

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

In re Application of

U S WEST, INC. and QWEST
COMMUNICATIONS
INTERNATIONAL INC.

Docket No. UT-991358

For an Order Disclaiming
Jurisdiction or, in the Alternative,
Approving the U S WEST, INC. –
QWEST COMMUNICATIONS
INTERNATIONAL INC. Merger

SETTLEMENT AGREEMENT

U S WEST Communications, Inc. (“USWC”), on behalf of its parent corporation, U S WEST, Inc., Qwest Communications Corporation, LCI International Telecom Corp., USLD Communications, Inc. and Phoenix Network, Inc. (collectively “Qwest”), on behalf of their ultimate parent, Qwest Communications International Inc. (“Qwest Inc.”), and the Staff of the Washington Utilities and Transportation Commission (“Staff”) enter into the following Settlement Agreement (the “Agreement”) as of May 22, 2000.

BACKGROUND

On August 31, 1999, Qwest and USWC filed an Application with the Commission requesting an Order disclaiming jurisdiction or, in the alternative, authorizing the merger of

their parent companies, Qwest Inc. and U S WEST, Inc. (“Merger”) Qwest and USWC included with the Application their prefiled testimony supporting the proposed merger. At a prehearing conference held September 23, 1999, other parties (“Intervenors”) were granted intervention in the proceeding. Pursuant to a notice issued December 22, 1999, the procedural schedule was revised to allow parties to the proceeding to discuss possible settlement. In accordance with that revised procedural schedule, Staff, Public Counsel and Intervenors submitted their prefiled testimony on February 1, 2000 and USWC and Qwest filed rebuttal testimony on February 22, 2000. On March 23, 2000 Commission Staff, Public Counsel, USWC and Qwest, on behalf of their parent corporations, filed a revised (March 21, 2000) partial settlement agreement resolving consumer-related issues in this proceeding.

After the conclusion of the hearings conducted March 13 – 21, 2000, USWC, Qwest, and Staff (the “Parties”) engaged in settlement discussions regarding the competition-related issues in this proceeding. The Parties have reached agreement on these issues and wish to present their agreement for the Commission’s consideration. The Parties therefore adopt the following Agreement. The Parties enter into this Agreement voluntarily to resolve the remaining matters in dispute among them and to expedite the orderly disposition of this proceeding.

AGREEMENT

Now, therefore, the Parties hereby agree as follows:

I. RESOLUTION OF MERGER-RELATED ISSUES IN PENDING PROCEEDING

A. Scope of Agreement. The Parties agree that the terms of this Agreement resolve, as among them, the contested issues in this proceeding regarding competition-related issues. The Parties recognize that Joint Applicants have entered into several other agreements with the various intervenors in this proceeding, in exchange for which the Intervenors agreed to withdraw their opposition to the merger. This Agreement is interim and will be effective upon merger closure, expiring on December 31, 2002 or when permanent wholesale service standards are adopted in the state of Washington, whichever is earlier. The various provisions in this Agreement have specific timelines that apply to each specific provision. The provisions in this Agreement generally apply to services provided to Qwest's and USWC's (hereafter, the Company) wholesale service customers. The term wholesale service customer is used interchangeably with the term competitive local exchange company (CLEC) and is intended to refer to any company that would purchase the services addressed in this Agreement from the Company.

B. Support of Agreement. The Parties shall cooperate in submitting this Agreement promptly to the Commission for acceptance, and shall support adoption of this Agreement to the Commission as resolution of all the remaining issues between the parties. In recognition that all parties to the proceeding who filed testimony or presented conditions with regard to merger conditions have either withdrawn their opposition to and/or now support the Merger, the Parties to this Agreement request that the Commission approve the Merger at its earliest possible opportunity. No Party to this Agreement or its agents, employees, consultants or attorneys will engage in any advocacy contrary to the Commission's adoption of this Agreement as resolution of all the remaining issues between the parties. As set forth in Section VIII. B., following, this Agreement shall not become effective unless and until (1) the Commission enters an Order approving this Agreement, and (2) the closing of the merger transaction between U S WEST, Inc. and Qwest, Inc.

