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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of
QWEST CORPORATION
Regarding the Sale and Transfer of Qwest Dex to
Dex Holdings, LLC, a non-affiliate

Docket No. UT-021120

STIPULATION AND SETTLEMENT
AGREEMENT

I. INTRODUCTION

The following parties (“Parties”) enter into the this Settlement Agreement (the “Agreement”) as of May 16, 2003: Qwest Corporation (“QC”), on behalf of its affiliates, Qwest Dex, Inc. (“Dex”) and Qwest Services Corporation (“QSC”), and its ultimate parent, Qwest Communications International Inc. (“QCI”) (collectively, “Qwest”); Dex Holdings LLC (“Dex Holdings”); the Public Counsel Section of the Attorney General of Washington (“Public Counsel”); WeBTEC; AARP; and, the Department of Defense on behalf of the consumer interest of the Department of Defense and all other Federal Executive Agencies (“DOD”) (WeBTEC, AARP and DOD are also collectively referred to as “Intervenors”). The Parties agree this Agreement is in the public interest. The Parties understand this Agreement is subject to Commission approval.

II. BACKGROUND

On August 19, 2002, QCI, together with QSC and Dex, entered into two agreements to sell

1 Dex's directory publishing business to Dex Holdings, an unaffiliated third party. The Rodney Purchase
2 Agreement, the purchase agreement covering the proposed sale of Dex's Washington assets and
3 operations, is more fully described in Qwest's Application in this matter. On August 30, 2002 Qwest
4 filed an Application with the Washington Utilities and Transportation Commission ("Commission")
5 requesting an Order disclaiming jurisdiction or, in the alternative, approving the transfer and sale of the
6 yellow pages publishing business.

7 At a prehearing conference held October 8, 2002, the Intervenors were granted intervention in
8 the proceeding. Pursuant to a notice issued October 11, 2002, the procedural schedule was structured
9 to allow parties to the proceeding to discuss possible settlement. In accordance with that procedural
10 schedule, Qwest and Dex Holdings filed direct testimony on January 17, 2003, Commission Staff
11 ("Staff"), Public Counsel, and Intervenors submitted their prefiled testimonies on March 18, 2003 and
12 Qwest and Dex Holdings filed rebuttal on April 17, 2003.

13 Both before and after the filing of testimony by the participants in this proceeding and both before
14 and after discovery thereon, the parties to this proceeding, including Staff, engaged in settlement
15 discussions regarding the contested issues in this proceeding.¹ The Parties identified in Section I. above
16 have now reached agreement on all of the issues presented in this proceeding, including the Commission's
17 jurisdiction to approve this Agreement, and wish to present their agreement on these issues for the
18 Commission's consideration. The Parties to the settlement therefore adopt the following Agreement. The
19 Parties enter into this Agreement voluntarily to resolve the matters in dispute among them and to expedite
20 the orderly disposition of this proceeding.

21 **III. AGREEMENT**

22 Now, therefore, the Parties hereby agree as follows:

23 **A. SCOPE OF AGREEMENT.**

24 The Parties agree that the terms of this Agreement resolve, as among them, the contested issues in

25 ¹ XO Washington, Inc. ("XO") was also granted leave to participate in this proceeding as an Intervenor. XO was
26 invited to participate in the settlement discussions, but chose not to.

1 this proceeding including, without limitation, issues regarding any and all necessary conditions to the
2 approval of the sale of the directory publishing business as set forth in Qwest's August 30, 2002
3 Application. If approved, this Agreement would constitute a full settlement of all issues raised in Docket
4 No. UT-021120. The Parties stipulate to the Commission's jurisdiction to approve this Agreement. This
5 Agreement is presented for the Commission's approval under WAC 480-09-465 (Alternative Dispute
6 Resolution) and WAC 480-120-466 (Settlement conference; settlements). The Parties request that the
7 Commission approve this Agreement in a time frame that would allow Qwest to finalize the Rodney
8 transaction as soon as practicable.

9 **B. SALE IS IN THE PUBLIC INTEREST**

10 By this Agreement the Parties agree that the sale to Dex Holdings of the Washington assets and
11 operations of Dex, in accordance with the terms of the Rodney Purchase Agreement pertaining to
12 Washington (the "Sale") and as conditioned by the terms and conditions of this Agreement, is in the
13 public interest and should be approved by the Commission.

