

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of

QWEST CORPORATION

To be Regulated Under an Alternative Form of
Regulation Pursuant to RCW 80.36.135.

Docket No. UT-061625

STIPULATION AND SETTLEMENT
AGREEMENT

I. INTRODUCTION

The following parties (“Parties”) enter into this Settlement Agreement (the “Agreement”) as of March 6, 2007: Qwest Corporation (“Qwest”); Commission Staff (“Staff”); Integra Telecom of Washington, Inc., Time Warner Telecom of Washington, LLC, Covad Communications Company, and XO Communications Services, Inc. (collectively, “Joint CLECs”); Northwest Public Communications Council (“NPCC”); WeBTEC; and, the Department of Defense on behalf of the consumer interest of the Department of Defense and all other Federal Executive Agencies (“DOD”) (Joint CLECs, NPCC, WeBTEC, and DOD are also collectively referred to as “Intervenors”). The Parties agree this Agreement is in the public interest. The Parties understand this Agreement is subject to Commission approval.

II. BACKGROUND

On October 20, 2006, Qwest filed a petition with the Washington Utilities and Transportation Commission ("Commission") asking for approval of an alternative form of regulation ("AFOR"). The Intervenor herein were granted intervention in the proceeding. In accordance with the procedural schedule, all parties have filed testimony in this proceeding, and hearings are scheduled to begin on March 12, 2007.

The parties to this proceeding have engaged in settlement discussions regarding the contested issues in this proceeding. The Parties identified in Section I above have now reached agreement on certain issues presented in this proceeding, and wish to present their agreement on these issues for the Commission's consideration. The Parties to the settlement therefore adopt the following Agreement. The Parties enter into this Agreement voluntarily to resolve the matters in dispute among them and to expedite the orderly disposition of this proceeding.

III. AGREEMENT

Now, therefore, the Parties hereby agree as follows:

A. SCOPE OF AGREEMENT.

The Parties agree that the terms of this Agreement resolve, as among them, the contested issues in this proceeding. If approved, this Agreement would constitute a full settlement of all issues raised by the Parties in Docket No. UT-061625. This Agreement is presented for the Commission's approval under WAC 480-09-465 (Alternative Dispute Resolution) and WAC 480-120-466 (Settlement conference; settlements). The Parties request that the Commission approve this Agreement as soon as practicable.

B. AFOR IS IN THE PUBLIC INTEREST

By this Agreement Qwest and Staff agree that Qwest's modified proposal for an AFOR (attached hereto as **Exhibit 1**, and incorporated herein by this reference) is in the public interest and should be approved by the Commission. The Joint CLECs, WeBTEC, DOD and NPCC agree not to oppose Qwest's AFOR proposal, as modified herein.

C. SPECIFIC TERMS AND CONDITIONS

1. **Terms of the AFOR.** Qwest has agreed to modify its AFOR proposal as shown on the attached Exhibit 1, which, for purposes of this Agreement, supersedes any previously-filed AFOR proposals. Exhibit 1 contains the specific terms and conditions of the AFOR.

2. **Intervenors' Issues.** Qwest's DS1 and DS3 private line services currently are classified as competitive telecommunications services. Qwest's AFOR filing does not raise the issue of whether Qwest's rates for these services are fair, just, and reasonable. The Parties, therefore, are aware of no procedurally proper way to raise that issue in this docket without expanding the issues beyond those raised by the filing, which the intervening Parties have represented they would not do as a condition of their intervention. The participation of the Joint CLECs, WeBTEC, and DOD in this Settlement is based on that understanding and should not be construed or interpreted in any way as a lack of willingness or failure to pursue that issue in whatever forum is available.

D. GENERAL PROVISIONS

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

2. **Effective Date of Agreement.** This Agreement shall become effective only upon (1) the Commission entering an Order approving this Agreement in accordance with Section III.A. above, and (2) the approval of the AFOR proposal as set forth herein or as otherwise acceptable to the Parties. If this Agreement does not become effective according to its terms, it shall be null and void and no party shall be bound or prejudiced by the terms of the Agreement. The effective date of the

Agreement shall be the date of the Commission order approving the AFOR proposal in Exhibit 1.

