

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE PROPOSED)
SETTLEMENT OF CERTAIN ISSUES)
PERTAINING TO QWEST CORPORATION'S)
NEW MEXICO TELECOMMUNICATIONS)
INVESTMENT REQUIREMENT UNDER)
ITS AMENDED ALTERNATIVE FORM OF)
REGULATION PLAN,)**

Case No. 06-00325-UT

**NEW MEXICO ATTORNEY GENERAL,)
NEW MEXICO GENERAL SERVICES)
DEPARTMENT, and QWEST CORPORATION,)**

Applicants.)

**IN THE MATTER OF THE)
IMPLEMENTATION AND ENFORCEMENT)
OF QWEST CORPORATION'S AMENDED)
ALTERNATIVE FORM OF REGULATION)
PLAN)**

Case No. 05-00094-UT

**ORDER FOR CONTINGENT APPROVAL OF
AMENDED SETTLEMENT AGREEMENT**

THIS MATTER comes before the New Mexico Public Regulation Commission ("Commission") upon the Joint Motion for Approval of Amended Settlement Agreement ("ASA") filed by Qwest Corporation ("Qwest"), the New Mexico General Services Department ("GSD"), the Attorney General of New Mexico ("AG"), and Commission's Utility Division Staff (collectively, "the Stipulating Parties") on December 15, 2006. Having considered all of the evidence in this matter, including testimony at Public Hearing, as well as the pleadings in this case and the arguments of counsel, and the proposed ASA and being otherwise fully informed and advised, **THE COMMISSION**

FINDS AND CONCLUDES:

I. SUMMARY STATEMENT OF THE CASE

1. The Commission has general jurisdiction over the substance of these matters, pursuant to N.M. CONSTN., art. XI, § 2, the New Mexico Telecommunications Act, NMSA 1978, § 63-1-1, *et seq.* and other applicable law.

2. On August 10, 2006, the Commission issued a *Notice and Procedural Order* in earlier, related cases, Case Nos. 04-00237 –UT and 05-00094-UT. In the Notice and Procedural Order, the Commission found that it would be prudent and consistent with applicable law and judicial economy for the Commission to allow the parties in Case Nos. 04-00237-UT and 05-00094-UT, and other interested persons, to provide input as to whether and how the Commission should proceed with regard to a July 28, 2006 *Joint Submission and Request for Expedited Approval of Stipulated Settlement Agreement* (“*Joint Submission*”) filed by Qwest Corporation (“Qwest”), the New Mexico General Services Department (“GSD”), and the Attorney General of New Mexico (“AG”) (collectively, “the Original Proponents”) which they claimed would resolve the matters at issue in Case Nos. 04-00237-UT and 05-00094-UT.

3. Also in the August 10, 2006 Notice and Procedural Order, the Commission opened this docket “in order to address the Joint Submission in a manner that will not impair the Commission’s ability to act in the other related dockets” (Order ¶ 8) and set a Prehearing Conference for August 15, 2006.

4. On August 17, 2006, the Commission issued its *Second Procedural Order* in which it stayed further proceedings in this case until such time as jurisdiction would properly be returned to the Commission, either through Qwest's withdrawal of its pending motion for rehearing in its appeal of Case No. 04-00237-UT (New Mexico Supreme Court Case No. 29,228), or through the Supreme Court's final disposition of that appeal.

5. In its *Fourth Procedural Order*, issued September 14, 2006, the Commission set a public hearing to begin on November 8, 2006 and established a briefing schedule subject to the contingency that if the New Mexico Supreme Court, in NMSC No. 29,288 did not return the mandate to the Commission on or before November 1, 2006, the public hearing would be vacated automatically.

6. On September 19, 2006, the Supreme Court confirmed its June 29, 2006 decision on the merits of the appeal and denied Qwest's Motion for Rehearing, and returned the mandate to the Commission. *Qwest Corporation v. New Mexico Public Regulation Commission*, 2006-NMSC-042. On September 21, 2006, the New Mexico Supreme Court remanded the case to the Commission.

7. On November 8, 9, and 10, 2006, the Commission held a public hearing in this matter on the merits of the original Joint Submission filed by the Original Proponents on July 28, 2006. The Commission received public comment at the commencement of each day's hearing.

8. On December 15, 2006, Qwest, GSD, the AG, and Staff (collectively, the "Stipulating Parties") filed their *Joint Motion for Approval of Amended Settlement Agreement ("Joint Motion")*, together with their *Amended Settlement Agreement*, the Appendices thereto, and testimony in support. The Stipulating Parties were, or are,

parties in other related Commission proceedings, including Case Nos. 04-00237-UT and 05-00094-UT. In their Joint Motion, the Stipulating Parties state that, pursuant to 17.1.2.23 NMAC, they join in the Amended Settlement Agreement, by which they propose a full and complete settlement and resolution of the dockets, cases and certain related litigation as identified therein. In their Joint Motion, the Stipulating Parties request that this Commission adopt and approve their Amended Settlement Agreement “as a final, complete, fair, just, reasonable, and lawful disposition and resolution of the Settlement Cases,” and they request that the Commission hold, at its earliest convenience, any necessary proceedings for consideration of the ASA. The ASA is attached as Exhibit 1 to this order and incorporated herein.

9. On December 18, 2006, Intervenor New Mexico Internet Professionals Association (“NMIPA”) filed a pleading in opposition to the Amended Settlement Agreement, styled *NMIPA Statement in Opposition to Proposed Qwest AFOR I Amended Settlement Agreement and Request for Hearing and Oral Testimony and Argument and Waiver of Counsel Requirement*.

10. The Amended Settlement Agreement is contested within the meaning of 17.1.2.23.B.3 NMAC.

11. On December 22, 2006, the Commission issued its *Notice of Public Hearing*, setting a public hearing in this matter for December 27, 2006.

12. Also on December 22, 2006, the Commission issued its *Order Granting Limited Waiver*, granting to NMIPA a limited waiver permitting the appearance of NMIPA representatives at the public hearing without counsel.

13. The Commission held a public hearing in this matter on December 27, 2006. It received public comment at the commencement of the hearing and thereafter took testimony from various witnesses and received various documents, including the proposed Amended Settlement Agreement, as evidence.

II. SUMMARY DISCUSSION AND CONCLUSIONS

14. The Commission finds much to commend in the proposed Amended Settlement Agreement, and expresses its appreciation to the Stipulating Parties for bringing this matter forward with a constructive alternative remedy for Qwest's AFOR I investment shortfall. Having considered the record in this case, the Commission finds that the Amended Settlement Agreement provides benefits above and beyond the original stipulation filed by Qwest, GSD, and the Attorney General in July 2006.

15. The Commission finds that investment plan proposed in the ASA will provide significant benefits to Qwest customers and to the general public in New Mexico, and will address a number of outstanding needs. The Commission further finds that amount of money directed towards the investment plan is reasonably proportional to Qwest's unmet investment obligations during AFOR I, under the totality of all the circumstances, and that the enforcement mechanisms proposed in the ASA provide sufficient assurances of compliance with the requirement of the investment plan. However, the Commission continues to have certain concerns with several features of the Stipulation and therefore finds that the ASA should only be approved contingent upon the parties agreeing to certain changes that are discussed herein.

16. **Customer Credits.**

a. On November 29, 2006 the Commission issued its *Final Order on Customer Credits Relating to Quality of Service Violations in Periods 1, 3, 4* in Case 05-00094-UT. The Commission found that Qwest had failed to meet the AFOR I standard for Out of Service Reports Repaired Within 24 Hours during Period 4, among other standards, and, Ordered the Company to issue \$3.6 million in Customer Credits during the month of February 2007.¹ The record in Case 05-00094-UT establishes that Qwest also failed to meet the standard for Out of Service Reports Repaired Within 24 Hours during Period 5 of the AFOR, and according to explicit provisions in AFOR I, the company is to suffer a \$1 per month reduction in the 1FR (basic residential local exchange service) rate for *at least* two years in the event that it misses the same Quality of Service standard for two consecutive periods.² The monetary value of the two years' reduction in 1FR rates is approximately \$13.0 million and the customer credits for Period 5 violations could be as much as \$2.8 million.³ Thus, following the agreed to Quality of Service Customer Credit provisions of AFOR I, the company would be liable for between \$17 million and \$20 million worth of customer credits and rate reductions.

b. The stipulation, as proposed, settles all outstanding issues in cases 04-00237-UT (the "Investigation Docket") and 05-0094-UT ("Enforcement Docket"), including the matters of Quality of Service Customer Credits and rate reductions. Acceptance of the Amended Settlement Agreement would require vacating the Commission's November 29, 2006 Order, canceling the credits scheduled for February

¹ The amount of the credits and the distribution mechanism were pursuant to self-executing customer credit provisions in the AFOR I Order.

² Qwest claims a *force majeure* defense to its Period 5 violation, but even if the defense was accepted (and the Commission rejected the same defense for Period 4), it would not put Qwest in full compliance with the standard.

³ Direct Testimony of Susan Oberlander, October 26, 2006 at 16.

2007, and would also eliminate the possibility of Period 5 customer credits and IFR rate reductions. Instead, the Stipulating Parties propose \$7.2 million in customer credits payable over 12 months, to be distributed to all customers subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT.

c. The Commission continues to believe that, while there is great public interest in resolving Qwest's AFOR I investment shortfall through a settlement containing a new and enforceable investment plan, the parties have never made a persuasive case as to why the Quality of Service credit issues should be part of such a stipulation.⁴ Nevertheless, after the Commission informally expressed concerns about the complete abandonment of customer credits in the July 2006 proposed settlement, the Stipulating Parties have restored a portion of the customer credits, and the Commission should address whether the end result of this portion of the Amended Settlement Agreement is reasonable.

d. From the perspective of Qwest and possibly other parties (but not the Attorney General), the total of \$15 million allocated to the STRONG Project and Enforcement Credits in paragraph 3 of the ASA is fungible between STRONG and consumer credits. Secretary Jaramillo, testifying for GSD at the November 8, 2006 Hearing indicated that funding of the STRONG project was intended by the Attorney General to be a consumer compensation mechanism directed at a specific group of

⁴ The original AFOR Order suffered by not specifying a remedy for Qwest's failure to meet its investment commitments, but the opposite is true with respect to Quality of Service standards, where specific metrics and enforcement procedures were established. Now, in Case 05-00094-UT, most of the few remaining questions have been resolved.

consumers. (Tr. at 187-88). However, the record indicates a weak nexus between the STRONG project and Qwest consumers.⁵

e. The Commission finds that the proposed \$7.2 million of customer credits is inadequate to compensate customers, relative to the credits to which they would be entitled according to the “rules of the road” that were (1) agreed to by the Stipulating Parties (among others) in AFOR I and (2) Ordered by this Commission. Acceptance of Amended Settlement Agreement is therefore contingent upon the customer credit obligation being increased to \$10 million in credits. The additional \$2.8 million in money for customer credits called for here should be taken from the amount that the Paragraphs 3(a) of the ASA would appropriate to the STRONG project, so that the dollar amount going to the STRONG project under the ASA (subject to Legislative appropriation) will be \$5 million.

e. Paragraph 3(b) of the ASA provides that Qwest will credit to New Mexico customers accounts the amount of \$7.2 million and that the credits will be given to customers on a monthly basis over a 12 month period beginning 90 days after the effective date of the ASA. This could have an improper effect upon competition, providing incentives that might encourage customers who otherwise might change providers to stay with Qwest during the “discount” period. Therefore, Commission finds that these customer credits should be provided on a one-time basis to each eligible customer, rather than being spread out over a 12 month period. Qwest’s witness, R. Steven Davis, Senior Vice President for Governmental Affairs and Public Policy, testified at the December 27, 2006 hearing that Qwest would be agreeable to a one-time

⁵ For example, the Attorney General’s witness Gates testified that there was no relationship between consumer recompense and benefiting from STRONG (Tr. 11/8/06 at 160), and it was adduced that many STRONG sites are not even within Qwest service territory.

credit in place of credits spread over 12 months. The credit to each eligible customer should be shown on customer bills within 120 days of the Effective Date of the ASA. The credits should be shown on the bills as "AFOR Enforcement" credits. Qwest should be prohibited from using the credits in any manner as a marketing device.

f. In addition, within 30 days after it has provided customer credits under any provision of the ASA, Qwest should file a report with the Commission, and provide copies to the Stipulation Parties, detailing its distribution of the customer credits. Qwest Senior Vice President Davis indicated in his testimony at the December 27, 2006 hearing that Qwest would not have a problem with adding information regarding customer credits to Qwest's quarterly reports. However, if it is more convenient for Qwest to provide such information in separate reports, doing so would be acceptable to the Commission.

17. STRONG Project.

a. Paragraph 3(a) of the ASA requires Qwest to pay \$7.8 million over the settlement term into "a fund ("Fund") to be created for the implementation and execution by the New Mexico Public Education Department of the New Mexico STRONG Project (Students and Teachers Reaching Optimal New Goals). The New Mexico Legislature will appropriate to the New Mexico Public Education Department the sums paid into the Fund to carry out the STRONG Project in accordance with the intent of this Agreement." This language impermissibly purports to direct the Legislature to take specified action with respect to the STRONG project and provides no contingency in the event the Legislature fails to do so. It also leaves near total discretion regarding disposition of

STRONG project funds to the Public Education Department. Finally, the budget submitted for STRONG is inconsistent with the funding that is now proposed.⁶

b. The Commission finds that acceptance of the ASA should be contingent on the Stipulating Parties agreeing to language that requires the funding of the STRONG project to be submitted for Legislative approval, but refrains from directing the Legislature's actions. The provisions relating to the STRONG project should also be changed to indicate that, in the event the funding or the project is not approved by the Legislature in a form substantially similar to what has been presented to the Public Regulation Commission, the funds allocated to STRONG in the ASA shall be payable by Qwest as additional customer credits over a maximum 12-month period.

c. As noted in Paragraph 15 above, the money to be paid by Qwest under the ASA into the STRONG Fund should be reduced from \$7.8 million to \$5 million, with the \$2.8 million difference going toward customer credits under Paragraph 3(b) of the ASA.