C. AFOR. The Parties agree that this Agreement, on an interim basis, satisfies the requirement for "a proposal for ensuring adequate carrier-to-carrier service quality. . ." contained in Section 3 of RCW 80.36.135, as amended.

D. Settlements With Intervenors. Staff agrees to withdraw its challenge to the confidentiality of those settlement agreements between USWC, Qwest and the intervenors that have been designated as confidential in this matter.

LOOP CONDITIONING PROGRAM.

In order to reduce the number of loops held or delayed for line conditioning purposes, the Company will commit resources and field technicians to a program to address loop conditioning issues in Washington. Specifically, the program will focus on the removal of bridged taps, where no construction or excavation is required, and load coil encumbrances for loops that are 18 kilofeet or below in length. The Company will implement this program in 47 Washington central offices and will complete the project within 9 months after closure of the merger. The order in which central offices will be targeted for this program will be determined based on a prioritization meeting with the CLECs. This program will be implemented at no cost to the CLECs, and will significantly increase the inventory of non-loaded unbundled loops and eliminate conditioning charges for those loops included in the program.

III. INTERIM PROVISIONING STANDARDS FOR INTERCONNECTION FACILITIES, WHERE FACILITIES ARE AVAILABLE

A. Customer Orders Subject To Interval Requirements. The interim provisioning standards addressed in this Section and Section V shall be in effect from January 1, 2001, to December 31, 2002, or until permanent wholesale service standards are adopted in the state of Washington, whichever is earlier. For the purposes of this document, the term “interconnection facility” refers to unbundled loops and/or unbundled dedicated interoffice transport (UDIT). “Customer order” refers to any written or electronically transmitted order for interconnection facilities that is complete and does not contain erroneous information that prevents the Company from timely provisioning facilities. Any customer order submitted by a wholesale customer and received by the Company for interconnection facilities, where facilities are available, shall be subject to the interval requirements in this Section; however, for purposes of the payments under this Agreement, a customer order submitted by a wholesale customer and received by the Company for interconnection facilities will not be subject to these interval standards if:

- 1) the customer order was not provided in forecasts as required under Section VIV; or
- 2) the customer order is for an entire non-loaded or DSL capable unbundled loop and the wholesale customer can offer the specific service it seeks to provide through a line-sharing arrangement with the Company; or
- 3) the customer order seeks unbundled loop capacity to provide DSL either through purchasing an entire loop or purchasing a portion of the spectrum on a loop under a line-sharing arrangement and one of the following conditions applies:
 - a. the loop is longer than 18,000 feet;
 - b. the loop contains digital loop carrier facilities (including pair gain); or the loop needs conditioning and is in a central office scheduled for grooming under the loop conditioning program described in Section II above.

Provisioning Intervals For Interconnection Facilities, Where Facilities Are Available

1. Two and four wire voice grade analog loops. The Company shall provide 2 and 4 wire voice grade analog unbundled loop facilities within the

following time intervals set forth in U S WEST's Resale and Interconnection Service Interval Guide (1/27/00, pages 41-42) after the Company receives a customer's order:

1 to 8 lines	5 business days in high density zones 6 business days in low density zones
9 to 16 lines	6 business days in high density zones 7 business days in low density zones
17 - 24 lines	7 business days in high density zones 8 business days in low density zones
25 or more lines	ICB

2. Two and four wire non-loaded loops. The Company shall provide 2 and 4 wire nonloaded unbundled loop facilities within the following time intervals set forth in U S WEST's Resale and Interconnection Service Interval Guide (1/27/00, page 43) after the Company receives a customer's order:

1 to 8 lines	5 business days in high density zones 8 business days in low density zones
9 to 16 lines	6 business days in high density zones 9 business days in low density zones
17 to 24 lines	7 business days in high density zones 10 business days in low density zones
25 or more lines	ICB