3. No Precedent. The Parties enter into this Agreement to avoid further expense, uncertainty, and delay. Except to the extent expressly stated in this Agreement, nothing in this Agreement shall be (1) cited or construed as precedent or as indicative of the Parties' positions on a resolved issue, or (2) asserted or deemed in any other proceeding, including those before the Commission, the commission of any other state, the state courts of Washington or of any other state, the federal courts of the United States of America, or the Federal Communications Commission to mean that a Party agreed with or adopted another Party's legal or factual assertions. The limitation in this Section D.3 shall not apply to any proceeding to enforce the terms of this Agreement, any implementing agreements, or any Commission order adopting this Agreement.

4. Entire Agreement. The Parties acknowledge that this Agreement is the product of negotiations and compromise and shall not be construed against any Party on the basis that it was or was not the drafter of any or all portions of this Agreement. This Agreement constitutes the Parties' entire agreement on all matters set forth herein, and supersedes any and all prior oral and written understandings or agreements on such matters that previously existed or occurred in this proceeding, and no such prior understanding or agreement or related representations shall be relied upon by the Parties. Accordingly, the Parties recommend that the Commission adopt this Agreement and related documents in their entirety.

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

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

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

8. Procedure. The Agreement shall be filed with the Commission on March 6, 2007. All Parties shall cooperate in submitting this Agreement promptly to the Commission for acceptance, so that it may be approved as soon as practicable. The Parties shall request one or more hearing dates during the week of March 12, 2007 to present the Agreement and shall cooperate, in good faith, in the development of such other information as may be necessary to support and explain the basis of the Agreement and to supplement the record accordingly. Any Party may elect to file with the Commission a memorandum explaining the Agreement or additional testimony. The Parties agree among themselves to suspend all existing due dates in this docket including evidentiary hearings, and the briefing date, and to jointly request that the Commission so order. This agreement among the Parties with regard to the due dates and hearings does not affect the evidentiary hearings scheduled for the week of March 12, 2007 for purposes of presentation of other parties' evidence and cross-examination, and Qwest's evidence and cross-examination, with regard to the non-settling parties.


9. Support of Agreement. The Parties shall cooperate in submitting this Agreement promptly to the Commission for acceptance, and shall support adoption of this Agreement in proceedings before the Commission, through testimony and/or briefing as resolution of these issues in this proceeding. No Party to this Agreement or its principals, consultants or attorneys will engage in any advocacy or public relations contrary to the Commission's adoption of this Agreement as resolution of these issues in this proceeding. Intervenors request that they be permitted by the Commission to support the Agreement through statements of counsel. Each Party shall make available one or more witnesses in support of this Agreement if determined necessary by the Commission. Each party may seek the admission of its pre-filed testimony in addition to testimony in support of the Agreement. Each Party shall not oppose any Commission order which adopts this Agreement in its entirety through the appellate process, if any, until final. In the event the Commission rejects all or any material portion of this Agreement, or adds additional, material conditions, each Party reserves the right, upon written notice to the Commission and all Parties to this proceeding within seven (7) days of

the date of the Commission's order, to withdraw from this Agreement. If any Party exercises its right of withdrawal, this Agreement shall be void and of no effect, and all Parties shall support a joint request for a prompt Prehearing Conference and the reestablishment of those dates specifically suspended by the Commission pursuant to the above request.

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

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Commission Staff

By: 
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Joint CLECs

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Gregory Trautman, Assistant Attorney
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NPCC

By: _____
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Counsel for Northwest Public
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Department of Defense and all other Federal
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By: _____
Arthur Butler, Ater Wynne LLP
WSBA # 04678

By: *by telephone authority*
Stephen S. Melnikoff
General Attorney
U.S. Army Legal Services Agency

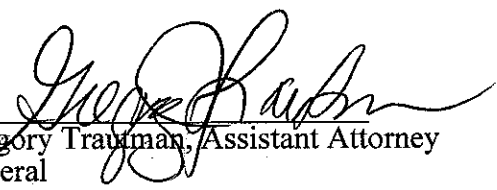
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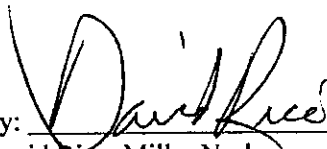
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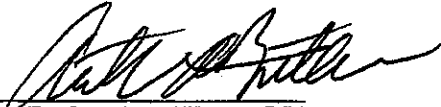
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