18. **Rural High Speed Internet Deployment.**

a. Apparently in response to the concerns informally expressed by the Commission with respect to the level of High Speed Internet (i.e., DSL) penetration provided for in the July 2006 Stipulation, and in particular with the lack of assurances of reasonable DSL penetration for rural areas, the Stipulating Parties included language in the ASA sets a 50% floor on rural DSL availability. According to Qwest's unrefuted

⁶ The Commission continues to be concerned as to whether funding of the STRONG project is an appropriate remedy for AFOR violations and whether, if funds are to be directed towards providing educational opportunities in information technology and telecommunications, the STRONG project is the best use of those monies. For example, it appears that there may be a substantial number of schools that lack the prerequisites to make effective use of the STRONG laptops because they lack a broadband connection. Nevertheless, the Commission will pass on these questions, subject to certain clarifications required herein, in the interests of moving forward the basic stipulation that was negotiated by the parties.

testimony, the ASA would provide for substantially more DSL than would have been provided for by Qwest in the absence of a settlement of the investment case.

b. The ASA provides that Qwest will extend High Speed Internet so as to qualify 83% of “working living units” and at least 50% of working living units in rural wire centers. The Commission has a concern as to whether 50% is a reasonable floor for rural deployment of advanced services. A 50% floor means that 50% of the homes and businesses in rural areas of New Mexico served by Qwest can be left behind. The Commission must balance the needs and expectations of rural consumers against what is reasonable to require of a telecommunications company. Unfortunately, the record lacks specific information on the cost associated with increasing the level of High Speed Internet to any particular level above what has been agreed to in the ASA. Because investment in High Speed Internet is less likely to occur in rural areas due to market forces alone, the Commission finds that rural access should be maximized to the extent possible within the financial framework of the ASA. Accordingly, the Commission finds that if any of the estimated \$81,300,000 Total Estimated Cost for the High Speed Internet Access Project specified in Paragraph 4(a) of the ASA remains after Qwest achieves the 83% statewide and 50% rural availability metrics, Qwest shall expend the unused funds towards extending high speed internet access to customers in Qwest’s rural wire centers toward (or beyond) the goal of reaching a 55% penetration rate in each of those centers.

c. In addition, as Qwest Senior Vice President Davis agreed to in his testimony at the December 27, 2006 hearing, Qwest’s obligation with regard to qualifying at least 50% of working living units in Qwest’s rural wire centers for high

speed internet access is regarded as a priority project under the ASA, to be accomplished by Qwest regardless of cost.

19 **Interim Report.** Paragraphs 7 and 8 of the ASA require, respectively, an Interim Report to be filed 21 months into the Settlement Period and a Final Report to be filed within 30 days after the end of the Settlement period. The Interim Report requires very little information compared to the Final Report. Given the purpose of the Interim Report -- facilitating mid-term evaluation and, if necessary, corrective action while there is still time in the Settlement Period -- the Commission finds that the Interim Report should contain information at a level of detail similar to that of the Final Report. This change was agreed to by Qwest witness Davis during the December 27, 2006 Hearing.

20. **Notification to, and Negotiation with, ISPs.**

a. Paragraph 19(a) of the ASA requires Qwest, for a period of 90 days following the Effective Date, to offer commercial agreements for the purchase of its Host ISP product for a contractual term of 1, 3, or 5 years on terms and conditions equivalent to or better than those currently available. To make this provision most effective, Qwest should be required to notify all identifiable and eligible internet service providers (ISPs) operating in New Mexico regarding this provision of the agreement. Such notification should be made within 15 days of the Effective Date of the ASA and Qwest should file a report with the Commission detailing the steps it has taken to provide such notification.

b. Qwest should be required to negotiate in good faith with ISPs operating in New Mexico regarding wholesale pricing for Qwest's internet products and services and to report to the Commission on the results of such negotiations by March 15, 2007.

21. **Project Completion Credits.** Paragraph 9 of the ASA states that customer credits will accrue at the rate of \$10,000 per day for projects not completed by the deadline set forth in the ASA (“Project Completion Credits”) and that Project Completion Credits shall be offset by \$5,000 per business day up to a maximum of 180 business days, for the number of days by which Qwest completes a project category before the deadline. The same paragraphs states that Qwest will provide the Project Completion Credits to New Mexico customers’ accounts . . . invoiced for services that are subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT.” Paragraph 10 of the ASA similarly provides that “Interim Network Projects Shortfall” credits will be credited to “New Mexico customers’ accounts that are invoiced for services that are subject to the intrastate subscribed line charge established by the Commission in Case No. 06-00026-UT.” The Commission finds that it should have the ability to review and revisit the question of how the Project Completion Credits and the Interim Network Projects Shortfall credits should be distributed among customers, and to call for changes in the criteria for distributing such credits if the Commission finds that doing so is in the public interest.

22. **Priority to Communities that Submitted DSL Petitions to Qwest.** Concerns have been raised as to whether Qwest was compliant with the provisions in AFOR I regarding bringing high speed internet access to communities where citizens have petitioned for such access. Because under Paragraph 15 of the ASA, the Commission is precluded from further pursuing any issues as possible AFOR I non-compliance issues, including this one, Qwest should be required to give priority

consideration with respect to high speed internet deployment under the ASA to communities that have filed petitions for high speed internet access with Qwest.

23. **Force Majeure.** Paragraph 17(b) of the ASA provides that Qwest's obligations under the ASA "may be delayed only if and to the extent Qwest presents a showing that one or more . . . Force Majeure Events [as defined in the ASA] caused, *or may in the future cause*, Qwest to be unable to complete such obligation in the time prescribed in the Agreement." (Emphasis added.) The same paragraph states, "the existence of such events are not Force Majeure Events unless they are shown by Qwest to directly cause, *or may cause in the future*, Qwest's inability to perform a Delayed Item within the time prescribed . . ." (Emphasis added.) The Commission finds that the "may cause in the future" language here creates an unacceptable degree of uncertainty with regard to what Qwest can claim as a Force Majeure excusing delays or non-completion under the ASA and that it is inconsistent with the standard for accepting a force majeure defense that the Commission adopted in Case No. 05-00094-UT. *See Recommended of the Hearing Examiner* in that case at page 48: "the rule in New Mexico is that anyone claiming *force majeure* as an affirmative defense to an obligation must show that the *force majeure* event (as defined by regulatory policy, contract or other applicable authority) occurred and that it actually caused the claimant's inability to perform the obligation in question." The Commission regards it as highly important to be consistent in its approach to force majeure defenses. Accordingly, the words "may in the future cause" and "may cause in the future" should be stricken from Paragraph 17(b).

24. This Order is in the nature of a summary order, setting forth the basic events in the "Summary Statement of the Case" section above and a short description of

certain considerations in the Commission's determination of issues in the "Summary Discussion and Conclusions" section. The Commission issues this order in summary form at this time in the interest of expedition and resolution of the issues for the benefit of the Stipulating Parties and the people of New Mexico, and expects to issue an explanatory Supplemental Order in the near future.

THEREFORE, IT IS ORDERED:

A. The ASA is approved, contingent upon the Stipulating Parties agreeing to the following changes to their ASA:

- i) The customer credit obligation under Paragraph 3(b) of the ASA is increased to \$10 million in credits. The additional \$2.8 million required to fund these customer credits will be taken from the \$7.8 million that the ASA would appropriate to the STRONG project fund under Paragraph 3(a), reducing that amount to \$5 million.
- ii) Qwest will distribute the customer credits called for by Paragraph 3(b) of the ASA to each eligible customer on a one-time basis, rather than over a 12 month period, and shall do so in such a way that the credits appear on customer bills within 120 days after the effective date of the ASA. The credits shall be identified on the bills as "AFOR Enforcement" credits. Qwest shall not use these credits in any way as a marketing device.
- iii) Within 30 days after it distributes any customer credits called for by the ASA, Qwest shall file a report with the Commission detailing distribution of the customer credits.

- iv) Language purporting to direct Legislative action on the STRONG project must be removed in favor of language requiring the funding of the STRONG project to be submitted for Legislative approval. In the event the project is not approved by the Legislature in a form substantially similar to what has been presented to the Public Regulation Commission, the funds allocated to STRONG in the ASA shall be payable as Qwest customer credits within 120 days.
- v) Any portion of the estimated \$81,300,000 Total Estimated Cost for the High Speed Internet Access Project specified in Paragraph 4(a) of the ASA that Qwest does not spend on providing high speed internet access to urban areas, Qwest shall expend on extending high speed internet access to customers in Qwest's rural wire centers toward or beyond a goal of reaching a 55% penetration rate in each of wire center.
- vi) Achievement of at least the 50% rate of high speed internet qualification among working living units in rural wire centers called for in Paragraph 4(a) of the ASA is considered a "priority project" to be accomplished by Qwest regardless of cost.
- vii) The specifications for information to be provided in the Interim Report shall be similar, to the extent practical, to the information to be provided in the Final Report.
- viii) Qwest will be required within 15 days of the Effective Date of the ASA to notify all identifiable and eligible internet service providers (ISPs) operating in New Mexico concerning the provisions of Paragraph 19(a) of the ASA. Qwest

must file a report with the Commission detailing the steps it has taken to provide such notification.

ix) Qwest is required to negotiate in good faith with ISPs operating in New Mexico regarding wholesale pricing for Qwest's internet products and services and to report to the Commission on the results of such negotiations by March 15, 2007.

x) As an exception to the general finality of the ASA, the Commission shall have the ability, on its own motion or on that of an interested party, to review and revisit the question of how the Project Completion Credits and the Interim Network Projects Shortfall credits shall be distributed among customers, and to call for changes in the criteria for distributing such credits if the Commission finds that doing so is in the public interest.

xi) Qwest is required to give priority consideration with respect to high speed internet deployment under the ASA to communities that have filed petitions for high speed internet access with Qwest.

xii) the words "may in the future cause" and "may cause in the future" should be stricken from Paragraph 17(b).

B. The Stipulating Parties may indicate their acceptance of the contingencies either through the submission of a further Amendment to their ASA that states acceptance of items A i through xii, above. Alternatively, they may submit a new ASA. Upon either of these filings, the new Settlement Agreement will be deemed approved and effective, unless suspended by an Order of the Commission within 15 days of its filing.

The Stipulating Parties should provide appropriate effective date(s) for the initiation of customer credits and the beginning of the new investment period.

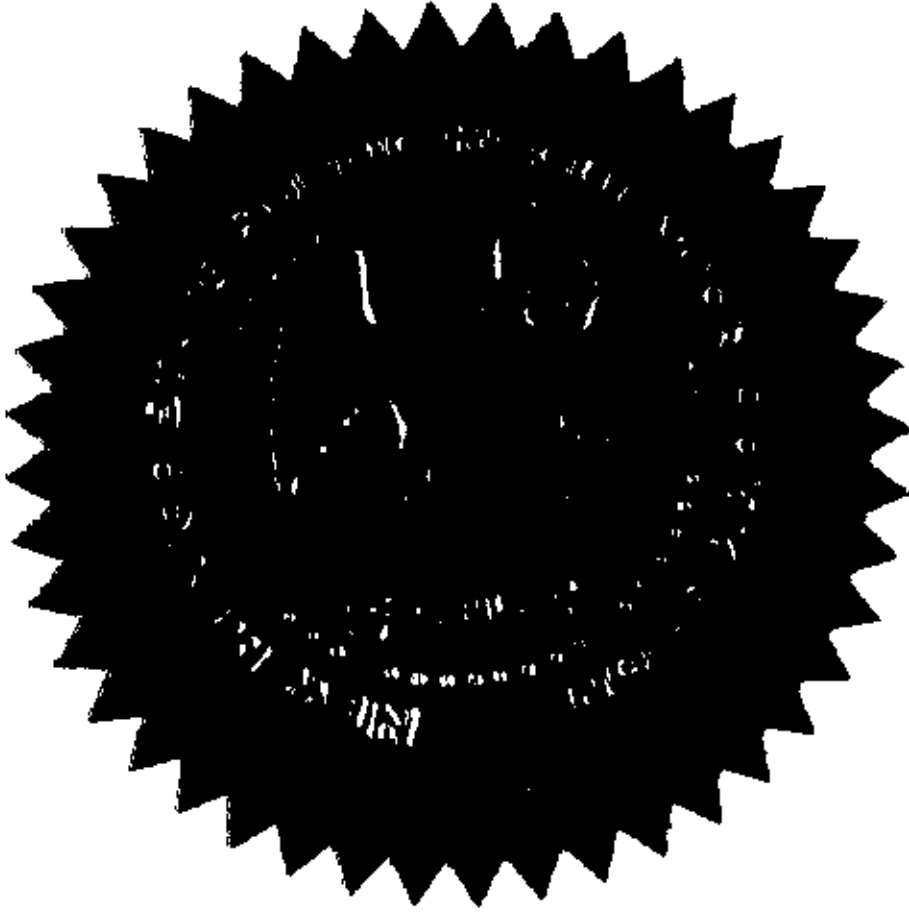
C. The customer credits required by the Commission's *Final Order on Customer Credits Relating to Quality of Service Violations in Periods 1, 3, 4* in Case 05-00094-UT shall be stayed automatically upon a filing consistent with (B), above, and shall be vacated automatically should the Commission permit the filed Settlement Agreement to go into effect. Also, Case No. 05-00094-UT shall be automatically dismissed and closed in that event.