14 **C. SPECIFIC TERMS AND CONDITIONS REGARDING THE SALE**

15 **1. Bill Credit.** During a complete billing cycle commencing not later than forty-five (45)
16 days following the closing of the Sale (the "Billing Cycle"), Qwest shall provide bill credits totaling
17 SIXTY-SEVEN MILLION AND NO/100 DOLLARS (\$67,000,000.00) to active customers of record
18 during the Billing Cycle who currently subscribe to the **services identified in Appendix 1**, attached
19 hereto and incorporated herein (collectively "Bill Credit"). The Bill Credit will not be issued to inactive,
20 closed, or final billed accounts. The Bill Credit shall be in the **approximate amount identified in**
21 **Appendix 1.**

22 Not later than fifteen (15) days prior to the start of the Billing Cycle, Qwest shall submit to the
23 Commission and the Parties its best estimate of the amount of the actual bill credit that will be provided,
24 consistent with the principles of Appendix 1, during the Billing Cycle. The intention of the Parties in
25 entering into this Agreement is that Qwest will provide Bill Credits in an aggregate amount of SIXTY-
26 SEVEN MILLION AND NO/100 DOLLARS (\$67,000,000.00) within seventy five (75) days after

1 closing of the Sale.

2 The Bill Credit shall be provided to the **customers identified in Appendix 1** in its entirety in the
3 single Billing Cycle. The Parties recognize that there may be some discrepancy between the amount
4 distributed to customers as a Bill Credit and the \$67 million commitment. Within a reasonable time
5 subsequent to completion of the application of Bill Credits to customers' bills, but not longer than sixty
6 (60) days, Qwest will render an accounting and reconciliation report to the Commission and all parties of
7 the number and amount of credits applied during the billing cycle with a reconciliation of total Bill Credits
8 to the \$67,000,000 target. This report will outline the amount of credits applied to customer accounts,
9 the amount of credits that have been "worked off" customer accounts, as well as any amount provided to
10 customers as a remittance consistent with Commission rules. Within sixty (60) days thereafter the Parties
11 shall present to the Commission their joint or separate recommendations for the distribution of any Bill
12 Credit residuary from the \$67,000,000.00.

13 The Bill Credit shall be applied equally to all qualifying customers **on a per access**
14 **line/activated channel basis as set forth in Appendix 1**. Customers whose monthly bill during the
15 billing cycle is less than the amount of the Bill Credit shall have the remaining amount, if any, carry forward
16 and be applied to their next month's bill. Customers with delinquencies will have their Bill Credit applied
17 to the account charges consistent with Commission rules, whereby any amounts credited are first applied
18 toward basic local exchange service charges for the Bill Credit Billing Cycle .

19 The foregoing notwithstanding, Qwest shall provide the Credits only in the event that this
20 Agreement becomes effective as set forth in section D.2. below. In the event any miscalculation, omission
21 or other error occurs in granting to customers the Credits, Qwest shall correct such miscalculation,
22 omission or error, in consultation with the Commission and the Parties, but otherwise shall have no liability
23 of any kind whatsoever in excess of the \$67 million and the other provisions of this Agreement. The
24 Parties agree that the Bill Credit shall not be recoverable from ratepayers in this or any other proceeding.
25 The Commission shall retain jurisdiction over implementation of the Bill Credit, including the authority to
26 decide later if an audit is necessary.

1 **2. Annual Revenue Credit.** In the event of one or more future rate cases, earnings
2 investigations, or other proceeding that includes a review of Qwest's earnings, and for purposes of
3 reporting intrastate financial results to the Commission for these or any other purposes, there will be an
4 annual revenue credit for a period of 15 years, after which the credit shall end. This credit shall be
5 recognized by the Commission in any proceeding before it where Qwest's earnings or revenues are under
6 examination during the 15 year period. A revenue credit of \$110 million shall be added to Qwest's
7 Washington intrastate regulated revenues beginning on January 1, 2004 and ending on December 31,
8 2007, and an annual revenue credit of \$103.4 million (in replacement of the \$110 million) shall be added
9 to Qwest's Washington intrastate regulated revenues beginning on January 1, 2008 and ending on
10 December 31, 2018. The Parties agree that they will not initiate any request to change the annual revenue
11 credit and will oppose any change. Nor will the Parties argue that the annual revenue credit is
12 inapplicable in any current or future review of Qwest's earnings or revenues, including but not limited to
13 general rate cases, alternative forms of regulation proceedings, and competitive classification proceedings.

