BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application of QWEST COMMUNICATIONS INTERNATIONAL, INC. AND CENTURYTEL, INC. For Approval of Indirect Transfer of Control of Qwest Corporation, Qwest Communications Company LLC, and Qwest LD Corp. ……	)))))))))))	Docket No. UT-100820

EXHIBIT BJJ-4

TO THE

RESPONSIVE TESTIMONY

OF

BONNIE JOHNSON

ON BEHALF OF INTEGRA TELECOM

September 27, 2010

LEGAL AUTHORITY COMPARED TO QWEST POSITION: xDSL-CAPABLE COPPER LOOPS[1]

#	LEGAL/CONTRACTUAL OBLIGATION	QWEST'S STATED POSITION OR PRACTICE[2]
A	**QWEST REFUSING DIGITAL LEVEL SIGNALS VIA CONDITIONED COPPER LOOPS**	
1	The loop definition includes "two-wire and four-wire loops that are conditioned ***to transmit*** the ***digital*** signals needed to provide services such as ISDN, ADSL, ***HDSL***, and ***DS1-level signals***." First Report and Order ¶380 (1996); see also UNE Remand Order ¶166 (1999); TRO ¶ 249 (2003). The "following network elements must be unbundled: (1) loops – "including high-capacity lines, ***xDSL-capable*** loops. . . ." TRO ¶23. Where high-capacity lines are not available, "in some cases, competitive LECs might be able to serve customers' needs by combining other elements ***that remain available as UNEs***. . . . competitive LECs can use the following type of ***copper loops to provide DS1 service*** to customers: (1) 2-wire or 4-wire High Bit Rate Digital Subscriber Line (HDSL) Compatible Loops; (2) Asymmetrical Digital Subscriber Line Compatible Loops; (3) 2-wire Unbundled Copper Loops-Designed; or (4) Unbundled Copper Loop Non-Designed." TRRO note 454 to ¶163 (citing BellSouth comments).	"The Qwest Tech Pub 77384 and the Unbundled Loop 2 and 4 Wire Non-Loaded PCAT both indicate CLEC needs to order the ADSL Capable Loop or a DS1 Capable Loop ***to receive an HDSL Level of Transmission***." Qwest, Regional Vice President ("RVP") Ken Beck, 6/5/08 email, Attachment C(3), p. 016. *Note*: Qwest's email statement (above) was made in June of 2008, after Qwest grandparented its retail ADSL product in March of 2007 and unilaterally made ADSL Capable Loops unavailable to CLECs if not already in a CLEC's ICA (per Qwest's interpretation of the ICA). *See* Row No. 4. In such cases, per Qwest's email, the only remaining way of achieving a DS1-level signal is a DS1 capable loop (*i.e.*, a "high-capacity line"), which is a fully leased service that is higher priced than a conditioned copper loop (xDSL). Qwest said ADSL service, even if available per an ICA, may be degraded or may not work at all. *See* Row No. 4.

[1] All emphasis is added in quotations, unless otherwise noted.

[2] Qwest's position does not vary by state (with some exception for certain situations in Oregon that per Qwest relate to Special Copper Loop ICA language). As indicated by Qwest (see Row No. 1), for example, many of these terms are contained in Qwest's Technical Publication ("Tech Pub") or its online Product Catalog ("PCAT"), which apply across Qwest's 14-state territory, including Minnesota.