D. This Order is effective immediately.

E. This Order shall be served on all parties listed on the Certificate of Service for this case.

ISSUED under seal of the Commission this 28th day of December, 2006 at
Santa Fe, New Mexico.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ben R. Lujan

BEN R. LUJAN, CHAIRMAN

Jason Marks

JASON MARKS, VICE CHAIRMAN

David W. King

DAVID W. KING, COMMISSIONER

Lynda M. Lovejoy

LYNDA M. LOVEJOY, COMMISSIONER

TEI FINANCIALLY APPROVED

E. SHIRLEY BACA, COMMISSIONER

AMENDED SETTLEMENT AGREEMENT

This amended settlement agreement (the "Settlement Agreement" or "this Agreement") is by and between Qwest Corporation ("Qwest" or "the Company"), the General Services Department of the State of New Mexico ("GSD"), the Attorney General of the State of New Mexico ("Attorney General"), and the Staff of the Utility Division of the New Mexico Public Regulation Commission ("Staff"). Qwest, GSD, the Attorney General, and Staff are collectively referred to as "the Parties." When referenced herein, Qwest means Qwest Corporation, and does not mean or include any of Qwest Corporation's subsidiaries or other affiliates.

RECITALS

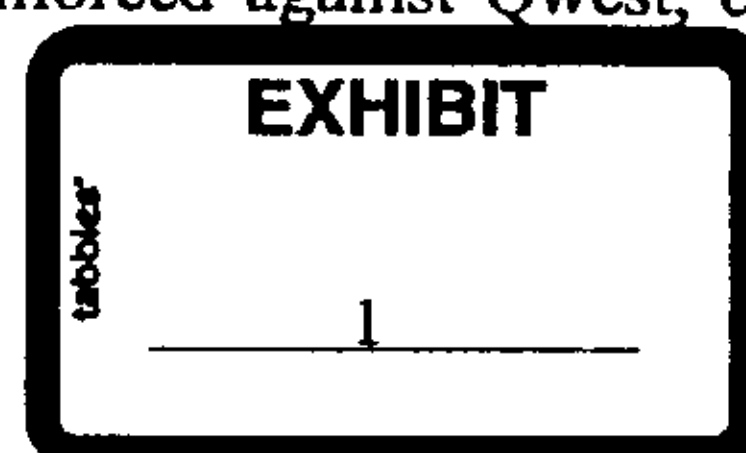
WHEREAS, on March 8, 2001, the Public Regulation Commission of the State of New Mexico ("the PRC" or "the Commission") issued an order approving an amended alternative form of regulation ("AFOR") which addressed, among other things, Qwest's obligations to invest in the state of New Mexico for a five-year period from March 8, 2001 through March 8, 2006.

WHEREAS, on July 15, 2004, the PRC opened a docket to investigate Qwest's investments under the AFOR, Case No. 04-00237-UT ("the Investigation Docket"), and on April 14, 2005, the PRC issued a final order that included its findings and conclusions ("Final Order").

WHEREAS, the Final Order directed Qwest, among other things, to comply with its obligation to invest \$788 million over the life of the AFOR, and if Qwest failed to satisfy that commitment the shortfall must be credited or refunded to Qwest's business and residential customers.

WHEREAS, on April 14, 2005, the PRC opened Case No. 05-00094-UT as an enforcement docket to determine, among other things, the amounts and structure of any credits or refunds that could be issued by Qwest under the Final Order ("the Enforcement Docket").

WHEREAS, Qwest appealed the Final Order to the Supreme Court of the State of New Mexico, captioned In The Matter Of The Investigation Of Whether Qwest Corporation Is In Compliance With The Investment Requirements Of Its Amended Alternative Form Of Regulation, Case No. 29.228 ("the Supreme Court Appeal"), and Qwest also commenced a civil action in the United States District Court for the District of New Mexico seeking a declaratory judgment that the Commission's Final Order should not be enforced against Qwest, captioned



Qwest Corp. v. Lujan, et al., Case No, 05cv00530 (“the Federal Case”).

WHEREAS, on February 24, 2006, the United States District Court for the District of New Mexico issued its Memorandum Opinion and Order granting Defendants’ Motion to Dismiss Plaintiff’s Complaint in the Federal Case without prejudice; Qwest filed a Motion for Reconsideration, which was denied on July 24, 2006. Qwest has appealed the Federal Case to the United States Court of Appeals for the Tenth Circuit, where it is pending as Case No. 06-2237.

WHEREAS, on June 29, 2006, the New Mexico Supreme Court upheld the Commission’s Final Order in the Investigation Docket in its entirety; Qwest filed a motion for rehearing, and that motion was denied.

WHEREAS, on November 28, 2006, the Commission entered a Final Order in Phase I of the Enforcement Docket requiring Qwest to issue \$3,645,000 in credits to Qwest's customers for quality of service failures for Periods 1 through 4 of AFOR I.

WHEREAS, the Parties desire to settle all matters, subject to and conditioned upon the PRC’s approval of this Settlement Agreement, as a complete and final resolution of the Investigation Docket, the Enforcement Docket, the Supreme Court Appeal and the Federal Case (the “AFOR I Cases”).

TERMS AND CONDITIONS

The Parties hereby agree to the following terms and conditions:

1. **Effective Date.** This Settlement Agreement shall not be effective until and unless formally approved by the issuance of a written order by the Commission pursuant to the Commission’s prescribed processes. If the Commission approves this Settlement Agreement before January 1, 2007, then the “Effective Date” of this Settlement Agreement shall be January 1, 2007. If the Commission approves this Settlement Agreement on or after January 1, 2007, then the “Effective Date” of this Settlement Agreement shall be the first day of the month following the Commission’s approval. Until formal approval of this Settlement Agreement occurs, no litigation or proceedings in the Enforcement Docket or the Federal Case will be delayed or abated. Provided, however, that as to proceedings before the Commission only, following the submission of this Settlement Agreement as a formal filing for approval by the Commission, this

provision is not intended to affect the Commission's discretion with regard to the management of cases pending before it.

2. **Allowable Costs.** The total amount required for settlement of the AFOR I Cases shall be Two Hundred and Seventy Million Dollars, United States currency (\$270,000,000.00) ("Settlement Amount"), and is limited to investment by Qwest in the projects, credits, and other contributions and expenditures specifically described as settlement items in paragraphs 3 and 4 below. Except for investments and expenses required to comply with subparagraphs 4 (a), (b), (c) and (d) of this Settlement Agreement, the \$270 Million Settlement Amount shall not include any expenditures made by Qwest to comply with the requirements of the final order to be issued in New Mexico Public Regulation Commission Case No. 05-0466-UT (*AFOR II*). The \$270 Million Settlement Amount shall not include expenditures of any kind made by Qwest prior to the Effective Date of this Settlement Agreement, nor any payment made by Qwest after that date for items contracted by or delivered or shipped to Qwest before the Effective Date of this Settlement Agreement. The \$270 Million Settlement Amount also shall not include any of Qwest's capital costs except those JR-21 reportable capital costs which are directly related to the design and construction of the projects listed as "Settlement Projects" in subparagraphs 4 (a), (b), (c), (d) and (e), below. In addition to the foregoing, Qwest may include in the \$270 Million Settlement Amount the following non-capital, non-JR-21 costs and expenses ("Allowable Non-Capital, Non-JR-21 Costs and Expenses"): (i) costs and expenses that are directly related to the design and construction of the projects identified in subparagraphs 4(a), 4(b), 4(c) and 4(d) below only; and, (ii) costs and expenses incurred exclusively and specifically for the salaries and benefits of "New Employees" whose hiring is essential to the design and construction of the projects identified in subparagraph 4(e) below, provided, however, that Qwest may not include any other non-capital costs or expenses associated in any way with the projects identified in subparagraph 4(e) below. The term "New Employees" shall mean Qwest employees that were not employed by Qwest or subsidiaries or affiliates of Qwest, as of the Effective Date of the Settlement Agreement. The Allowable Non-Capital, Non-JR-21 Costs and Expenses that may be included in the \$270 Million Settlement Amount are

capped at the amount of 30 percent of the Project Spending Amount as defined in paragraph 4 below. Allowable Non-Capital, Non-JR-21 Costs and Expenses include costs and expenses that are attributable to a specific job number or to multiple jobs, each of which are directly related to the design and construction of the Settlement Projects. Allowable Non-Capital, Non-JR-21 Costs and Expenses do not include overhead costs and expenses and do not include costs or expenses that are incurred after a job has been completed and closed. Qwest's status reports shall record and itemize Allowable Non-Capital, Non-JR-21 Costs and Expenses by job or by multiples of jobs. The Settlement Amount also shall not include any expenditure by Qwest for the provision of cable television services of any kind, or television services that are functionally equivalent to cable television ("Cable Television Services"), whether or not delivered over telecommunications facilities, and including, without limitation, VDSL and IPTV. Where an investment that is otherwise permitted by this Settlement Agreement includes Cable Television Services, the capital costs and expense attributable to those particular facilities that are needed exclusively or primarily for the provision of Cable Television Services shall not be credited to the Settlement Amount. Finally, notwithstanding any of the foregoing, the Settlement Amount shall not include any of Qwest's general or common operating costs, overhead or profits, including any allocation thereof by formula, accounting classification or otherwise.

3. **STRONG Project and Enforcement Credits.**

- (a) Of the total \$270 Million Settlement Amount, \$7.8 Million shall be paid by Qwest at the rate of \$2.6 Million per year for three successive years commencing on the Effective Date of the Settlement Agreement into a fund (Fund) to be created for the implementation and execution by the New Mexico Public Education Department of the New Mexico STRONG Project (Students and Teachers Reaching Optimal New Goals). The New Mexico Legislature will appropriate to the New Mexico Public Education Department the sums paid into the Fund to carry out the STRONG Project in accordance with the intent of this Agreement. The New Mexico STRONG Project is a program of the New Mexico Public Education Department targeting seventh and eighth grade student and teacher

groups at selected school improvement sites, the majority of which have high minority enrollments, which is designed to provide students with opportunities to build on personal strengths and cultural assets through the use of twenty-first century tools and educational experiences to improve success in school and the opportunities which education provides. A current description of the STRONG Project is attached as Appendix D, which includes the list of selected school sites for which the STRONG Project is planned. The New Mexico Public Education Department will be responsible for program operations, accounting functions and program evaluation for the STRONG Project.

- (b) In compliance with the Commission's Final Order in Phase I of the Enforcement Docket and in settlement of the quality of service issues in Phase II of the Enforcement Docket, of the total \$270 Million Settlement Amount, and beginning within ninety (90) days of the Effective Date and on a monthly basis over the next succeeding twelve (12) months, Qwest will credit New Mexico customers' accounts that are invoiced for services that are subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT. The total amount of these credits is \$7.2 million, and the monthly credit to a customer's account will be proportionate to the recalculation of subscriber line charges per service as stated by the Commission in Case No. 06-00026-UT, for the number of intrastate subscriber line charges as of the Effective Date.
4. Settlement Projects. Out of the total Settlement Amount of \$270 Million, \$255 Million, subject to any applicable decreases under paragraph 10 (the "Project Spending Amount") shall be invested and expended by Qwest over a period of forty-two months (except for the 36-month period required for subparagraph 4(a) below) from the Effective Date of this Settlement Agreement (the "Settlement Period") for the purpose of designing and constructing the "Settlement Projects" identified in subparagraphs 4(a) through 4(e), below. All estimated cost amounts set forth below are very rough estimates, and the actual amount necessary to complete a specific project or projects may be more or less than the estimated amount. Accordingly, within the total \$255 Million specified by this

Settlement Agreement for investment and related expenditures, these estimates are not intended and shall not be interpreted as limitations on expenditures for any Settlement Project or project category. Qwest commits to include the two projects described in DOD/FEA Exhibits 1 and 2 (attached as Appendices E and F) admitted in evidence during the hearing in Case No. 06-00325-UT, involving projects for Los Alamos National Laboratory and White Sands Missile Range, as priority Settlement Projects within the projects specified in paragraph 4(a) through (d) of the Settlement Agreement and must be completed even if Qwest otherwise satisfies the obligation to spend the Project Spending Amount; however, given the nature of the projects, both are subject to approvals by authorized representatives of the federal government. The "Settlement Projects" are as follows:

- (a) **High Speed Internet Access Project.** Qwest will extend High Speed Internet Access from the current 69% to the settlement requirement of 83% of Qwest's New Mexico Working Living Units in Qwest's service area. Qwest will design and construct new distribution facilities and/or upgrade existing distribution areas as necessary to qualify at least 83% of Qwest's New Mexico Working Living Units with High Speed Internet Access services and product offerings. Qwest shall qualify a minimum of 50 % of Working Living Units in Rural Wire Centers as Working Qualified Living Units. Qwest shall also, at a minimum, install central-office based High Speed Internet Access deployments in the wire centers identified in Appendix G. These requirements as stated in this sub-paragraph 4a shall be completed within 36 months of the Effective Date. The definition of "High Speed Internet" is upload and download speed(s) of at least 256kbps. Notwithstanding this definition, Qwest will provide 90% of its Working Qualified Living Units in New Mexico with speed(s) of at least 512kbps upload and from 512kbps to 1.5mbps download. Internet access speeds are not constant and service is subject to the terms and conditions of applicable tariffs and published customer service agreements. A "Working Living Unit" is a customer (residential or business) that has at least one working Qwest landline. A "Working Qualified Living Unit" is a Working Living Unit that is located within the operational distance, for Qwest, of a DSLAM and has a working Qwest landline capable (i.e.,

free of load coils, other inhibitors and disturbers) of providing High Speed Internet Access to the customer. "Rural Wire Center" is a wire center with less than 5,000 access lines. Qwest previously estimated the cost of 80% High Speed Internet Access coverage at \$53,150,000 + \$24,650,000. The cost of increasing this coverage an additional 3% is estimated at \$3,500,000. Therefore, the Total Estimated Cost of this Settlement Project is \$81,300,000. However, achievement of 83% High Speed Internet Access is a priority project and must be obtained by Qwest even if the actual cost exceeds \$81,300,000 and even if Qwest otherwise satisfies the obligation to spend the Project Spending Amount. Qwest may, in its discretion, increase the scope of this project by increasing the percentage of High Speed Internet Access beyond 83%, and the additional capital costs and related expenses resulting there from shall be credited to the Settlement Amount, but only on the express condition that the increased capital costs and expenses required to expand the project beyond 83% will not impair Qwest's ability to achieve the required outcomes for the other priority projects specified in subparagraphs 4(b), 4(c) and 4 (d), below. Accordingly, if the actual costs of this project exceed Qwest's Total Estimated Cost, or if Qwest expands the scope and the costs of this project, the balance of the money necessary to achieve the 83% (or higher percentage) requirement shall come from the projects identified in subparagraph 4(e) below, which projects shall be reduced in scope or dollar volume as necessary to fund the 83% (or higher) High Speed Internet Access outcome described in this subparagraph 4(a).

