

LT-090309-AF  
Om 4-9-09

**Qwest.**

No Action

*Spirit of Service*

**Qwest Corporation**

1600 7th Avenue, Room 1506  
Seattle, Washington 98191  
(206) 345-1568  
Facsimile (206) 343-4040

Mark S. Reynolds  
Director – Regulatory  
Policy and Law

February 24, 2009

Ms. Carole Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250

RECEIVED  
2009 FEB 25 PM 1:02  
OFFICE AND TRANS  
COMMISSION

Attn: Betty Erdahl

RE: WAC 480-120-375 Affiliated Interest Agreement

Dear Ms. Washburn:

In accordance with WAC 480-120-375, Qwest Corporation is filing notification of the enclosed affiliated interest agreement between Qwest Corporation (QC) and Qwest Communications Company, LLC (QCC). This is a Settlement Agreement & Release which is a new agreement. Also enclosed is a verified statement.

Please call Joyce McDonald on 206-345-1514 if you have any questions or require any additional information.

Very truly yours,



for Mark Reynolds

Enclosures

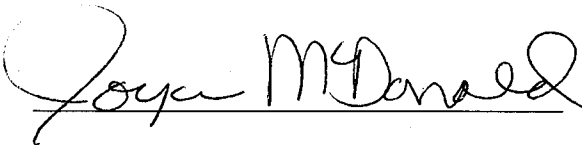
VERIFIED STATEMENT OF AFFILIATED INTEREST TRANSACTION

Qwest Corporation

WAC 480-120-375 states:

Every public service company must file a verified copy, or a verified summary, if unwritten, of contracts or arrangements with affiliated interests before the effective date of the contract or arrangement. Verified copies of modifications or amendments to the contract or arrangements must be filed before the effective date of the modification or amendment. If the contract or arrangement is unwritten, then a public service company must file a verified summary of any amendment or modification. The Commission may institute an investigation and disapprove the contract or arrangement if the commission finds the public service company has failed to prove that it is reasonable and consistent with the public interest.

Joyce L. McDonald, Lead Finance/Business Analyst of Qwest Corporation certifies that the attached Settlement Agreement & Release describes the affiliate arrangement between Qwest Corporation and Qwest Communications Company, LLC.

A handwritten signature in cursive script that reads "Joyce McDonald". The signature is written in black ink and is positioned above a horizontal line.

Joyce L. McDonald

Dated at Seattle this 24th day of February, 2009.

## SETTLEMENT AGREEMENT & RELEASE

This Settlement Agreement & Release ("**Agreement**") is entered into by and between Qwest Corporation ("**Customer**") and Qwest Communications Company, LLC ("**QCC**") (Customer and QCC, collectively, the "**Parties**") effective as of the date last executed below ("**Effective Date**") under the following terms, conditions and provisions:

### RECITALS

WHEREAS, Customer and QCC entered into a Wholesale Services Agreement, dated effective as of July 29, 2004, as amended (the "**WSA**"), pursuant to which QCC, under its former corporate name, Qwest Communications Corp., agreed to provide certain telecommunications services to Customer;

WHEREAS, Customer has ordered certain telecommunications services from QCC pursuant to the rates, terms, and conditions of the WSA and service exhibits since the inception of the Agreement;

WHEREAS, billing discrepancies were discovered for services provided by QCC to Customer under the WSA by which Customer claims that QCC (a) charged Customer for services that were not for the account of the Customer and (b) failed to provide volume and term discounts that Customer was entitled to, and, as a result, such billing discrepancies resulted in Customer being over-billed \$18,817,552.00 for the period of January 1, 2007 to December 31, 2008, and claims, as a result, entitlement to a billing credit in such amount ("**the Billing Discrepancy**");

WHEREAS, prior to the execution and delivery of this Agreement, the Parties agreed to execute an amendment to the WSA ("**the WSA Amendment**") to implement updated WSA rates on services ordered by Customer and to correct the accounts and services under the WSA;

WHEREAS, all claims, offsetting claims, and defenses of the Parties related to the Billing Discrepancy are collectively referred to herein as the "**Dispute**"; and

WHEREAS, the Parties desire to settle and compromise their claims and defenses relating to the Dispute on mutually agreeable terms and conditions;

NOW, THEREFORE, in consideration of the mutual agreements, undertakings, releases and representations contained herein, the payment and crediting of the amounts set forth below, and other good and valuable consideration, which is hereby acknowledged, the Parties agree as follows:

### AGREEMENT

1. Incorporation of Recitals. Each of the Recitals set forth above is hereby incorporated into and made a part of this Agreement, and the Parties acknowledge and agree that each Recital is a substantive provision hereof and shall be given full force and effect.