3. Digital capable unbundled loops (e.g. DS1 capable, ISDN capable). The Company shall provide digital capable unbundled loops within the following time intervals set forth in U S WEST's Resale and Interconnection Service Interval Guide (1/27/00, page 44) after the Company receives a customer's order:

1 to 8 lines	5 business days in high density zones 8 business days in low density zones
9 to 16 lines	6 business days in high density zones 9 business days in low density zones
17 to 24 lines	7 business days in high density zones 10 business days in low density zones
25 or more lines	ICB

4. Digital capable unbundled loops (DS3 capable). The Company shall provide digital capable unbundled loop facilities (DS3 capable) within the following time intervals after the Company receives a customer's order:

1 to 3 circuits	7 business days in high density zones 9 business days in low density zones
4 circuits or more	ICB

5. Unbundled dedicated interoffice transport - DSO. The Company shall provide unbundled dedicated interoffice transport at the DSO level within the following time intervals set forth in U S WEST's Resale and Interconnection Service Interval Guide (1/27/00, page 45) after the Company receives a customer's order:

1 to 8 lines	5 business days in high density zones
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	6 business days in low density zones
9 to 16 lines	6 business days in high density zones 7 business days in low density zones
17 to 24 lines	7 business days in high density zones 8 business days in low density zones
25 or more lines	ICB

6. Unbundled dedicated interoffice transport - DS1. The Company shall provision unbundled dedicated interoffice transport at the DS1 level within the following time intervals set forth in U S WEST's Resale and Interconnection Service Interval Guide (1/27/00, page 46) after the Company receives a customer's order:

1 to 8 lines	5 business days in high density zones 8 business days in low density zones
9 to 16 lines	6 business days in high density zones 9 business days in low density zones
17 to 24 lines	7 business days in high density zones 10 business days in low density zones
25 or more lines	ICB

7. Unbundled dedicated interoffice transport -DS3. The Company shall provision unbundled dedicated interoffice transport at the DS3 level within the following time intervals set forth in U S WEST's Resale and Interconnection Service Interval Guide (1/27/00, page 47) after the Company receives a customer's order:

1 to 3 circuits	7 business days in high density zones 9 business days in low density zones
4 circuits or more	ICB
OC3 and higher	ICB

**Provisioning Intervals For Non-loaded or DSL Capable Unbundled Loops,
Where Facilities Are Available.**

1. Available conditioned loops. Entire non-loaded or DSL capable unbundled loops that are available and that do not need conditioning shall be provided as specified above under Section III. B. 2 for two and four wire non-loaded loops.

2. Available unconditioned loops. Entire non-loaded or DSL capable unbundled loops ordered for DSL that are available but that need conditioning shall be provided within 15 business days of the date ordered.

3. Line sharing. The intervals for line-sharing shall be the same as those in the Regional Line Sharing Agreement, dated April 21, 2000.

IV. INTERIM HELD ORDER STANDARDS FOR INTERCONNECTION FACILITIES

A. Customer Orders. The interim held order standards addressed in this Section and Section V shall be in effect from January 1, 2001, to December 31, 2002, or until permanent wholesale service standards are adopted in the state of Washington, whichever is earlier. Any customer order submitted by a wholesale customer and received by the Company for interconnection facilities shall be subject to the held order payment in Section V. However, the Company may petition the Commission to have certain orders exempted from the held order payment schedule in Section V for any interconnection facilities that would be unreasonably expensive to complete. Additionally, for purposes of the payments under Section V, a customer order will not be subject to the payment calculation if:

- 1) the customer order was not provided in a forecast as required under Section

V; or

2) the customer order is for an entire non-loaded or DSL capable unbundled loop and the wholesale customer can offer the specific service it seeks to provide through a line-sharing arrangement with the Company; or

3) the customer order seeks loop capacity exclusively to provide DSL either through purchasing an entire loop or purchasing a portion of the spectrum on a loop under a line-sharing arrangement and one of the following conditions applies:

- a. the loop is longer than 18,000 feet;
- b. the loop contains digital loop carrier (including pair gain); or
- c. the loop needs conditioning and is in a central office scheduled for grooming under the loop conditioning program described in Section II, above.