- (b) **Redundant and Diverse Routes Project.** Except as specifically provided or excepted below, Qwest shall upgrade all of Qwest's wire centers throughout its New Mexico territory so that each wire center is connected to Qwest's network by both redundant and diverse routes, using fiber cable or other standard technologies appropriate for the geography and existing network components. A complete list of Qwest's New Mexico wire centers to be served by redundant and diverse routes pursuant to this sub-paragraph that are not subject to conditions and exclusions as stated in subparagraphs 4(b)(ii) and (iii) is attached to this

Settlement Agreement as "Appendix A." Redundancy and route diversity in all instances shall comply with generally accepted telecommunications industry outside plant engineering standards for such outside plant. Cost is estimated by Qwest at \$23,100,000, plus additional estimated costs for the wire centers as specified below.

- (i) Without limitation, this requirement shall include the following wire centers: Artesia Main (Qwest's estimated cost \$1,380,000); Roswell South (Qwest's estimated cost \$834,000); Los Lunas North (Qwest's estimated costs \$350,000); Clovis West (Qwest's estimated costs \$1,955,000); and Chaparral (Qwest's estimated costs \$402,500). The total additional cost estimated by Qwest for these wire centers exclusive of any rights of way: \$4,921,500. In addition, this requirement shall also include, without limitation, Farmington Main, cost to be determined.

- (ii) Without limitation, the following wire centers shall also be included among those wire centers to be served by diverse and redundant routes using fiber cable or other standard technologies appropriate for the geography and existing network components: Santa Fe North (Qwest's estimated costs \$1,250,000); Raton Main (Qwest's estimated costs \$2,000,000); Ft. Wingate (Qwest's estimated costs \$1,200,000) and White Rock (Qwest's estimated costs \$1,250,000), but only on the condition that the acquisition of essential rights of way is not necessary, or that such rights of way can be successfully negotiated at economically viable amounts and that no other economically viable alternative routes or technologies exist to complete the connections. If Qwest invokes the condition stated in this sub-paragraph 4b(ii), then Qwest will file with the Commission and provide to the parties under seal information supporting Qwest's request, including but not limited to a detailed description of the right of way at issue and why the right of way is needed, the amount demanded for the subject right of way, information showing amounts paid by Qwest for comparable rights of way, and a description of alternative

routes and technologies Qwest evaluated. The Staff may submit an objection to Qwest's invocation of the condition stated in this subparagraph 4b(ii) and request a Commission ruling. The total additional cost estimated by Qwest for these wire centers exclusive of any rights of way: \$5,700,000.

- (iii) In reliance on information provided by Qwest, the following wire centers only shall be excluded from those wire centers to be served by diverse and redundant routes using fiber cable or other standard technologies appropriate for the geography and existing network components due to high cost/low density or low growth and/or the extraordinary cost of essential rights of way: Alamogordo West; Red River; Taos North; Bayard Main; Hatch; Farmington West; Pena Blanca and Penasco. No wire centers other than those named in this subparagraph shall be excluded from full route diversity and redundancy by reason of high cost/low density or low growth and/or the extraordinary cost of essential rights of way, or otherwise, unless specifically excluded under subparagraph (ii).

Achievement of the described interoffice route diversity and redundancy specified in this paragraph 4(b) is a priority project and must be obtained even if the actual costs exceed the estimates provided by Qwest and even if Qwest otherwise satisfies the obligation to spend the Project Spending Amount. Qwest may, in its discretion, increase the scope of this project by increasing the number and/or the locations of wire centers that will be connected to Qwest's New Mexico network by both redundant and diverse routes, and the additional capital costs and related expenses resulting there from shall be credited to the Settlement Amount, but only on the express condition that the increased capital costs and expenses necessary to expand the scope of this project will not impair Qwest's ability to achieve the required outcomes for the other priority projects specified in subparagraphs 4(a), 4(c) and 4(d), below. Accordingly, if the actual costs of this project exceed Qwest's estimates, or if Qwest expands the scope and the costs of this project, the balance of the money shall come from paragraph 4(e) projects below, which

projects shall be reduced in scope or dollar volume as necessary to fund the complete outcomes described or permitted in this subparagraph 4(b).

- (c) **Cable Improvement Project.** Qwest will identify and replace defective, deteriorating or aging lead, air core and other cables and associated network elements identified in Qwest's New Mexico network with modern copper or fiber and associated utilities ("Cable Improvement Project"). No less than \$30 Million shall be expended by Qwest in performing the Cable Improvement Project over the Settlement Period. Achievement of the Cable Improvement Project is a priority project and Qwest must expend at least \$30 Million to accomplish this priority project even if Qwest otherwise satisfies the obligation to spend the Project Spending Amount. Qwest may, in its discretion, increase the amount expended on the Cable Improvement Project beyond the minimum \$30 Million, and the additional capital costs and related expenses resulting there from shall be credited to the Settlement Amount, but only on the express condition that the increased capital costs and expenses will not impair Qwest's ability to achieve the required outcomes for the other priority projects specified in subparagraphs 4(a), 4(b) and 4(d). Accordingly, if Qwest expends more than the minimum \$30 Million on the Cable Improvement Project during the Settlement Period, the paragraph 4(e) projects shall be reduced in scope or dollar volume as necessary to fund the additional expenditures for this subparagraph 4(c) project.
- (d) **Advanced Telecommunications Technologies Projects.** Qwest will deploy facilities associated with providing access to advanced telecommunications technology services for customers throughout Qwest's New Mexico territory who do not currently have such access, and Qwest will expend no less than \$50 Million over the Settlement Period from the Settlement Amount in achieving this objective. Of the \$50 Million required under this sub-paragraph, Qwest shall spend a minimum of \$10 Million on the installation of fiber feeder projects. On a quarterly basis, Qwest shall provide to the Parties a revolving list of advanced telecommunications technology projects and locations designed to fulfill this

contractual obligation, which list(s) shall include, without limitation, such telecommunications technology advancements as: copper to fiber migration and associated network grooming for priority facilities such as schools, business parks, state governmental facilities, etc.; the extension of optical ethernet availability; expansion of ATM capacity, capability and networking beyond Qwest's current ATM central offices; augmenting the network with facilities capable of delivery speeds of 45 Mbps and above, including DS3 and above capacity, subject to paragraph 2 above relating to Cable Television Services; and central office upgrades which promote the extension and utilization of advanced telecommunications technologies in locations where those services are not currently available. These projects under this paragraph 4(d) shall be separate and distinct from any others identified in this Settlement Agreement. The initial project list shall be attached to this Settlement Agreement signed by GSD and Qwest and shall be incorporated therein by reference as "Appendix B." Appendix B lists the initial projects to be designed and constructed and Qwest will supplement Appendix B during the course of the Settlement Period with additional proposed projects to be provided to the Parties for informational purposes. No less than \$50 Million shall be expended by Qwest over the Settlement Period in completing the Advanced Telecommunications Technologies Projects. Achievement of the Advanced Telecommunications Technologies Projects is a priority project and the \$50 Million (and \$10 Million minimum amount for fiber feeder projects) necessary to complete this project must be expended even if Qwest otherwise satisfies the obligation to spend the Project Spending Amount. Qwest may, in its discretion, increase the amount expended on this project beyond the minimum \$50 Million, and the additional capital costs and related expenses resulting there from shall be credited to the Settlement Amount, but only on the express condition that the increased capital costs and expenses will not impair Qwest's ability to achieve the required outcomes for the other priority projects specified in subparagraphs 4(a), 4(b) and 4(c). Accordingly, if Qwest expends more than the minimum \$50 Million, the paragraph 4(e) projects shall be reduced in scope or dollar volume as necessary to fund the additional

expenditures for this subparagraph 4(d) project.

- (e) **Network Improvement and Capacity Augmentation Projects.** With the remaining settlement dollars, Qwest shall create a forty-two month network improvement and capacity augmentation plan by designing, describing and prioritizing a number of specific projects, at least twenty-five of which shall be described and listed in an initial list as a separate attachment to this Settlement Agreement signed by GSD and Qwest, which list shall be attached thereto as "Appendix C," and incorporated herein by reference. Examples of such projects include, without limitation, the following: central office upgrades; new network facility locations; upgrades of high bandwidth network connections; and analog to digital upgrades. These paragraph 4(e) projects will be designed and implemented within the forty-two month Settlement Period in a manner that does not interfere with or impair the full completion of the priority projects described in subparagraphs 4(a), 4(b), 4(c) and 4(d). The capital and salary and benefit costs allowable under paragraph 2 of this Settlement Agreement of these subparagraph 4(e) projects may, to some extent, overlap with the capital and other expenditures necessary to complete the subparagraphs 4(a) through 4(d) projects, but credit toward the Settlement Amount for any expenditure permitted by this Settlement Agreement may be given in only one category for any given cost or expense. Costs or expenditures shall not be credited to more than one category or project. A representative of the GSD, the Attorney General, and the Staff shall meet with Qwest on a quarterly basis over the Settlement Period to review its list for these subparagraph 4(e) projects, which list shall be updated and expanded by Qwest on a quarterly basis over the Settlement Period.

5. **Project Plans.** Qwest has presented an initial plan, acceptable to GSD, for completing the subparagraph 4(a) through (e) projects that are identifiable at the present time, including locations, milestones and benchmarks to measure performance and assure compliance. Qwest shall prepare and file with the Commission updates to this plan within thirty days following each calendar quarter throughout the Settlement Period and serve copies upon

the Parties to this Settlement Agreement. For each of the project areas specified, the Qwest plans shall provide an assessment of the total work required to complete the projects and shall provide for spending approximately one-half the Project Spending Amount by the end of the first twenty-one months of the forty-two month Settlement Period, and the balance of the Project Spending Amount in the final twenty-one months. Qwest's plans and status reports may, without limitation, include the list of projects specified in subparagraphs 4(a) through (e), a list of remote terminals for the High Speed Internet Project, and Gantt Charts and shall include in all instances a complete narrative explanation of the plans and status reports submitted. An audit mechanism paid for with settlement funds will be established to review, at regular intervals, and in no event less than once during the Settlement Period and once after the conclusion of the Settlement Period, whether the expenditures claimed are properly attributed to the projects specified above and otherwise permissible under the terms of this Settlement Agreement. The hiring and the identity of independent auditors and the terms of their engagement shall be subject to prior review and approval by all settling parties and the Commission. The auditors' contract of engagement shall include terms permitting parties other than Qwest to interview and, if necessary, take sworn testimony from the auditors regarding their methods, data inputs, and findings. Results of monitoring expenditures under the Settlement Agreement by the independent auditor shall be reported to the parties to the settlement and the PRC no less frequently than at the end of each twenty-one month period. The costs of employing an independent auditor shall be credited against the Settlement Amount.

6. **Quarterly Reports.** Qwest shall provide quarterly line item reports within thirty (30) days following each calendar quarter detailing the JR-21 capital costs incurred in the paragraph 4 projects. In addition, Qwest shall provide separate detail for each expense otherwise permitted by this Settlement Agreement for paragraph 4 projects including a description of each such expense and the job(s) with which it is directly related. In addition, Qwest shall provide quarterly reports within 30 days following each calendar quarter of its contributions to the STRONG Project under paragraph 3 of this Settlement Agreement. Qwest shall file the reports required under this paragraph with the Commission and serve

copies upon the parties to this Settlement Agreement.

7. **Interim Report.** Qwest shall file with the Commission within thirty days after the end of the 21st month of the Settlement Period a report that contains the following:
 - (a) The total allowable costs expended for the settlement projects in paragraph 4 for the first 21 months of the Settlement Period.
 - (b) A detailed calculation of any credits Qwest is required to issue pursuant to paragraph 9.

8. **Final Report.** Qwest shall file with the Commission within thirty days after the end of the Settlement Period a report that contains the following:
 - (a) **High Speed Internet Access Project**
 - (i) Numbers of access lines, Working Living Units and Working Qualified Living Units by wire center.
 - (ii) Status of central-office-based High Speed Internet Access deployments by wire center.
 - (b) **Redundancy and Diversity Project**
 - (i) Status of redundancy and diversity project deployments by wire center.
 - (c) **Cable Improvement Project**
 - (i) Amounts spent by wire center for the Cable Improvement Project.
 - (d) **Advanced Telecommunications Technologies Project**
 - (i) Status of Advanced Telecommunications Technologies deployments by project.
 - (ii) Amounts spent by wire center for the Advanced Telecommunications Technologies Project.
 - (iii) Amounts spent by wire center for fiber feeder installation projects.
 - (e) **Network Improvement and Capacity Augmentation Project**
 - (i) Status of Network Improvement and Capacity Augmentation deployments by project.
 - (ii) Amounts spent by project for the Network Improvement and Capacity Augmentation Project.

- (f) The allowable costs expended for the settlement projects in paragraph 4 over the full Settlement Period.
 - (i) Total allowable costs.
 - (ii) JR-21 capital costs which are directly related to the design and construction of the settlement projects in total and per project category.
 - (iii) Allowable Non-Capital, Non-JR-21 Costs and Expenses in total and per project category.
9. Enforcement. If Qwest does not invest and expend the Project Spending Amount as specified in paragraph 4 of this Settlement Agreement as of the end of Settlement Period, then beginning within sixty (60) days of the end of the Settlement Period and on a monthly basis over the next succeeding twelve (12) months, Qwest will credit New Mexico customers' accounts that are invoiced for services that are subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT. The total amount of these credits will be the difference between the Project Spending Amount and the amount actually and properly expended (the "Network Projects Shortfall"), and the monthly credit to a customer's account will be proportionate to the recalculation of subscriber line charges per service as stated by the Commission in Case No. 06-00026-UT, for the number of intrastate subscriber line charges as of the end of the Settlement Period. If within sixty (60) days of the end of the Settlement Period Qwest fails to credit as required, then the Network Projects Shortfall shall begin to bear interest at the Chase Manhattan prime rate until Qwest begins to credit.