2. Billing Credit. Subject to Customer's execution and delivery to QCC of this Agreement, QCC hereby agrees, within thirty (30) calendar days after the Effective Date, to credit Customer's accounts in the amount of \$18,817,552.00 in full settlement of the Dispute, and, in addition, to credit customer the tax and regulatory fees related to the amount in Dispute incurred by, billed to and paid by Customer.

3. Release by Customer. For and in consideration of the agreements of QCC as herein stated, Customer, on behalf of itself individually and on behalf of its directors, officers, employees, independent contractors, partners, investors, successors and assigns, does hereby release, acquit, and forever discharge QCC, its predecessors and its successors and assigns and their respective directors, officers, employees, agents, subsidiaries, affiliates, designees and assignees from and against any and all Claims (as defined below) of any kind or character whatsoever, whether known or unknown, whether liability be direct or indirect, liquidated or unliquidated, contingent, foreseen or unforeseen, suspected or unsuspected, and whether or not heretofore asserted, that are related to or arising out of the Dispute, on or before the Effective Date of this Agreement.

5. Release by QCC. For and in consideration of the agreements of Customer as herein stated, QCC, on behalf of itself individually and on behalf of its directors, officers, employees, independent contractors, partners, investors, successors and assigns, does hereby release, acquit, and forever discharge Customer, its predecessors and its successors and assigns and their respective directors, officers, employees, agents, subsidiaries, affiliates, designees and assignees from and against any and all Claims of any kind or character whatsoever, whether known or unknown, whether liability be direct or indirect, liquidated or unliquidated, contingent, foreseen or unforeseen, suspected or unsuspected, and whether or not heretofore asserted, that are related to or arising out of the Dispute, on or before the Effective Date of this Agreement.

6. **“Claim” or “Claims”** shall include, but not be limited to, any and all demands, lawsuits, debts, accounts, covenants, agreements, rights of recovery, liabilities, liens, obligations, losses, costs, expenses, remedies, indemnification responsibilities, and causes of action of any nature, whether in contract or in tort, whether based upon fraud or misrepresentation, breach of duty, or common law, or arising or by virtue of any judicial decision, federal, state or regulatory statute or regulation, for past, present and future harm, property or economic damage, and for all other losses and damages of any kind, including, but not limited to, the following: all actual damages; all exemplary, punitive and statutory damages; all penalties of any kind; damage to business reputation; lost profits or good will; consequential damages; special damages; damages ensuing from loss of credit; costs of mobilization and demobilization, and pre-judgment and post-judgment interest, costs and attorneys' fees; provided, however, that the term **“Claim” or “Claims”** does not include and shall not be construed to include any claim for breach of any warranty or obligation created by or arising under this Agreement.

7. Each Party hereby stipulates, represents and warrants to the other as follows:

7(a) It has the full power and authority to enter into and perform its obligations under this Agreement;

7(b) It has not sold, assigned, transferred, conveyed, hypothecated, encumbered or otherwise disposed of an interest in any of the Claims relating to any subject matter covered by this Agreement and is the sole owner of the Claims, unless otherwise expressly set forth herein;

7(c) Prior to and in connection with the execution of this Agreement, it has been apprised of sufficient relevant data from sources selected by it so as to exercise its judgment intelligently in deciding whether to execute this document and further declares that its decision is not predicated on or influenced by any declarations or representations of the other Party or any other party. This Agreement is executed voluntarily by it with full knowledge of its significance and legal effect;

7(d) It has entered into this Agreement after conferring with legal counsel;

7(e) That after investigation, it agrees that this Agreement is reasonable and supported by good, valid and adequate consideration; and

7(f) that it understands and intends that the other Party will rely upon these representations and warranties in entering into this Agreement.

8. No admission of liability. The Parties acknowledge that this Agreement is the result of a compromise and therefore agree that neither the acceptance of this Agreement nor any act appertaining hereto is in any way an admission of any fault or liability by any Party hereto.