14 The Parties intend and agree that the practice of imputing directory revenues to Qwest in rate
15 cases or other rate proceedings shall cease on December 31, 2003 and that the annual revenue credit
16 amounts described herein shall be instituted in place of any future directory revenue imputation
17 calculations, except that no party waives the right to take any position with regard to imputation in the
18 event that Qwest acquires a new directory publishing operation. In the event a rate proceeding is filed in
19 2004 the Parties agree that they will jointly consider and recommend in all advocacy before the
20 Commission the Annual Revenue Credit to constitute a known and measurable change that shall be
21 applied by the Commission in determining Qwest's earnings, revenue requirement, and customer rates.
22 Also, in the event a rate proceeding is filed in 2019, the Parties agree that the annual revenue credit will
23 no longer be applied. The Parties agree that the Annual Revenue Credit shall not be recoverable from
24 ratepayers in this or any other proceeding.

25 **3. Customer Service Guarantee Program.** As of June 30, 2003, Qwest has the right
26 under the Merger Settlement Agreement in Docket No. UT-991358 to file tariff revisions to remove any

1 customer-specific service quality remedy required in Sections II.A.3-7 of that Settlement Agreement, if
2 that remedy is not required of all local exchange companies operating in exchanges in which QC operates.
3 Those remedies are currently contained in QC's Washington intrastate tariff. WN U-40, Section 2.2.2.B,
4 sheets 27 through 32. Qwest commits not to petition to remove those remedies for a period of two (2)
5 additional years. The Parties agree, however, that QC may seek to change certain aspects of the
6 Customer Service Guarantee Program during this period, and Qwest commits to discuss with the Parties
7 no less than thirty (30) days in advance any changes it may seek to make and will consult with interested
8 Parties prior to filing. This Agreement does not address the Qwest Service Quality Performance Program.

9 **4. WTAP Program.** In order to improve customer access to the Washington
10 Telecommunications Assistance Program (WTAP) and associated benefits from the federal Lifeline and
11 Link-Up programs, and the Tribal Lifeline/Link-Up (hereafter collectively referred to as 'Telephone
12 Assistance Programs' or TAP), Qwest commits that within two months after the effective date of the
13 Agreement, all Qwest service representatives answering calls from Washington customers will be
14 knowledgeable about TAP benefits, enrollment procedures and payment plans provided by the company
15 consistent with Commission rules. Qwest commits to taking specific steps to ensure that its service
16 representatives can accurately provide interested customers with the necessary information regarding
17 these programs and related payment options (including specific training on WAC 480-120-174 (which
18 takes effect July 1, 2003)), subscribe customers to their service option, and properly apply all relevant
19 credits, payment plans, and benefits. Within four months of the effective date of the Agreement, Qwest,
20 in consultation with the Parties and interested stakeholders, will develop an action plan and specific steps
21 associated with it to improve customer awareness of these programs and to deal promptly with any issues
22 that may arise regarding the effective operation of TAP and the provision of payment plans. This action
23 plan may include but is not limited to training sessions for Qwest service representatives or the
24 establishment of a dedicated service group to handle TAP enrollment and related calls. As part of the
25 action plan, Qwest commits to work collaboratively with DSHS, Public Counsel, and other stakeholders
26 to develop TAP customer information packages, including the copying and furnishing of such materials to

1 DSHS and other interested stakeholders for distribution to customers.

2 **5. Rate Stability Contract Amendments.** Qwest and WeBTEC will attempt to enter into
3 a Memorandum of Understanding (MOU) on specific rate stability provisions. Qwest and DOD will
4 attempt to enter into an agreement on specific rate stability provisions. These will be filed with the
5 Commission as soon as executed.

6 **6. Government Listings.** Dex Holdings, has represented to DOD that its present intent is
7 to continue to publish the Government Listings directory section as it currently does. Based upon that
8 representation, DOD does not advocate in this proceeding that the Commission make any regulatory
9 requirement changes addressing Government Listings.

10 **D. GENERAL PROVISIONS**

11 **1. Settlement Discussions.** The Parties agree that this Agreement represents a
12 compromise in the positions of the Parties and represents a fair and reasonable resolution between them
13 of the matters in this proceeding. As such, all discussions, documents, other evidence or conduct
14 disclosed in the negotiation of the Agreement and relating to this Agreement are privileged, confidential,
15 and inadmissible in this or any other proceeding. This provision does not apply to pre-filed testimony or
16 testimony/memoranda developed for submission to the Commission in support of the Agreement.