If Qwest fails to make the required contributions of support to the STRONG Project within the time required in paragraph 3 above, then beginning within sixty (60) days of the end of required time period and on a monthly basis over the next succeeding twelve (12) months, Qwest will credit New Mexico customers' accounts that are invoiced for services that are subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT. The total amount of these credits will be the difference between \$2.6 Million and the amount actually contributed (the "Educational Program Shortfall"), and the monthly credit to a customer's account will be proportionate to the recalculation of subscriber line charges per service as stated by the Commission in

Case No. 06-00026-UT, for the number of intrastate subscriber line charges as of the end of the required time period. If within sixty (60) days of the end of the required time period Qwest fails to credit as required, then the Educational Program Shortfall shall begin to bear interest at the Chase Manhattan prime rate until Qwest begins to credit.

In addition to the Network Projects Shortfall credits and the Educational Program Shortfall credits that may be assessed under this paragraph 9, credits shall accrue at the rate of \$10,000 per business day per project category for incomplete projects from the deadline for each respective project until Qwest completes the project ("Project Completion Credits"). Any Project Completion Credits assessed under this paragraph 9 shall be offset by \$5,000 per business day, up to a maximum of 180 business days, for the number of days by which Qwest completes a project category before the stated deadline. The Project Completion Credits will be made on a quarterly basis and shall begin within sixty (60) days after the end of a quarter in which a failure occurs, and Qwest will credit New Mexico customers' accounts that are invoiced for services that are subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT. The total amount of these credits for each quarter will be the amount of Project Completion Credits accumulated as of the end of that quarter, and the credit to a customer's account will be proportionate to the recalculation of subscriber line charges per service as stated by the Commission in Case No. 06-00026-UT, for the number of intrastate subscriber line charges as of the end of the Settlement Period. If within sixty (60) days after a quarter in which a failure occurs Qwest fails to credit as required, then the Project Completion Credits shall begin to bear interest at the Chase Manhattan prime rate until Qwest begins to credit. The four categories of projects subject to the Project Completion Credits of this paragraph 9 are as follows:

- (a) The High Speed Internet Access Project as defined in paragraph 4a of this Settlement Agreement, to be completed within 36 months after the Effective Date.
- (b) The Redundant and Diverse Routes Project as defined in paragraph 4b of this Settlement Agreement, to be completed within 42 months after the Effective Date.
- (c) The Cable Improvement Project as defined in paragraph 4c of this Settlement Agreement, to be completed within 42 months after the Effective Date.

(d) The Advanced Telecommunications Technologies Project as defined in paragraph 4d of this Settlement Agreement, to be completed within 42 months after the Effective Date.

Upon a motion for relief filed by Qwest with the Commission, Qwest's performance and assessment of Project Completion Credits under this paragraph 9 may be excused or mitigated by an event outside of Qwest's control that causes Qwest to complete a project after the deadline.

10. **Interim Enforcement.** If Qwest does not invest and expend at least 90% of \$127.5 Million in allowable costs for the Settlement Projects defined in paragraph 4 by the end of the 21st month of the Settlement Period, then beginning within sixty (60) days of the end of the 21st month of the Settlement Period and on a monthly basis over the next succeeding twelve (12) months, Qwest will credit New Mexico customers' accounts that are invoiced for services that are subject to the intrastate subscriber line charge established by the Commission in Case No. 06-00026-UT. The total amount of these credits will be the difference between \$127.5 Million and the amount actually and properly expended (the "Interim Network Projects Shortfall"), and the monthly credit to a customer's account will be proportionate to the recalculation of subscriber line charges per service as stated by the Commission in Case No. 06-00026-UT, for the number of intrastate subscriber line charges as of the end of the 21st month of the Settlement Period. If within sixty (60) days of the end of the 21st month of the Settlement Period Qwest fails to credit as required, then the Interim Network Projects Shortfall shall begin to bear interest at the Chase Manhattan prime rate until Qwest begins to credit. For the purposes of this paragraph, the timing of Qwest's spending will be measured according to the dates on which allowable expenditures are recorded by Qwest in accordance with Generally Accepted Accounting Principles (GAAP), without regard to whether the related projects are complete or in service.

11. **Assignments and Transfers.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns. The assignment or transfer of any services or facilities included in the

obligations undertaken by Qwest Corporation under this Agreement shall not be effective except upon the prior approval of the Commission, which may consider and allocate obligations between Qwest and the transferee to ensure that the obligations under this Agreement in the impacted areas are fairly addressed.

12. Enforcement Costs and Consent to Jurisdiction.

- (a) Qwest shall pay the reasonable costs of enforcement by the PRC and other participating parties contributing substantially to the outcome of all enforcement proceedings, including reasonable attorney's fees and costs, if Qwest fails to comply with the terms of the Settlement and enforcement action is necessary.
- (b) Qwest agrees to submit to and not to contest the authority or jurisdiction of the PRC with respect to the approval, supervision, and enforcement of the terms of this Settlement Agreement, and agrees that the PRC may apply expedited procedures to the resolution of any complaint alleging a violation by Qwest of its terms.

13. Withdrawal; Commission Action. Each Party reserves the right to withdraw from this Settlement Agreement by giving written notice to the other Parties within ten (10) days after the occurrence of any of the following events: (a) the Commission rejects all or any portion of the Settlement Agreement; (b) the Commission conditions approval of the Settlement Agreement on revisions to its terms and conditions which are unacceptable to any Party; or (c) the Commission assesses and does not stay collection or payment of any penalties, orders credits of refunds, or requires and enforces a remedy against Qwest other than as stated in this Settlement Agreement in the Enforcement Docket or in the proceeding addressing the approval of this Settlement Agreement. If a Party withdraws in accordance with this provision, this Settlement Agreement and any incorporated documents shall be immediately canceled and rendered void, and all Parties shall be released from all duties and obligations hereunder, no Party will be bound or prejudiced by the terms of or its participation in the Settlement Agreement, and each Party shall be entitled to pursue its advocacy in the Enforcement Docket, the Supreme Court Appeal, the Federal Case, and any other docket, civil action, appeal or other case related to such

proceedings.

14. **Withdrawal; Appeals.** In the event an appeal is taken from the Commission's order approving this Settlement Agreement, and a reviewing court or the Commission upon remand rejects, vacates, or modifies any term or condition of this Settlement Agreement, then this Settlement Agreement is rendered void.

15. **Matters Settled.** Issuance of the Commission's order approving this Settlement Agreement shall constitute a complete and final resolution of the Investigation Docket and the Enforcement Docket, and the Parties acknowledge that the PRC's approval of this Agreement completely and finally resolves all issues and claims that were or could have been raised, asserted or appealed in and from the Investigation Docket, the Enforcement Docket, the Supreme Court Appeal, and the Federal Case. The Parties acknowledge that issues and claims that have been or could be raised, asserted or appealed in AFOR II are not resolved under this Agreement. Upon the Commission's order approving this Settlement Agreement and upon the Effective Date, the parties to the Federal Case will file stipulated pleadings dismissing that case with prejudice. Because this Agreement, if approved by the Commission, would resolve the Enforcement Case, the Parties respectfully request that the Commission dismiss the Enforcement Case upon approval of this Agreement. Provided, however, that the dismissal, resolution and closing of those proceedings does not include and is not intended to include the withdrawal or withdrawal from publication of any decisions or opinions issued before the date of the filing of the stipulated pleadings requesting dismissal, resolution and closing of those cases.

16. **Negotiations.** All negotiations relating to or leading to this Agreement are confidential and subject to Rule 408 of the Rules of Evidence or its equivalent, as well as the Commission's Rule on settlement negotiations (NMAC 17.1.2.19.4), and no party is bound by any position asserted in negotiations except to the extent expressly stated in this Agreement. As such, the Parties may not offer evidence of conduct or statements made in the course of negotiation of this Agreement in any proceeding before the Commission, any other regulatory agency or any court.

17. Extensions. Delays in Performance and Force Majeure

- (a) Except as expressly set out in this Paragraph of this Settlement Agreement, there shall be no extensions or delays in Qwest's performance of its obligations under this Settlement Agreement, including without limitation, waivers, extensions or delays due to Force Majeure Events, as defined herein.
- (b) Force Majeure Events. Each of the obligations of Qwest under this Settlement Agreement may be delayed only if and to the extent Qwest presents a showing that one or more of the following Force Majeure Events caused, or may in the future cause, Qwest to be unable to complete such obligation in the time prescribed by this Agreement ("Delayed Item"), and that the Delayed Item was not caused by or the fault of Qwest and that Qwest has exercised due diligence to maintain and staff its company and its network to ensure compliance with its obligation to timely and fully perform the Delayed Item during reasonably foreseeable events. Force Majeure Events are: periods of emergency, catastrophe, natural disaster, severe storm or other events directly affecting Qwest's ability to timely perform the Delayed Item, including but not limited to: civil unrest, strikes, work stoppages, cable cuts by third parties, vandalism and conditions or delays caused by vendor or supplier issues outside of Qwest's control. The existence of such events are not Force Majeure Events unless they are shown by Qwest to directly cause, or may cause in the future, Qwest's inability to perform a Delayed Item within the time prescribed therefore by this Settlement Agreement.
- (c) Within thirty (30) calendar days of a Force Majeure Event for which Qwest seeks additional time within which to perform a Delayed Item, Qwest may petition the Commission to grant an extension of time for a Delayed Item. The petition to the Commission shall include all of the following information:
- (i) Specific description of the Force Majeure Event;
 - (ii) Date or dates of the Force Majeure Event;
 - (iii) The Delayed Item for which Qwest seeks an extension for compliance and

- the duration of the extension requested;
- (iv) How the Force Majeure Event may make or made Qwest unable to timely complete the Delayed Item;
 - (v) The extent to which Qwest caused or contributed, or may in the future cause or contribute, to the delay;
 - (vi) The due diligence Qwest used, prior to the Force Majeure Event, to avoid the delay, if applicable.

Commission Staff shall and any other interested party may respond to any such petition within thirty (30) calendar days by making a recommendation to the Commission as to whether Qwest should be permitted to delay completion of the Delayed Item, and if so, whether the specific extension requested by Qwest should be granted or modified in any respect. The Commission shall resolve such requests for extension by order or ruling.

18. **Union Contractors.** When selecting independent contractors for projects under paragraph 4 of the Settlement Agreement, Qwest will prefer independent contractors employing unionized labor, assuming that all of the other material criteria for the selection of independent contractors are equal.
19. **Commercial Agreements for Host ISP Product; Line Conditioning**
 - (a) For a period of 90 days following the Effective Date, Qwest will offer commercial agreements for the purchase of its Host ISP product (port on the ATM switch, bandwidth, and access link) for a contractual term of 1, 3 or 5 years. The rates, terms and conditions of such agreements shall be equivalent to or better than those currently available in New Mexico for the Qwest Host ISP product. Termination Liability Assessment charges for any existing Host ISP agreement will be waived if a new Host ISP commercial contract to serve New Mexico customers is executed within 90 days of the Effective date pursuant to this subparagraph.
 - (b) If Qwest incurs costs and expenses to perform line conditioning for an access line, and such costs and expenses count toward the Project Spending Amount, then

Qwest will not charge line conditioning for that same access line to any carrier or end user.

- 20. Entire Agreement. This Agreement represents the complete agreement of the Parties. There are no understandings or commitments other than those specifically set forth herein.

Dated this 15th day of December, 2006

The General Services Department of the State Of New Mexico

By: _____
 Arturo L. Jaramillo
 Secretary

The Attorney General of the State of New Mexico

By: _____
 Patricia Madrid
 Attorney General

Qwest Corporation

By: _____
 R. Steven Davis
 Senior Vice President — Public Policy

The Staff of the Utility Division of the New Mexico Public Regulation Commission

By: *Ray E. Stephenson*
 Ray E. Stephenson
 Director, Legal Division

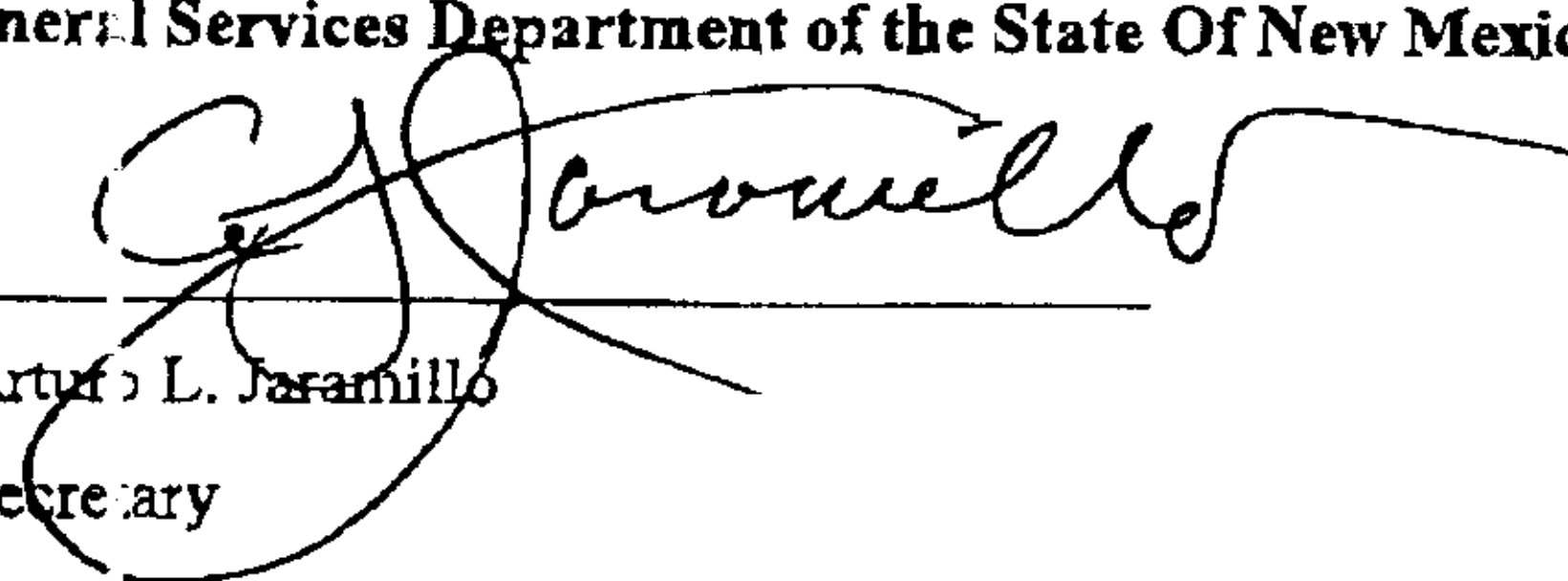
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By: _____