9. Arbitration. Any claim, controversy or dispute between the Parties related to or in connection with this Agreement, including the enforceability, formation or existence of this Agreement, shall be resolved by private and confidential arbitration to be conducted in accordance with the Judicial Arbitration and Mediation Services ("JAMS") Comprehensive Arbitration Rules. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, and not state law, shall govern the arbitrability of the dispute. The costs of the arbitration, including the arbitrator's fees, shall be shared equally by the Parties; provided, however, that each Party shall bear the cost of preparing and presenting its own claims and/or defenses (including its own attorneys' fees). The arbitration will be held in Denver, Colorado. A single arbitrator engaged in the practice of law, who is knowledgeable about the subject matter of the contract, shall conduct the arbitration. The arbitrator has no authority to award any indirect, incidental, special, reliance, exemplary, punitive, or consequential damages, including damages for lost profits. Except for misapplication of law, the arbitrator's decision shall be final, binding, and enforceable in a court of competent jurisdiction. If either Party fails to comply with the dispute resolution process set forth herein (including without limitation, non-payment of an arbitration award) and a Party is required to enforce such compliance in court or elsewhere, then the non-complying Party shall reimburse all of the costs and expenses incurred by the Party seeking such enforcement (including, without limitation, reasonable attorneys' fees and disbursements).

10. No Waiver. The failure of either Party hereto at any time to require performance of any provisions hereof shall in no manner affect the future right to enforce the same. No waiver by any Party hereto of any condition, or the breach of any term, provision, warranty, representation, agreement or covenant contained in this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of the breach of any other term, provision, warranty, representation, agreement or covenant herein contained.

11. Counterparts; Facsimiles. This Agreement may be executed in two or more counterparts and by facsimile, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. It shall not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one of each such counterparts.

12. Governing Law. This Agreement will be governed by, enforced and construed in accordance with the laws of the State of Colorado, without regard to its choice of law principles.

13. Severability. If any provision or part of any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain in full force and effect, and such provision or part of a provision will be deemed to be amended to the minimum extent necessary to render it enforceable.

14. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior offers, contracts, agreements, representations and understandings made to or with Customer by QCC or any predecessors-in-interest, whether oral or written, relating to the subject matter hereof. No Party has relied upon any other communication whatsoever in entering into this Agreement. The Parties hereto expressly disclaim and disavow the existence of any oral agreements or understandings between the Parties with respect to this Agreement. All amendments to this Agreement shall be in writing and signed by the Parties.

15. Confidentiality. The Parties hereto agree that the fact that a compromise, release, and settlement ("compromise") have occurred, the terms of that compromise and the entirety of this Agreement are confidential. Should either Party receive a subpoena or other request of any kind to which either believes the confidential material would be responsive, it shall make reasonable efforts to give the other Party written notice before disclosing this Agreement or the fact of a compromise or any terms set forth herein in order to give the other Party, if it desires, the opportunity to seek to oppose, quash or dismiss such process. Further, in the event of disclosure, the Parties agree to cooperate to use reasonable efforts to obtain a protective order or other protective arrangements to protect the confidentiality of this Agreement if requested by the other Party.

16. Notices. Any notice or approval required or permitted under this Agreement shall be in writing and shall be sent by registered or certified mail, postage prepaid, or by facsimile (so long as duplicate notification is sent via regular U.S. Mail) to the following addresses or to any other address designated by prior written notice:

To QCC:

Qwest Communications Company, LLC  
1801 California Street, 10<sup>th</sup> Floor  
Denver, CO 80202  
Facsimile #: (888) 778-0054  
Attn: QCC Legal Department; Wholesale Services

With copy to:

Qwest Communications Company, LLC  
1801 California Street, 24th Floor  
Denver, Colorado 80202  
Facsimile #: (303) 896-7358  
Attention: Wholesale Markets Contract Administration

To Customer:

Qwest Corporation  
1801 California Street, 6<sup>th</sup> Floor  
Denver CO 80202  
Facsimile #: (303) 295-4701  
Attn : Vice President - Finance

17. Successors and Assigns. All covenants and agreements herein shall bind and inure to the benefit of the respective successors, assigns, representatives, employees, transferees, directors, officers, attorneys, parent companies, subsidiaries, divisions, partners and joint venturers of the Parties hereto.

IN WITNESS THEREOF, each of the Parties has caused this Agreement to be duly executed on its behalf on the date set forth below its signature.

Qwest Corporation

By:

Printed Name: Steven Swain

Title:

Date:

2/17/09

Qwest Communications Company, LLC

By:

Printed Name: Roland Thorator

Title:

Date:

2/17/09