17 **2. Effective Date of Agreement.** This Agreement shall become effective only upon
18 (1) the Commission entering an Order approving this Agreement and the Sale transaction in accordance
19 with Section III.B. above, and (2) the closing of the Sale. If this Agreement does not become effective
20 according to its terms, it shall be null and void and no party shall be bound or prejudiced by the terms of
21 the Agreement. The effective date of the Agreement shall be the date of closing of the Sale which shall
22 not be unduly delayed by any Party. This does not preclude any Party's good faith participation in other
23 state proceedings regarding Qwest's sale of the Dex directory publishing business to Dex Holdings, LLC.
24 All Parties recognize that closing of the sale is contingent upon the fulfillment or waiver of the conditions
25 set forth in the Rodney Purchase Agreement.

26 **3. No Precedent.** The Parties enter into this Agreement to avoid further expense,

1 uncertainty, and delay. Except to the extent expressly stated in this Agreement, nothing in this Agreement,
2 Appendix 1, or the MOU under section C.5 shall be (1) cited or construed as precedent or as indicative
3 of the Parties' positions on a resolved issue, or (2) asserted or deemed in any other proceeding, including
4 those before the Commission, the commission of any other state, the state courts of Washington or of any
5 other state, the federal courts of the United States of America, or the Federal Communications
6 Commission to mean that a Party agreed with or adopted another Party's legal or factual assertions. The
7 limitation in this Section D.3. shall not apply to any proceeding to enforce the terms of this Agreement,
8 Appendix 1, the MOU under section C.5, any implementing agreements, or any Commission order
9 adopting this Agreement.

10 **4. Entire Agreement.** The Parties acknowledge that this Agreement is the product of
11 negotiations and compromise and shall not be construed against any Party on the basis that it was or was
12 not the drafter of any or all portions of this Agreement. This Agreement, Appendix 1, and the MOU
13 under section C.5 constitute the Parties' entire agreement on all matters set forth herein, and they
14 supersede any and all prior oral and written understandings or agreements on such matters that previously
15 existed or occurred in this proceeding, and no such prior understanding or agreement or related
16 representations shall be relied upon by the Parties. Accordingly, the Parties recommend that the
17 Commission adopt this Agreement and related documents in their entirety.

18 **5. Full Satisfaction of All Claims.** Except as specifically provided in this Agreement, no
19 Party shall advocate or otherwise argue in this docket, or in any future matter or docket, that customers
20 of Qwest are entitled to any other compensation or any other benefit arising out of or connected in
21 anyway with the directory publishing operations of Dex or the Sale. The Parties agree that the Bill Credit,
22 annual revenue credits, and other benefits as provided in this Agreement constitute complete satisfaction
23 of any and all interest of Qwest's customers in the directory publishing assets and operations of Qwest or
24 Dex as recognized in *U S WEST Communications, Inc. v. Washington Utilities and Transportation*
25 *Commission*, 134 Wn.2d 74 (1997). Nothing contained in this Agreement is intended to, or shall, require
26 any change to Commission rules and regulations regarding the provision of a listing and a directory of

1 listings to customers of Qwest.

2 **6. Execution in Counterparts.** This Agreement may be executed by the Parties in several
3 counterparts and as executed shall constitute one agreement. Copies sent by facsimile are as effective as
4 original documents.

5 **7. Necessary Actions.** Each Party shall take all actions necessary and appropriate to
6 enable it to carry out this Agreement.

7 **8. Successors.** This Agreement applies to, inures to the benefit of, and is binding upon the
8 Parties and their successors.

9 **9. Procedure.** The Agreement shall be filed with the Commission at 4:00 P.M., May 16,
10 2003. All Parties shall cooperate in submitting this Agreement promptly to the Commission for
11 acceptance, so that it may be implemented as soon as practicable. The Parties shall request one or more
12 hearing dates during the week of May 19, 2003 to present the Agreement and shall cooperate, in good
13 faith, in the development of such other information as may be necessary to support and explain the basis
14 of the Agreement and to supplement the record accordingly. Any Party may elect to file with the
15 Commission a memorandum explaining the Agreement or additional testimony. The Parties agree among
16 themselves to suspend all existing due dates in this docket including evidentiary hearings, and the briefing
17 date, and to jointly request that the Commission so order. This agreement among the Parties with regard
18 to the due dates and hearings does not affect the evidentiary hearings scheduled for the week of May 19,
19 2003 for purposes of presentation of other parties' evidence and cross-examination, and Qwest's and
20 Dex Holdings' evidence and cross-examination with regard to the non-settling parties.