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B	**QWEST RESTRICTING TESTING TO VOICE TRANSMISSION (e.g., 1004 Hz)**	
2	"Insofar as it is technically feasible, the incumbent LEC ***shall test and report troubles*** for all the features, functions and capabilities of conditioned copper lines and ***may not restrict its testing to voice transmission only***." 47 C.F.R. §51.319(a)(1)(iii)(C). *Note - Examples*:[3] Voice[4] Insertion Loss = ≤ 0 to -8.5 dB at ***1004 Hz*** ISDN (xDSL-I) Insertion Loss = ≤ 40 dB at 40 kHz HDSL Insertion Loss = ≤ 28 dB at ***196 kHz*** HDSL2 Insertion Loss = ≤ 28 dB at ***196 kHz*** HDSL4 Insertion Loss = ≤ 31 dB at ***196 kHz*** See also Minn. Stat. §§ 237.121, 237.06, 237.60, subd. 3, 237.09 and 237.081, subd. 4.	"Qwest relayed that today there is no requirement to perform HDSL tests. He said Qwest tests for load coils only." Qwest Change Management Process ("CMP") 11/12/08 Adhoc Meeting Minutes (Jamal Boudhaouia-Qwest), Attachment D, p. 022. "If the CLEC requests the LX-N 04QB9.00H 04DU9.00H NC/NCI code combination [which per Qwest's tech pub is HDSL compatible], Qwest . . . ***will test the circuit at 1004 HZ*** as stated in Section 6.2.1 of Tech Pub 77384. The insertion loss of this product will generally be ***within the range of 0.0 dB to 8.5 dB*** . . ." Qwest, RVP Ken Beck, 6/5/08 email, Attachment C(3), p. 016 "If the physical loop is outside the CSA guidelines but still falls within the ANSI standard for the 2 Wire Non-Loaded Loop (0 to -8.5 dB Loss) the HDSL may not work." Qwest, RVP Ken Beck, 6/20/08 email, Attachment C(3), p. 018

[3] See, *e.g.*, vendor documentation for Adtran (a vendor used by Qwest as well as CLECs), which states: "The practice of using insertion loss (***at 196 kHz***) for loop qualification has continued throughout recent history for 2B1Q ***HDSL***. Due to its ease of measurement, insertion loss is commonly used to characterize the loss of a loop and is usually taken at the Nyquist frequency (½ baud rate)." See http://www.adtran.com/adtranpx/Doc/0/K45854GQTRJ4D4FIH6AG6PN92D/61221HDSLL1-10C.pdf

[4] See, e.g., vendor documentation from Cisco, which verifies that ***1004 Hz*** is a ***voice*** transmission level: "The frequencies that are used in testing usually fall within the voice frequency band. Commonly used pure (sine wave) test tones are 404 Hz, 1004 Hz, and 2804 Hz. . . . A measurement of 1004 Hz is near the voice-band frequencies that carry much of voice power, 404 Hz is near the low end of the spectrum, and 2804 Hz is in the range of higher-frequency components of the voice spectrum that are important to the intelligibility of speech." http://www.cisco.com/en/US/tech/tk1077/technologies_tech_note09186a00800a70bf.shtml#topic2; Qwest's Tech Pub, §4.3.3, states: "Insertion Loss at 1004 Hz of an Unbundled ***Voice***band Channel will generally be within the range of 0.0 dB to 8.5 dB." http://www.qwest.com/techpub/77384/77384.pdf ; Qwest's PCAT states: "Performance testing available on 2-Wire or 4-Wire Analog (***Voice Grade***) Loops includes . . . Insertion Loss at 1004 Hertz (Hz)." http://www.qwest.com/wholesale/pcat/unloop24wireanalogvoice.html