B. Agreement To Clear Held Orders. The Company shall, by December 31, 2000, clear all of the interconnection facilities held orders, excluding DSL orders for loops longer than 18,000 feet or which contain digital loop carrier facilities, that on April 30, 2000, were pending and had been held due to company reasons for more than sixty (60) days. The Company may petition the Commission by August 1, 2000, to be relieved of its obligation to complete any existing held orders for any interconnection facilities that would be unreasonably expensive to complete.

PAYMENTS.

A. Forecasts.

1. Forecasting required. Any customer order for interconnection facilities, where facilities are available, as described in Section III. A above, shall be included in the payment calculations under Section V. B if the orders have been forecasted annually and updated quarterly in the manner recommended by the Company. Any customer order for interconnection facilities, as described in Section IV. A above, shall be included in the payment calculation under Section V. C if the orders have been forecasted annually and updated quarterly in the manner recommended by the Company. In the case of unbundled loops, a loop order must be contained in reasonable customer forecasts at the distribution area level at least sixty (60) days in advance. UDIT orders must be contained in reasonable customer forecasts at the wire center level (A-Z locations) at least one hundred and twenty (120) days in advance. The Company shall have the burden of proof in challenging orders it believes are not in compliance with the forecasting provisions of this

Agreement.

2. Challenge to payment calculation. On or before the date payments are due under this Section, the Company shall provide a list of customer orders that were excluded for payment purposes because they were not included in forecasts in accordance with the forecasting requirements of this Agreement. The Company will discuss all such exclusions with Commission Staff prior to payment calculations. Any disputes which arise regarding the exclusion of orders from payment calculations will be resolved through an expedited proceeding conducted in accordance with the relevant procedural requirements and timelines established in WAC 480-09-530.

3. Company information. To assist the CLECs in their development of reasonable forecasts, the Company will, at a minimum, make the following current information available to customers at the wire center distribution area level and by product type:

- a) Features in the switch;
 - b) Total number of loops;
 - c) Total number of loops available;
 - d) Total number of loops in service;
 - e) Total number of loops that qualify for ADSL;
 - f) Total number of loops that are non-loaded;
 - g) Total number of loops that have pair gain; and
- Total number of loops with universal digital loop carrier.

This information will be made available to wholesale customers at the following web site: [<http://www.uswest.com/cgi-bin/iconn/iconn.pl>].

4. Customer location information. To assist the CLECs in their development of reasonable forecasts, the Company will, at a minimum, make the following current customer location information available immediately upon request to CLECs at the wire center and by product type:

- a) whether the loop is ADSL qualified;
- b) the circuit ID;
- c) the loop length;
- d) the existence of load coils;

e) the number and total length of bridged taps;

- f) the presence of Digital Loop Carrier (DLC), DAML, pair gain or Universal Digital Carrier, if on the loop;
- g) number of wires; and
- h) insertion loss.

This obligation will begin within 60 days after the merger closing.

5. Notice of requirement. The Company will provide its wholesale customers with notice of this Section’s forecasting requirements within 30 days after the date on which the Commission approves the merger.

6. Confidentiality. The Company agrees to keep forecast data confidential in accordance with its Safe Harbor obligations.