21 **10. Support of Agreement.** The Parties shall cooperate in submitting this Agreement
22 promptly to the Commission for acceptance, and shall support adoption of this Agreement in proceedings
23 before the Commission, through testimony and/or briefing as resolution of the issues in this proceeding.
24 No Party to this Agreement or its principals, consultants or attorneys will engage in any advocacy or
25 public relations contrary to the Commission's adoption of this Agreement as resolution of the issues in this
26 proceeding. Each Party shall make available one or more witnesses in support of this Agreement if a

1 hearing is determined necessary by the Commission. Each party may seek the admission of its pre-filed
2 testimony in addition to testimony in support of the Agreement. Each Party shall not oppose any
3 Commission order which adopts this Agreement in its entirety through the appellate process, if any, until
4 final. In the event the Commission rejects all or any material portion of this Agreement, or adds
5 additional, material conditions, each Party reserves the right, upon written notice to the Commission and
6 all Parties to this proceeding within seven (7) days of the date of the Commission's order, to withdraw
7 from this Agreement. If any Party exercises its right of withdrawal, this Agreement shall be void and of no
8 effect, and all Parties shall support a joint request for a prompt Prehearing Conference and the
9 reestablishment of those dates specifically suspended by the Commission pursuant to the above request.

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14 **11. Public Information.** The Parties will submit for mutual review by all other Parties any
15 written statement to be issued to the news media regarding this Agreement or any elements of this
16 Agreement at least two hours prior to issuance.

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CHRISTINE O. GREGOIRE
ATTORNEY GENERAL OF WASHINGTON

QWEST COMMUNICATIONS
INTERNATIONAL INC. and
QWEST CORPORATION

By: _____

Philip Roselli, Corporate Counsel

By: _____

Robert W. Cromwell, Jr.
Assistant Attorney General
Public Counsel
WSBA # 24142

By: _____

Lisa A. Anderl
Associate General Counsel
WSBA# 13236

Dex Holdings, LLC

AARP

By: _____

Brooks E. Harlow, Miller Nash
WSBA # 11843

By: _____

Ronald L. Roseman
WSBA # 15396

WeBTEC

Department of Defense and all other Federal
Executive Agencies

By: _____

Arthur Butler, Ater Wynne LLP
WSBA # 04678

By: _____

Stephen S. Melnikoff
General Attorney
U.S. Army Legal Services Agency

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APPENDIX 1

CALCULATION OF ONE-TIME DISTRIBUTION OF CREDIT

May 16, 2003

1. The Credit amount of sixty-seven million and no/100 dollars (\$67,000,000.00) is to be distributed on a Residential and Business Access Line, activated channel basis. To illustrate this methodology, the number of residential access lines as of March 1, 2003 is 1,589,036. The number of business and miscellaneous access lines and activated channels is 654,376. These access line/channel counts include customers subscribing to the following services:

Table 1 Access Line/Channel Services

RES FLAT LINE	BUS FLAT - 1FB	STANDBY LINE
RES FLAT-PRIM	BUS MEAS LINE	SVDS
RES MEAS LINE	CENTREX	SWITCHNET 56
		MISC - UNKNOWN -
RES MULTIPARTY LINE	CENTREX 21	PROVISIONING
DSS ADVANCED	CENTREX PLUS-BLKD	FEATURE GROUP A
DSS FLAT	CENTREX PRIME	HOME BUS LINE
MULTIPARTY-BUS	CENTRON	UAS CIRCUIT
ISDN BASIC RATE	CNTRX PLS-NONBLKD	FLAT-CONTRACTED
ISDN CENTRON	PBX DID FLAT TRK	
ISDN-PR-TRK-CONNECTION	PBX FLAT TRUNK	

2. The total amount of Credits is to be divided equally among the access lines/channels of all Residential and all Business and other access line customers who subscribe to the services outlined in Table 1. This distribution will result in an approximate credit amount of twenty-nine and 87/100 dollars (\$29.87) per each Residential and Business/Other Access Line/Channel, subject to adjustment to latest actual data at the time of the credits:

Table 2 Credit Per Access line/Channel Calculation

	<u>Number of Access</u>		<u>Credit Per Access</u>
	<u>lines/Channels</u>	<u>Total Bill Credits</u>	<u>line/Channel</u>
Residential	1,589,036		
<u>Business</u>	<u>654,376</u>		
Total Access			
lines/Channels	<u><u>2,243,412</u></u>	\$67,000,000	\$29.87

PLEASE NOTE – The above calculation of the individual end-user bill credit is only an estimation and the best available to the Parties at this time. The methodology and service categories are as agreed to between the parties.