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		"***If Integra wishes to receive a signal that is tested at 196 kHz, you would need to request . . . a DS1 capable loop***." Qwest, RVP Ken Beck, 6/5/08 email, Attachment C(3), p. 016
C	**QWEST REFUSING DIGITAL SIGNALS FOR TWO-WIRE LOOPS**	
3	The loop definition includes "***two-wire*** and four-wire loops that are conditioned to transmit the ***digital*** signals needed to provide services such as ISDN, ADSL, ***HDSL, and DS1-level signals***." First Report and Order ¶380 (1996); see also UNE Remand Order ¶166 (1999); TRO ¶ 249 (2003). Section 3.20 of the Qwest-Integra ICAs in AZ, CO, ID, IA, and NM, have contained the following language since 2000: "'HDSL' or 'High-Bit Rate Digital Subscriber Line' means a ***two-wire*** or four-wire transmission technology which typically transmits ***a DS1-level signal (or, higher level signals with certain technologies)***. . . ."	"I believe our PCAT's are quite clear that you need to order a ***4 wire loop*** to be HDSL2 qualified. . . ." Qwest, RVP Ken Beck, 5/28/08 email, Attachment C(3), p. 013 "I believe we have said this before, so just restating as team has put it previously. I still boil it down to ***optional for us*** unless you order ***4 wire*** loop." Qwest, RVP Ken Beck, 6/05/08 email, Attachment C(3), p. 016. "According to the Unbundled 2 and 4 Wire Non-Loaded Product Catalog: . . . Characteristics associated with Unbundled Non-Loaded Loops are in accordance with the following end-user interfaces: 1. 2-wire digital interfaces support Digital Subscriber Line (DSL) 2. ***4-wire*** digital interfaces support Digital Data Services (DDS) or ***High-Bit-Rate Digital Subscriber Line (HDSL)***." Qwest (Mary Dobesh)1/21/08 responses, Attachment L, p. 003.
D	**QWEST DENYING ACCESS TO ADSL CAPABLE LOOPS BASED ON ALLEGED GRANDPARENTING OF ADSL**	
4	Regardless of how the FCC classified wireline broadband Internet access service in the FCC's Broadband Order, CLECs are still "able to purchase UNEs, ***including UNE loops to provide stand-alone DSL telecommunications service***, pursuant to section 251(c)(3) of the Act." Broadband Order, ¶126. ILECs "must provide access, on an unbundled basis, to xDSL-capable stand-alone copper loops because	See "Grandfathering ADSL Compatible UBL," Qwest CMP CR #PC1211106-1 (completed 3/21/07): "This change is being made consistent with Qwest's implementation of FCC Report and Order and NPPR, FCC 05-150 Adopted: 8/5/05 Released: 9/23/05 [the Broadband Order]." Attachment J, p. 001; see *id*. p. 004. Qwest sent a notice to CLECs stating that Qwest would modify its documentation on March 13, 2009 to provide: "When performing Loop Qualification queries using the Resale (HSI) Loop

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	competitive LECs are impaired without such loops." TRO ¶642. The xDSL capable loop unbundling obligation includes services "such as ISDN, ***ADSL***, HDSL, and DS1-level signals." First Report & Order, ¶380; see also TRO ¶643 See also Minn. Stat. §§ 237.011, 237.121, 237.06, 237.60, subd. 3, 237.09 and 237.081, subd. 4.	Qualification and/or ***ADSL Loop Qualification*** tools, the following message may be returned: "*Because of Power Disparity, Interference may be present or may develop in the future, Central Office Based ADSL service* ***may be degraded or may not work at all***. ***Qwest can not guarantee the feasibility CO Based ADSL.***" (See Qwest Notice PROS.03.13.09.F.06150.LoopQualCLEC JobAid_V25, emphasis added.) "Qwest was looking into the issue related to grandfathering of the product ADSL and possibly un-grandparenting the ADSL capable loop product." CMP Adhoc Meeting Minutes, 11/12/08 (Qwest – Bob Mohr), Attachment D, p. 021. [But, Qwest did *not* un-grandparent it.]
E	**QWEST REFUSING TO REPAIR/RESTORE SERVICE TO DATA/DIGITAL LEVELS, LEAVING CUSTOMER ADVERSELY IMPACTED**	
5	"Insofar as it is technically feasible, the incumbent LEC ***shall test and report troubles*** for all the features, functions and capabilities of conditioned copper lines . . . ." 47 C.F.R. §51.319(a)(1)(iii)(C). Before several state commissions (including Minnesota), a CLEC (Eschelon) proposed network maintenance and modernization ICA language, because it needed "assurance that . . . ***minor changes*** to transmission parameters will not interfere with service to end user customers."[5] All the state commissions that have ruled on the issue rejected Qwest's	". . . turning to the maintenance issue, once an xDSL loop has been provisioned, if Integra has been able to put HDSL on the loop, Qwest has ***no obligation to repair*** it to the standard that HDSL will continue to work." Qwest attorney Daphne Butler 4/1/09 letter, Attachment C(23), p. 107. "Section (E)3.2.11 of the ELI Arizona ICA says that Qwest's modernization efforts may 'result in ***minor changes*** in transmission parameters.'" Qwest attorney Daphne Butler 4/1/09 letter, Attachment C(23), p. 107, quoting language from another CLEC's ICA. (ELI, a CLEC, is an affiliate of Integra.)

