.

(C) In Camera Hearing. Any Confidential Information or Highly Confidential Information that must be orally disclosed to be placed in the sealed record in this proceeding shall be offered in an in camera hearing, attended only by persons authorized

to have access to the information under this Agreement. Similarly, any cross-examination on or substantive reference to Confidential Information or Highly Confidential Information (or that portion of the record containing Confidential Information or Highly Confidential Information or references thereto) shall be received in an in camera hearing, and shall be marked and treated as provided herein.

(D) Access to Record. Access to sealed testimony, records and information shall be limited to the Commissioners and persons who are entitled to review Confidential Information or Highly Confidential Information pursuant to subsection 1(c) above and have signed an Exhibit "A" or "B", unless such information is released from the restrictions of this Agreement either through agreement of the Participating Parties or after notice to the parties and hearing, pursuant to the order of the Commission and/or final order of a court having final jurisdiction.

(E) Appeal/Subsequent Proceedings. Sealed portions of the record in this proceeding may be forwarded to any court of competent jurisdiction for purposes of an appeal or to the FCC, but under seal as designated herein for the information and use of the court or the FCC. If a portion of the record is forwarded to a court or the FCC, the providing party shall be notified which portion of the sealed record has been designated by the appealing party as necessary to the record on appeal or for use at the FCC.

(F) Return. Unless otherwise ordered, Confidential Information and Highly Confidential Information, including transcripts of any depositions to which a claim of confidentiality is made, shall remain under seal, shall continue to be subject to the protective requirements of this Agreement, and shall, at the providing party's discretion, be returned to counsel for the providing party, or destroyed by the receiving