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Secretary

The Attorney General of the State of New Mexico

By: _____

Patricia Madrid
Attorney General

Qwest Corporation

By: _____

R. Steven Davis
Senior Vice President — Public Policy

The Staff of the Utility Division of the New Mexico Public Regulation Commission

By: _____

Roy F. Stephenson

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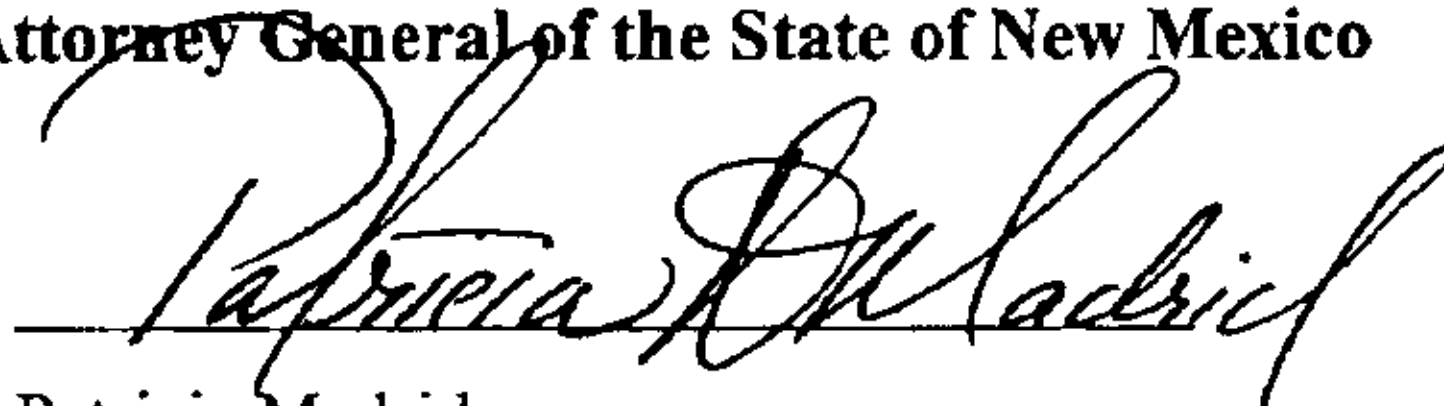
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The Attorney General of the State of New Mexico

By: 
Patricia Madrid
Attorney General

Qwest Corporation

By: _____
R. Steven Davis
Senior Vice President — Public Policy

The Staff of the Utility Division of the New Mexico Public Regulation Commission

By: _____
Roy E. Stephenson

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Dated this 15th day of December, 2006

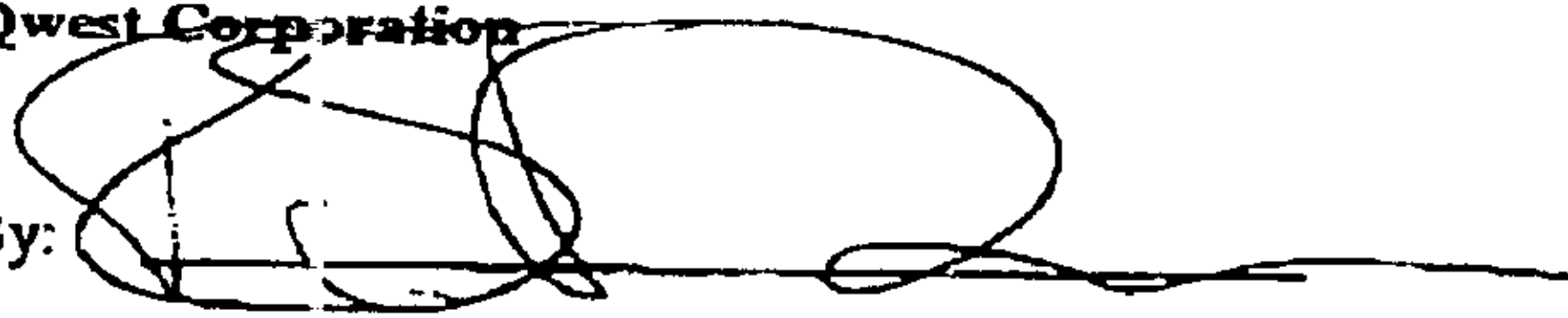
The General Services Department of the State Of New Mexico

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The Attorney General of the State of New Mexico

By: _____
Patricia Madrid
Attorney General

Qwest Corporation

By: 
R. Steven Davis
Senior Vice President — Public Policy

The Staff of the Utility Division of the New Mexico Public Regulation Commission

By: _____
Roy E. Stephenson

Appendix A

| | Wire Center | CLLI |
|----|--------------------|-------------|
| 1 | Angel Fire | ANFRNMMA |
| 2 | Anthony | ANTHNMMA |
| 3 | Artesia Main | ARTSNMMA |
| 4 | Aztec Main | AZTCNM03 |
| 5 | Bloomfield | AZTCNMBL |
| 6 | Chaparral | CHAPNMMA |
| 7 | Clovis West | CLVSNMWE |
| 8 | Cimmaron | CMRNNMMA |
| 9 | Deming | DMNGNMMA |
| 10 | Farmington Main | FRTNNMMA |
| 11 | Gallup East | GLLPNMEA |
| 12 | Gallup | GLLPNMMA |
| 13 | Grants main | GRNTNMMA |
| 14 | Laguna Acoma | LAACNM01 |
| 15 | La Mesa | LAMSNMMA |
| 16 | Los Alamos | LSALNMMA |
| 17 | Amber Mesa | LSCRNM16 |
| 18 | Telshor | LSCRNMTS |
| 19 | Los Lunas North | LSLNNMNO |
| 20 | Las Vegas | LSVGNMMA |
| 21 | Roswell South | RSWLNMSO |
| 22 | Silver City | SLCYNMMA |
| 23 | Eldorado | SNFENM58 |
| 24 | Santa Teresa | SNTSNMAA |
| 25 | Springer | SPRNNMMA |
| 26 | Taos Main | TAOSNMMA |

Appendix B
Advanced Technology Project List as of July 26, 2006

| JOB TITLE | ESTIMATED COST | WORK DESCRIPTION | CUSTOMER IMPACT | TIMELINE |
|---|----------------|---|--|-----------|
| Albuquerque NE fiber Route 2 | \$300,000.00 | Copper to fiber migration including new voice and electronics. | More grade availability of Qwest advanced services for residential and business customers. | 8 MONTHS |
| High Capacity Facilities and Upgrades to Other Carriers' Wireless sites | \$3,000,000.00 | Deploy additional copper and fiber backbone and electronics to support the growth of wireless services in New Mexico. Increase capacity and reliability of the Qwest Network. | Provides a more robust and reliable network when New Mexicans use wireless services | 18 MONTHS |
| Statewide High Capacity Remote test access/ digital cross connect platforms | \$5,000,000.00 | Deploy the latest in electronics for remote testing and provisioning capabilities. Design and implement new systems to support efficient network configuration and performance monitoring for service quality. Improves response time for customer maintenance. | Allows for a more efficient delivery of Qwest service to customers. | 24 MONTHS |
| Cannon AFB high capacity services upgrade | \$3,000,000.00 | Support the new Cannon Air Force Base mission by building a new diverse fiber path to the base connected to the Qwest network. | Cannon AFB will have access to Qwest broadband services with high bandwidth and reliability. | 9 MONTHS |
| Las Cruces fiber backbone for Qwest Metro Optical Ethernet | \$1,500,000.00 | Deploy state-of-the-art ATM technology at bandwidths from 10 Mbps up to 1Gbps over Qwest fiber network. | Provides broadband access via ethernet connections to K-12 schools, local government, and businesses. | 10 MONTHS |
| Qwest Voice Mail service deployment | \$1,000,000.00 | Expand availability of Qwest Voice Mail service to Grants, Laguna Acoma, Socorro and Tucumcari. | Provides Qwest service area with 100 percent voice mail capability in New Mexico. | 12 MONTHS |
| Socorro Main Route 1 Fiber placement | \$400,000.00 | Copper to fiber migration to augment services availability for the primary business district and surrounding residential areas of Socorro. | Provides increased bandwidth availability to business and residential customers. | 9 MONTHS |
| Broadband Access for New Mexico National Guard/Homeland Security | \$500,000.00 | Place copper, fiber and electronics to upgrade current frame relay technology with faster broadband access at multiple sites in rural areas. | Provides NM National Guard installations access to broadband services that will support Homeland Security. | 8 MONTHS |
| NASA Apollo Site high capacity connection in Las Cruces | \$650,000.00 | Place new electronics and fiber to increase the bandwidth and capability of the network. | Provides NASA and White Sands with greater bandwidth capacity and network reliability to support their missions. | 6 MONTHS |
| Statewide digital system upgrades/analog replacements | \$3,000,000.00 | Upgrade existing analog equipment with new digital systems in rural areas throughout the state. Redesign and construct new distribution areas to maximize the capability of the new technology. | Provides customers in rural and urban areas with access to new and improved technology and greater reliability. | 28 MONTHS |

This Appendix B is subject to Paragraph 4 (d) of the Settlement Agreement and is incorporated by reference.

Appendix C
New Mexico Network Improvement and Cap. Augmentation Projects July 21, 2006

| JOB TITLE | ESTIMATED COST | WORK DESCRIPTION | CUSTOMER IMPACT | TIMELINE |
|---|----------------|---|---|-----------|
| Clovis pressurized cable upgrade | \$125,000.00 | Upgrade underground cables in Clovis with new air pressure delivery and monitoring technology. | Provides customers in Clovis with increased network reliability. | 9 MONTHS |
| Belen pressurized cable upgrade | \$135,000.00 | Upgrade underground cables in Belen with new air pressure delivery and monitoring technology. | Provides customers in Belen with increased network reliability. | 9 MONTHS |
| Artesia pressurized cable upgrade | \$65,000.00 | Upgrade underground cables in Artesia with new air pressure delivery and monitoring technology. | Provides customers in Artesia with increased network reliability. | 6 MONTHS |
| Gallup pressurized cable upgrade | \$89,000.00 | Upgrade underground cables in Gallup with new air pressure delivery and monitoring technology. | Provides customers in Gallup with increased network reliability. | 6 MONTHS |
| Replace analog equipment with new digital equipment at Hwy 58 and County Road outside of Springer | \$62,000.00 | This work will upgrade a very remote rural area with a new digital communications system. | Provides customers in this area with expanded services and increased reliability. | 10 MONTHS |
| Upgrade existing equipment with digital equipment at 6440 Montano Rd NW in Albuquerque | \$190,000.00 | Replace existing equipment with digital fiber-based technology. | Provides customers in this area with expanded services and increased reliability. | 12 MONTHS |
| Place new fiber section in route 2 through St. Augustine Pass in Las Cruces | \$165,000.00 | This work will place new fiber cable and provide additional capacity for broadband services to White Sands Missile Range and Holloman Air Force Base. | Increases bandwidth for White Sands Missile Range and Holloman Air Force Base. | 6 MONTHS |

Appendix C
New Mexico Network Improvement and Cap. Augmentation Projects July 21, 2006

| JOB TITLE | ESTIMATED COST | WORK DESCRIPTION | CUSTOMER IMPACT | TIMELINE |
|---|----------------|---|--|-----------|
| Place 6.5 miles fiber to Double Eagle Airport in Albuquerque | \$550,000.00 | This work will place new equipment and fiber which will feature broadband and fiber-based technology available to the new Double Eagle Airport development. | Greatly enhances the economic development opportunities for this new development. | 8 MONTHS |
| Replace analog equipment with digital equipment for Macho area residential customers in Roswell | \$253,000.00 | This work will upgrade a very remote rural area with a new digital communications system to the community of Macho just outside of Roswell. | Provides customers in this area with expanded services and increased reliability. | 6 MONTHS |
| Place fiber fed digital equipment at 12153 Willow Creek Rd NE in Bernalillo | \$360,000.00 | This work will place fiber and upgrade communications equipment and replace it with the most current broadband and fiber-based technology available. | Greatly enhances the bandwidth for customers within this area. | 12 MONTHS |
| Replace equipment at 129 Lupita in Santa Fe | \$104,000.00 | This work will upgrade communications equipment and replace it with the most current broadband and fiber-based technology available to this highly dense business area. | Provides business customers in this area with expanded services and increased reliability. | 6 MONTHS |