[5] MN Arbitrators' Report, MPUC Docket No. P-5340, 421/IC-06-768, ¶137 (Arbitration Issue Number 9-33) (aff'd by MPUC). In the case of Minnesota, the arbitrators adopted language recommended by the Department of Commerce (the "Department") that the arbitrators found provided Eschelon with the assurance it needed, but with more clarity. See *id*. See next footnote and Attachment G.

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	proposal, finding that Qwest has an obligation to restore transmission quality, including to data levels.[6] The Washington Commission said: "While Qwest should have the discretion to modernize and maintain its own network, it should be apparent that 'modernization' and 'maintenance' efforts should enhance or maintain, not diminish, transmission quality."[7] Arbitrated ICA[8]: "9.1.9 In order to maintain and modernize the network properly, Qwest may make necessary modifications and changes to the UNEs in its network on an as needed basis. Such changes may result in minor changes to transmission parameters. If such changes result in the CLEC's End User Customer experiencing unacceptable changes in the transmission of voice or ***data***, Qwest will assist the CLEC in determining the source and will take the necessary corrective action ***to restore the transmission quality*** to an acceptable level if it was caused by the network changes." See also Minn. Stat. §§ 237.011,237.121,237.06, 237.60, subd. 3, 237.09 and 237.081, subd. 4.	"Qwest would like to point out that in some cases, if the cable loop length and transmission parameters would fit the CSA Guidelines for T1 or DS1 capable parameters as defined in the Technical Report No. 28, the CLEC may be able to use their HDSL2 equipment and the service performs as an HDSL2 loop. However, if Qwest rearranges facilities in the field, we will only maintain the class of service that was ordered and maintained in Qwest inventory records, i.e. LX-N 2 Wire Non-Loaded Loop. This might explain why Integra may have had a particular circuit working as an 'HDSL2' circuit in the past ***that no longer works today***, and Qwest is testing the circuit as 'good to the demark' at 1000 HZ." Qwest, RVP Ken Beck, 6/5/08 email, Attachment C(3), p. 016. *Note*: Qwest's June 5, 2008 email and April 1, 2009 letter were sent more than a year after the Minnesota Commission's arbitration decision in March of 2007 (approving the arbitrators' decision as to Issue 9-33), and more than two months after the Eschelon ICA was approved by the Commission on March 12, 2008.

[6] AZ Opinion and Order, ACC No. T-03406A-06-0572, Decision No. 70356, pp. 39-40; MN Arbitrator's Report, MPUC Docket No. P-5340, 421/IC-06-768, paragraphs 140 and 142; OR Order No. 08-365, OPUC ARB 775, App. A, p. 39; UT Report and Order, UT PSC No. 07-2263-03, pp. 41-42; WA Arbitrators' Report, WUTC UT-063061, Order No. 16 (aff'd), paragraph 83 (all adopting ICA language regarding degradation in the transmission quality of voice ***or data***). See Attachment G.

[7] WA Arbitrators' Report, WUTC UT-063061, Order No. 16 (aff'd), paragraph 83. See Attachment G.

[8] "Arbitrated ICA" is used in this matrix to refer to the Qwest-Eschelon ICAs in MN, OR, UT & WA (and AZ & CO, once effective), as well as the Qwest-Integra ICA in MN. Other CLECs have opted in, or may opt in, to the Arbitrated ICA. See Attachment H. Although referred to as the "arbitrated" ICA, many of the issues relate to language that was agreed upon (closed) without arbitration (*e.g.*, Section 9.2.2.1.1).