B. Provisioning Interval Payments.

1. Payment amounts. Payments for failure to comply, in the aggregate, with the provisioning intervals set forth in Section III for interconnection facilities are as follows:

<u>Percentage of customer orders provisioned within required intervals or on the date service was requested, whichever is later:</u>	<u>Quarterly payment</u>
87.5% and above	no payment applies
77.5-87.4%	\$1,000,000
67.5-77.4%	\$ 1,500,000
57-67.4%	\$ 2,000,000
below 57%	\$ 2,500,000

2. Calculation. The payments for failure to comply with provisioning intervals shall be calculated as follows: Divide the quarterly aggregate number of interconnection facility orders provided within the required intervals under Section III (or on the delivery date designated by the wholesale customer, whichever is later), by the total number of qualifying interconnection facility orders received during that quarter. The maximum annual amount paid out under this provision shall not exceed

\$10,000,000.

3. Timing of payments. Payments shall be determined and assessed on a quarterly basis. The Company shall pay payment amounts no later than 60 days after the end of the quarter.

4. Not exclusive. Payments payable under this Section are in addition to any other penalties or remedies, including any penalties or remedies payable by the Company under any interconnection agreements.

C. Held Order Payments.

1. Payment amounts. Payments with regard to aggregate held orders for interconnection facilities are as follows:

Percentage of Orders held

More than 30 days for

Company Reasons:

Quarterly Payment

0-5%	no payment applies
6-10%	\$ 1,500,000
11-15%	\$ 2,000,000
15% and above	\$ 2,500,000

2. Calculation. The payments for held orders shall be calculated as follows: the aggregate number of interconnection facility orders held for 30 days or more on the last day of the quarter divided by the total number of qualifying interconnection facility orders during the quarter. The maximum annual amount paid out under this provision shall not exceed \$10,000,000.

3. Timing of payments. Payments shall be determined and assessed on a quarterly basis. The Company shall pay payment amounts no later than 60 days after the end of the quarter.

4. Not exclusive. Payments payable under this Section are in addition to any other penalties or remedies, including any penalties or remedies payable by the Company under any interconnection agreements.

Payments For Provisioning Intervals And Held Orders. Payments for both provisioning intervals and held orders will be made to the Washington State Treasury.

VI. CUSTOMER SPECIFIC REMEDIES

A. Remedies. If a customer order is not completed by the Company within the required intervals under Section III above, the customer shall receive a credit of the nonrecurring charge and also shall receive a credit of one month's recurring charge for each group of 15 consecutive business days beyond the due date under the provisioning intervals set forth in Section III, above. Remedies will apply only with respect to customer orders from CLECs who have provided the Company with forecasts of the CLEC's anticipated needs for interconnection facilities in accordance with the forecasting requirements contained in this Agreement.

B. Not Duplicative. These remedies are not intended to duplicate any remedies available to a CLEC under an interconnection agreement between the CLEC and Company. A CLEC may, at its discretion, choose to receive remedies under this Agreement or its interconnection agreement for any Company failure to comply with provisioning intervals.

VII. REPORTING REQUIREMENTS

The Company shall provide the following wholesale service quality information to the Commission and Commission Staff. Data provided will be segregated by individual CLEC, but will include aggregate CLEC performance as well. Monthly data will be reported on a quarterly basis. The data shall include:

A. The total number of interconnection facility orders for each category identified under Section III above. The report will include a breakdown of the total number of orders placed by all CLECs, and the total number of orders placed by CLECs providing a forecast in accordance with Sections III, IV, and V, above.

B. The Company shall report the percentage of interconnection facility orders provisioned within the timeframes identified in Section III above. The report will provide a breakdown of percentages for all customer orders, as well as those CLECs providing a forecast in accordance with Sections III, IV, and V, above.

C. The number of unbundled loop orders, where facilities are available, requiring conditioning, and the number conditioned within 15 business days following the date of the order.

D. The number of unbundled loop and UDIT orders held for company reasons, where facilities are available, by the following categories:

- 0-30 days from the date of the order;
- 31-60 days from the date of the order;
- 61-90 days from the date of the order;
- over 90 days from the date of the order

E. The number of unbundled loops and UDIT orders held more than 30 days as a percentage of total unbundled loop and UDIT orders. The report will provide a breakdown of percentages for all CLEC orders, as well as for those CLECs providing a forecast in accordance with Sections III, IV, and V, above.