**Appendix C
New Mexico Network Improvement and Cap. Augmentation Projects July 21, 2006**

| JOB TITLE | ESTIMATED COST | WORK DESCRIPTION | CUSTOMER IMPACT | TIMELINE |
|---|----------------|---|--|-----------|
| Replace existing equipment with digital equipment in Santa Fe | \$180,000.00 | Replace existing equipment with digital fiber-based technology. | Provides customers in this area with expanded services and increased reliability. | 6 MONTHS |
| Upgrade fiber-based equipment at 3901 Singer Blvd in Albuquerque | \$315,000.00 | This work will upgrade communications equipment and replace it with the most current broadband and fiber-based technology available to this highly dense business area. | Provides business customers in this area with expanded services and increased reliability. | 12 MONTHS |
| Upgrade fiber-based communications equipment at 1100 Mescalero in Roswell | \$150,000.00 | This work will upgrade communications equipment and replace it with the most current broadband and fiber-based technology available. | Provides customers in this area with expanded services and increased reliability. | 6 MONTHS |
| Place 7 miles of buried/aerial fiber along La Plata Hiway and replace communications equipment at 8 locations in Farmington | \$980,000.00 | Replace existing equipment with digital fiber-based technology at 8 locations. | Provides customers in this area with expanded services and increased reliability. | 12 MONTHS |
| Place fiber and new digital equipment to Lassiter/Pecan in Las Cruces | \$500,000.00 | This work will place fiber and new digital equipment with the most current broadband and fiber-based technology available. | Provides customers in this area with expanded services and increased reliability. | 10 MONTHS |

Appendix C

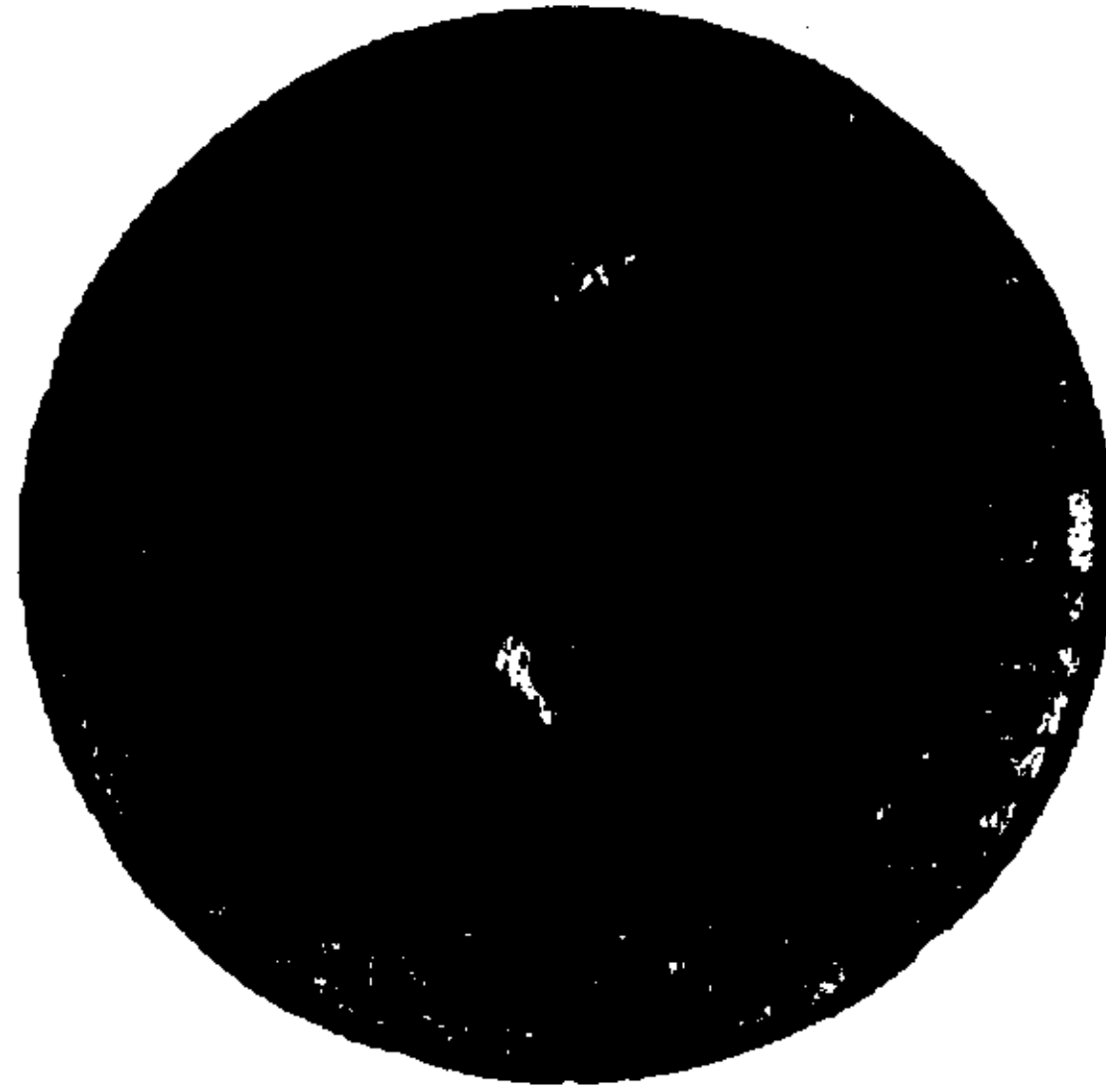
New Mexico Network Improvement and Cap. Augmentation Projects July 21, 2006

| JOB TITLE | ESTIMATED COST | WORK DESCRIPTION | CUSTOMER IMPACT | TIMELINE |
|--|----------------|---|---|-----------|
| Place fiber and new digital equipment at Escondido and broadmoor in Chapparral | \$150,000.00 | This work will place fiber and new communications equipment and replace it with the most current broadband and fiber-based technology available. | Provides customers in this area with expanded services and increased reliability. | 10 MONTHS |
| Place fiber fed digital equipment at 41 Compress Rd in Artesia | \$180,000.00 | This work will place new communications equipment with the most current broadband and fiber-based technology available. | Provides customers in this area with expanded services and increased reliability. | 8 MONTHS |
| Place 6.5 miles of fiber from Franklin Farms to Akela in Deming | \$400,000.00 | This work will place 6.5 miles of fiber and new communications equipment and replace it with the most current broadband and fiber-based technology available. | Provides customers in this area with access to greater bandwidth and increased reliability. | 14 MONTHS |
| Replace 4 miles of copper with fiber to Tyrone Townsite in Silver City | \$400,000.00 | This work will place fiber and new digital equipment with the most current broadband and fiber-based technology available. | Provides customers in this area with access to greater bandwidth and increased reliability. | 12 MONTHS |
| Upgrade fiber-based communications equipment at 1735 S. Av. P in Route 2 in Portales | \$180,000.00 | This work will place new communications equipment with the most current broadband and fiber-based technology available. | Provides customers in this area with expanded services and increased reliability. | 10 MONTHS |

**Appendix C
New Mexico Network Improvement and Cap. Augmentation Projects July 21, 2006**

| JOB TITLE | ESTIMATED COST | WORK DESCRIPTION | CUSTOMER IMPACT | TIMELINE |
|--|----------------|---|---|-----------|
| Place 4 miles of fiber to 46.0 RL2 in Las Cruces | \$400,000.00 | This work will place 4 miles of fiber and new communications equipment with the most current broadband and fiber-based technology available. | Provides customers in this area with access to greater bandwidth and increased reliability. | 12 MONTHS |
| Place 3 miles of fiber to Country Club/UNM Campus in Taos | \$250,000.00 | This work will place 3 miles of fiber and new communications equipment with the most current broadband and fiber-based technology available to the UNM Taos branch campus. | Provides the Taos UNM campus and other customers in this area with access to greater bandwidth and increased reliability. | 12 MONTHS |
| Upgrade fiber-based equipment at 4898 Alameda Blvd NE in Albuquerque | \$310,000.00 | This work will upgrade the communications equipment and replace it with the most current broadband and fiber-based technology available to this highly dense business area. | Benefits hundreds of business customers in this area by providing increased reliability. | 12 MONTHS |
| Place 2.5 miles of fiber and digital equipment at 7301 Jensen Rd SW in Albuquerque | \$300,000.00 | This work will place 2.5 miles of fiber and new communications equipment and replace it with the most current broadband and fiber-based technology available. | Provides customers in this area with access to greater bandwidth and increased reliability. | 10 MONTHS |

APPENDIX D



The New Mexico STRONG Project

Students and Teachers Reaching Optimal New Goals

Presented By Dr. Veronica Garcia, Secretary of Education

Agency Contacts: Dr. Jim Holloway and Sally Wilkinson

Revised July 25, 2006

Every child in the state of New Mexico has the capacity to succeed in school and in life. Yet far too many children fail to meet their potential. Many students, especially those from poor and minority families, are placed at risk by school site practices that sort some students into high-quality programs and other students into low-quality programs. The New Mexico Public Education Department believes in a model that sets high expectations for all students, and ensures that all students receive a rich and demanding curriculum delivered by highly qualified teachers with appropriate assistance and support. The strength of this project is guided by three central themes:

- Ensuring the success of all students at key development points,
- Building on students' personal and cultural assets, and
- Scaling up effective programs with the integration of 21st Century skills.

The STRONG Project will target seventh and eighth grade student and teacher groups at selected School Improvement sites. The majority of the sites are minority-rich schools with high Native American and/or Hispanic populations. It is critical that these students experience school success at this key development point or run the risk of dropping out of school. The STRONG Project will provide students with opportunities to build on personal strengths and cultural assets through use of 21st Century tools and educational experiences that support that end.

The STRONG Project will increase effectiveness of programs with the integration of 21st Century skills to increase student achievement and teacher quality. Professional development is a necessary component to support educators and students as they transition to appropriate use of technology-based resources that are effective in increasing student achievement and prepare students for the world beyond the classroom. Based on current data, it is evident that changes must be made in the instructional model used at these sites to focus specifically on student academic needs and professional development needs of teachers. 21st Century skills include; learning and thinking skills, information, communication and technology skills as well as literacy and life skills (see details attached). These skills are necessary for all students regardless of their present plans for their future; additionally student skills will need to increase in Math and Science.

The goal of the STRONG Project is to close the achievement gap through building of 21st Century skills in students and teachers. Effective and appropriate use of technology is at the heart of 21st Century learning. This proposal will place class sets of laptops and carts into each core academic classroom. The laptops will include a computerized learning system that focuses on language acquisition and core content areas of Language Arts/Reading, Math, and Science. The computerized learning system software will be pre-loaded onto each laptop to ensure accessibility in even the most remote areas. Video streaming and browser based curricula capable of being delivered via the Internet or on stand alone web servers will allow for real-time learning and reporting to occur. This will expand the range of learning offered in some of these remote areas of New Mexico. Students will be offered the opportunity for anytime anywhere learning coupled with flexible access to learning resources; this will ensure the systemic change in the education system that is necessary to support learning in the 21st Century.

Each cart will be equipped with 30 laptop computers, a printer and wireless access point to facilitate the use and implementation of technology. The technologies and professional

development outlined in this project assure that instruction in the "core content" areas can be delivered, assessed and evaluated in a variety of medium that take into account student individual abilities, strengths and learning styles. To this end, educators need appropriate technologies, flexible access to learning resources and quality training to make the systemic change in the education system that is necessary to support learning in the 21st Century.

Each teacher participating in the project will receive professional development tailored to his/her specific needs and aligned to the New Mexico 3-Tiered Licensure requirements. Success will be measured by increases on student performance in Math, Science, and Language Arts/Reading, teacher progression on 3-Tiered Licensure outcomes and administrative evaluation. Professional development services include one-to-one coaching/mentoring, pedagogical and core area skills and knowledge training, and online professional development. Site administrators will also receive technical assistance in leading a campus in which 21st Century skills are delivered.

The reports of the National Commission on Teaching and America's Future [NCTAF] (1996) recognize teaching expertise as the single most important factor in increasing U. S. students' academic success. Research of effective practice confirms the critical relationship between what teachers know and do and what students learn (NCTAF, 1996; Darling-Hammond, 1997).

Along with teacher professional development, student learning will be supported by computer-based resources that will build core academic and technology application skills. Students will use computerized programs which are aligned to New Mexico Content Standards. The student goal for the project is for scores to increase in Math, Science, and Reading by a minimum 3% annually as evidenced by results on the New Mexico Criterion Reference Test. Additionally, students' technology competencies and proficiencies will increase as evidenced against International Society for Technology in Education [ISTE] National Educational Technology Standards [NETS] (http://cnets.iste.org/students/s_stands.html).

Many of our students on reservation and border communities are limited English speakers, and as a result, they face barriers when entering college and the workforce. According to research conducted by Center for Research on Education, Diversity, and Excellence (<http://www.cal.org/crede/pubs/edpractice/EPR6.htm>), "Language minority students, including immigrants and the U.S.-born children, may have to contend with a mismatch between the language and culture of their schools and those of their homes and communities. Language minority students, in particular, may face obstacles resulting from a mismatch between their language and culture and the language and culture of the school, and from the school system's difficulty in addressing their academic needs appropriately."

PED will contract with an external evaluator to determine the success of the initiative. The evaluation will establish whether students are making adequate yearly progress in academic subjects, and the contribution of 21st Century skills in closing the achievement *gap*. In addition, data on current dropout rates, truancy, and student engagement in learning will be assessed at the beginning, interim and end of the year.

Attachment A

Annual Budget Break-down

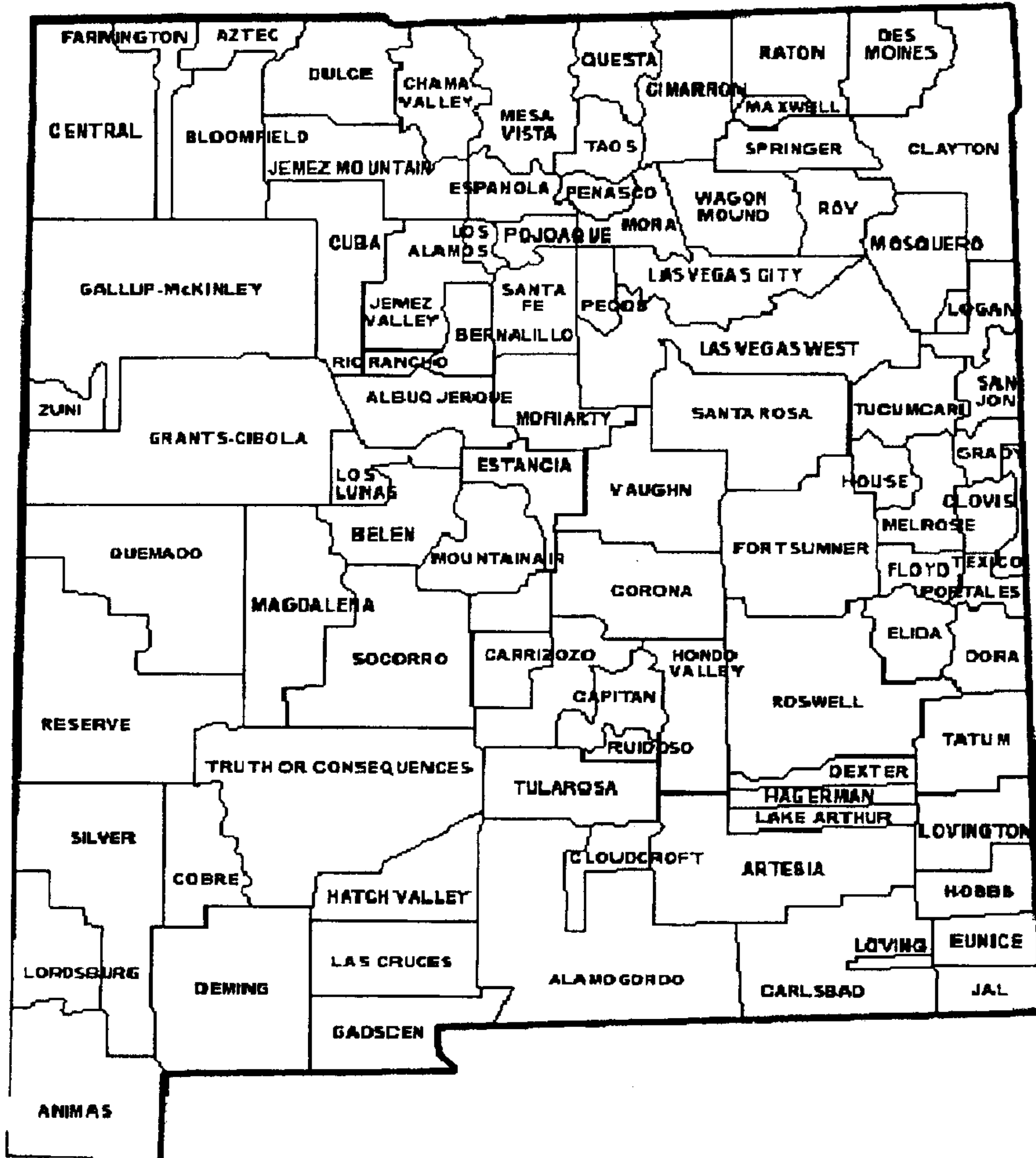
| | | |
|---------------------|---------------------------------------|---------------------|
| | | |
| PED FTE | Ed. Consultant A, Admin Support A | \$250,000 |
| Laptop Bundle FY 07 | | \$8,100,000 |
| | Laptop carts-printer and access point | |
| | Professional development | |
| | Laptops and related hardware | |
| | Computerized Learning System | |
| | Warranties | |
| | Anti-virus- upgradeable for 3 years | |
| | Back Pack carrying case | |
| | Software package | |
| | Leadership Professional Development | |
| Infrastructure | Competitive | \$1,500,000 |
| Evaluation | | \$150,000 |
| | | \$10,000,000 |

| | |
|--|--------------------|
| | |
| Evaluation | \$60,000 |
| PED FTE d. Consultant A, Admin Support A | \$250,000 |
| Professional Development-sustainability | \$550,000 |
| Parent and Community Involvement | \$300,000 |
| Leadership Professional Development | \$100,000 |
| Peripherals | \$500,000 |
| Distance Learning | \$500,000 |
| Expansion of Software | \$240,000 |
| | \$2,500,000 |

| | |
|--|--------------------|
| Evaluation | \$60,000 |
| PED FTE d. Consultant A, Admin Support A | \$250,000 |
| Professional Development-sustainability | \$550,000 |
| Parent and Community Involvement | \$300,000 |
| Leadership Professional Development | \$100,000 |
| Peripherals | \$500,000 |
| Distance Learning | \$500,000 |
| Expansion of Software | \$240,000 |
| | \$2,500,000 |

Attachment B

Proposed STRONG Project Sites



Attachment C

Proposed STRONG Project Sites

| | | |
|----------------------------|-----|-----|
| Alb. (Wilson MS) | 163 | 180 |
| Alb. (Tohajiilee) | 30 | 35 |
| Bernalillo (Santo Domingo) | 28 | 23 |
| Carlsbad (Alta Vista MS) | 199 | 178 |
| Central (Newcomb MS) | 62 | 75 |
| Central (Tse'bit'ai MS) | 225 | 235 |
| Deming | 386 | 441 |
| Dulce MS | 50 | 49 |
| Espanola Military Academy | 70 | 72 |
| Estancia MS | 62 | 81 |
| Gadsden MS | 524 | 482 |
| Gallup (Navajo MS) | 45 | 60 |
| Hobbs (Houston MS) | 284 | 294 |
| Lovington JHS | 234 | 218 |
| Mora MS | 39 | 47 |
| Roswell (Mesquite MS) | 130 | 150 |
| Silver (La Plata MS) | 223 | 234 |
| Socorro (Saracino MS) | 125 | 152 |
| Tucumcari | 79 | 104 |
| Vaughn MS | 5 | 7 |
| W. Las Vegas Valley MS) | 19 | 24 |

Melnikoff, Stephen S Mr OTJAG

From: Nicholls, Sarah [Sarah.Nicholls@qwest.com]
 Sent: Tuesday, November 07, 2006 12:10 AM
 To: Melnikoff, Stephen S Mr OTJAG
 Subject: RE: Los Alamos National Laboratory (LANL) Project (UNCLASSIFIED)

Yes, this is Qwest's plan for the IOF diversity project to Los Alamos, NM

Sarah Nicholls
 Director Network Operations, Qwest Communications

From: Melnikoff, Stephen S Mr OTJAG [mailto:stephen.melnikoff@us.army.mil]
 Sent: Mon 11/6/2006 10:07 PM
 To: Nicholls, Sarah
 Subject: Los Alamos National Laboratory (LANL) Project (UNCLASSIFIED)

Classification: UNCLASSIFIED
 Caveats: NONE

Sarah--

Please confirm that the paragraph below accurately reflects Qwest's proposed AFOR settlement solution for the LANL Project.

Thank you.

Stephen Melnikoff

The Qwest proposal for LANL, consistent with the AFOR settlement, is as follows:

DIVERSE FACILITIES TO THE LOS ALAMOS NATIONAL LABORATORY. Estimated cost = \$1 million. Qwest will complete a diverse fiber facility to the Los Alamos National Laboratory. Qwest will extend fiber optic facilities to create an alternate path from Santa Fe to the Los Alamos Labs in cooperation with the Labs and Los Alamos County. This new fiber path will complete a fiber optic ring serving the Labs. By providing an alternate facility path and alternate routing capability, if service is interrupted on the primary path, the service is automatically re-routed to the alternate path. Service to the Labs will continue uninterrupted. Furthermore, the placement of these facilities lays the foundation for a future diverse path, possibly via Geo-Max, to the Sandia Laboratories. This ring architecture ensures a much greater degree of network survivability and bandwidth capability and would greatly benefit the Los Alamos Laboratories and its mission critical services as well as the surrounding communities. Once the BLM permit is issued to LANL, we expect our permit to be approved and the project to be on track for a late 2007 target completion date.

Classification: UNCLASSIFIED
 Caveats: NONE

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

Melnikoff, Stephen S Mr OTJAG

From: Nicholls, Sarah [Sarah.Nicholls@qwest.com]
Sent: Tuesday, November 07, 2006 12:28 AM
To: Melnikoff, Stephen S Mr OTJAG
Subject: RE: White Sands Missile Range Project (UNCLASSIFIED)

This is Qwest's plan for WSMR.

Sarah Nicholls
 Director Network Operations Qwest Communications NM

From: Melnikoff, Stephen S Mr OTJAG [mailto:stephen.melnikoff@us.army.mil]
Sent: Mon 11/6, 2006 10:22 PM
To: Nicholls, Sarah
Subject: White Sands Missile Range Project (UNCLASSIFIED)

Classification: UNCLASSIFIED
 Caveats: NONE

Sarah--

Please confirm that the paragraph below accurately reflects Qwest's proposed AFOR settlement solution for the WSMR Project.

Thank you.

Stephen Melnikoff

The Qwest proposal for WSMR, consistent with the AFOR settlement terms and timelines is as follows: Qwest will create a new Dmarc (technically an APOP) outside Building 100 using the existing fiber path back to our Las Cruces Main switch. The new Dmarc will consist of a fiber fed carrier system that will be used to re-home Class B (unofficial) communications including voice and data services in the Cantonment Area, which includes the headquarters, administration, support services and housing areas. This will not change the provisioning of up-range private line services to locations such as test sites. Qwest services available will include current and future products such as local residential (lowest = \$13.50 month plus tax) business, unlimited LD for \$20, International packages and bundle discounts. In addition, customers will have Qwest High Speed Internet available on the same terms and conditions (currently \$26.99 a month for life) as other customers in New Mexico. Commercial customers will have the same business to business relationship and availability of services and contracts as all other commercial businesses in New Mexico. The on-base customers of unofficial communications in this area will have Las Cruces telephone numbers and become part of the existing Las Cruces calling area. Once established, Qwest will be responsible to monitor, maintain and upgrade our facilities to provide quality service to our customers.

We anticipate the engineering, design and construction to take 6-9 months from the approval date. Depending on the final design, the cost is estimated to be around \$1,000,000.

Qwest will need the cooperation and coordination of the WSMR personnel to: provide conduits from Building 100 to mutually acceptable location(s), provide easements for the Qwest owned facilities, assist in notices to customers that will be changing to Qwest service, willingness to allow usage of the existing government owned and maintained distribution cable to connect the on-base customers of unofficial communications to the new Qwest Dmarc, efficient 7/24 access to our facilities for Qwest service personnel.

Classification: UNCLASSIFIED
Caveats: NONE

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

Appendix G

Qwest will deploy central office based High Speed Internet access in each of the following offices within 36 months of the Effective Date:

| | | |
|-----|----------------|----------|
| 1. | Angel Fire | ANFRNMMA |
| 2. | Chaparral | CHAPNMMA |
| 3. | Cimmaron | CMRNNMMA |
| 4. | Estancia | ESTNNMMA |
| 5. | Callup East | GLLPNMEA |
| 6. | Fort Wingate | GLLPNMFW |
| 7. | Hatch | HATCNMMA |
| 8. | Laguna Acoma | LAACNM01 |
| 9. | La Mesa | LAMSNMMA |
| 10. | Amber Mesa | LSCRNM16 |
| 11. | Moriarty | MRTYNMMA |
| 12. | Mountainair | MTNRNMMA |
| 13. | Pena Blanca | PNBLNMMA |
| 14. | Penasco | PNSCNMMA |
| 15. | Questa | QUSTNMMA |
| 16. | Red River | RDRVNMMA |
| 17. | Roswell South | RSWLNMSO |
| 18. | Eldorado | SNFENM58 |
| 19. | Santa Fe North | SNFENMNO |
| 20. | Santa Teresa | SNTSNMAA |
| 21. | Springer | SPRNNMMA |
| 22. | Taos North | TAOSNMNO |
| 23. | Tijeras | TJRSNMMA |

Attorney Client Privilege

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PROPOSED)
SETTLEMENT OF CERTAIN ISSUES)
PERTAINING TO QWEST CORPORATION'S)
NEW MEXICO TELECOMMUNICATIONS)
INVESTMENT REQUIREMENT UNDER ITS)
AMENDED ALTERNATIVE FORM OF)
REGULATION PLAN,)

Case No. 06-00325-UT

NEW MEXICO ATTORNEY GENERAL,)
NEW MEXICO GENERAL SERVICES)
DEPARTMENT, AND QWEST)
CORPORATION,)

Applicants.)

IN THE MATTER OF THE)
IMPLEMENTATION AND ENFORCEMENT)
OF QWEST CORPORATION'S AMENDED)
ALTERNATIVE FORM OF REGULATION)
PLAN)

Case No. 05-00094-UT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Order for Contingent Approval of Amended Settlement Agreement**, issued December 28, 2006, was mailed first-class, postage prepaid to each of the following:

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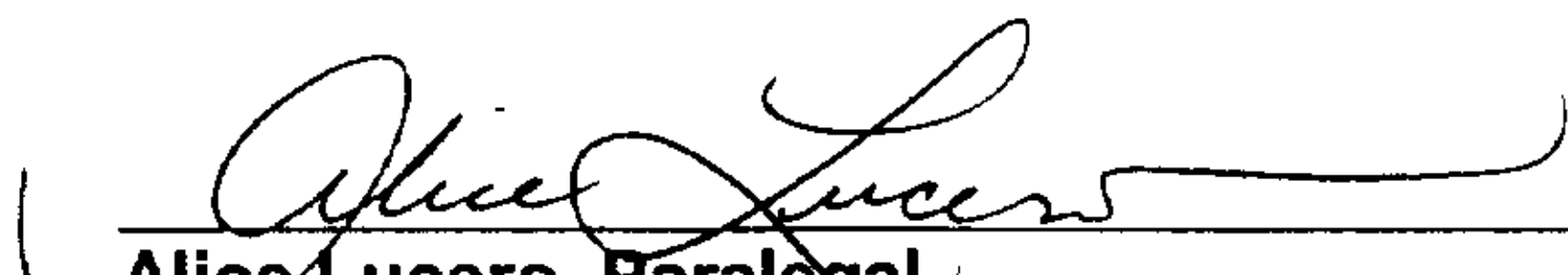
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DATED this 29th day of December, 2006.

NEW MEXICO PUBLIC REGULATION COMMISSION



Alice Lucero, Paralegal