F. The number of CLECs receiving a credit of the nonrecurring charge, and the amount of those credits. The number of customers receiving a credit of the recurring charge, and the amount of those credits.

VIII. GENERAL PROVISIONS.

A. Settlement Discussions. The Parties agree that this Agreement represents a resolution among them of the matters in this proceeding included within this Agreement. As such, all discussions, evidence or conduct relating to this Agreement are privileged and confidential.

B. Effective Date of Agreement. This Agreement shall not become effective unless and until (1) the Commission enters an Order approving this Agreement, and (2) the closing of the merger transaction between U S WEST, Inc. and Qwest, Inc. In the event the Commission rejects all or any portion of this Agreement as resolving the issues included within this Agreement, or imposes additional conditions with respect to such issues, each Party reserves the right to withdraw from this Agreement. In such case, no Party to this Agreement shall be bound or prejudiced by the terms of this Agreement, and each Party shall be entitled to seek reconsideration of the Commission Order. If this Agreement does not become effective according to its terms, it shall be null and void.

C. No Precedent. Except to the extent expressly stated in this Agreement,

nothing in this Agreement shall be (1) cited or construed as precedent or as indicative of the Parties' positions on a resolved issue, or (2) asserted or deemed to mean that a Party agreed with or adopted another Party's legal or factual assertions in this or any other proceeding, including those before the Commission, the state courts of Washington or of any other state, the federal courts of the United States of America, or the Federal Communications Commission. The limitation in this Section shall not apply to any proceeding to enforce the terms of this Agreement or any Commission order adopting this Agreement.

D. Entire Agreement. The Parties acknowledge that this Agreement is the product of negotiations and compromise and shall not be construed against any Party on the basis that it was the drafter of any or all portions of this Agreement. This Agreement constitutes the Parties' entire agreement on all competition-related matters set forth herein, and it supersedes any and all prior oral and written understandings or agreements on such matters that previously existed or occurred in this proceeding, and no such prior understanding or agreement or related representations shall be relied upon by the Parties. By entering into the Agreement, the Parties intend that the Commission exercise only that authority contained in the public service laws.

E. Force Majeure. The following provisions apply in conjunction with any Force Majeure requirements already contained in interconnection agreements and the Service Interval Guide for Resale and Interconnection Services dated January 27, 2000. The Company shall not be liable for payments for failing to meet the provisioning intervals and held order standards in this Agreement if an order is not timely provisioned or is held due to: (1) delays caused by a vendor in the delivery of equipment, where the Company has made a timely order of equipment; (2) delays caused by delays of a local government unit in granting approval for obtaining easements or access to rights-of-way, where the Company has made a timely application for any permit(s); (3) delays caused by the customer's construction project or the customer's lack of facilities or; (4) other delays outside the control of the Company, including, but not limited to, acts of God, explosions or fires, floods, tornadoes, epidemics, injunction, war, strike, or negligent or willful misconduct by customers or third parties. In cases in which one of the above exceptions applies, the period of delay shall be added to the time for which the Company is not subject to payments.

F. Execution in Counterparts. This Agreement may be executed by the Parties

in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are as effective as original documents.

G. Necessary Actions. Each Party shall take all actions necessary and appropriate to enable it to carry out this Agreement.

DATED this ____day of May, 2000.

**QWEST COMMUNICATIONS
CORPORATION
LCI INTERNATIONAL TELECOM
CORP.
USLD COMMUNICATIONS, INC.
PHOENIX NETWORK, INC.**

**QWEST COMMUNICATIONS
INTERNATIONAL INC.**

By: _____
R. Steven Davis
Senior Vice President of Government
Affairs and Senior Associate
General Counsel

By: _____
R. Steven Davis
Senior Vice President of Government
Affairs and Senior Associate
General Counsel