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F	**QWEST REFUSING TO REMOVE CERTAIN DEVICES, INCLUDING BRIDGE TAP**	
6	Line conditioning is defined as "the removal from a copper loop of ***any*** device that could diminish the capability of the loop to deliver xDSL. Such devices include ***bridge taps***, load coils, low pass filters, and range extenders." 47 C.F.R. §51.319(a)(1)(iii)(A). Loops must be "stripped of accretive devices." TRO ¶643.[9] "We find that loop conditioning . . . in fact enables a requesting carrier to use the basic loop. Because competitors cannot access the loop with all its native 'features, functions, and capabilities' unless it has been stripped of accreted devices, we conclude that loop conditioning falls within the definition of the loop network element." UNE Remand Order, ¶173. ILECs "are required to condition loops so as to allow requesting carriers to offer advanced services. The terms 'conditioned,' 'clean copper,' 'xDSL-capable' and 'basic' loops all describe copper loops from which bridge taps, low-pass filters, range extenders, and similar devices have been removed. Incumbent LECs add these services to the basic copper loop to gain architectural flexibility and improve voice transmission capability. Such devices, however, diminish the loop's capacity to deliver advanced services, and thus preclude the requesting carrier from	During the 11/19/08 CMP Meeting, Integra asked Qwest if it removes near and far end bridge tap. Qwest said it did not know but would respond. During the 12/17/08 CMP Meeting, per the Qwest Meeting Minutes: "Qwest said that conditioning on the bridge tap and load coil will be performed when we detect excessive bridge tap and have as we do today and the we will get authorization to remove it. Kim Isaacs-Integra asked if it would be done on the near and far end on the bridge tap and interference bridge tap too. Jamal Boudhaouia-Qwest said that far and near is part of the CSA Guidelines and is very clear." "Loop 2 – No load coils and 1000 feet of BT – No conditioning required, because 1000 feet of BT is within ANSI standards for an Unbundled 2 Wire Non-Loaded Loop." Qwest (Mary Dobesh) 1/21/08 email, Attachment L, p. 003. "According to ANSI standards, excessive is the same as interfering BT. Excessive or interfering BT for the Unbundled 2 Wire Non-Loaded Loop, according to ANSI standards, and the TR028 Document, would be no single BT greater than 2000 feet and total BT of 2500 or less." Qwest (Mary Dobesh)1/21/08 responses, Attachment L, p. 002. ***Note***: Though Qwest refers to ANSI standards, the ANSI standards simply set forth the lengths for bridge tap (BT); they do not equate the standard to being excessive or interfering in terms of whether they should be removed per 47 C.F.R. 51.319(a)(1)(iii)(A):

[9] The Merriam-Webster Online Dictionary defines "accretive" as the process of growth or enlargement by a gradual buildup as increase by external addition or accumulation (as by adhesion of external parts or particles). http://www.merriam-webster.com/dictionary/accretive

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	gaining full use of the loop's capabilities. Loop conditioning requires the incumbent LEC ***to remove these devices, paring down the loop to its basic form***." UNE Remand Order, ¶¶172-173, cited in FCC's TRO, note 1925.	Section 3.1(3) of the CSA guidelines states: "Total bridged tap length may not exceed 2.5 kilofeet (kft). No single bridge tap may exceed 2.0 kft." (ANSI Technical Report 28.) In other words, Qwest's policy is to ***not*** remove near-end or far-end bridge tap (or any other bridge tap), even when it interferes with service, if the bridge tap does not exceed 2.0 kft. and the total bridge tap does not exceed 2.5 kft. "Qwest does not offer a product or service in which a CLEC can request the removal of all bridge tap on a new circuit or an existing circuit. Therefore, Qwest employees should not be recommending that a CLEC place an order to remove bridge tap on an existing circuit. The Qwest employees have been retrained on the correct process." Qwest (Mary Dobesh) 1/21/08 responses, Attachment L, p. 004. Qwest's PCAT also indicates that Qwest will not remove a device called "stub cable," even if it is interfering with service. See http://www.qwest.com/wholesale/pcat/unloop.html In contrast, ***for itself***, "typically Qwest looks for overlooked bridge tap or load coil and removes those if found." CMP 12/17/08 Meeting Minutes (Qwest – Jamal Boudhaouia)., Attachment D. p. 016. "The core tests Qwest performs are the same for both analog and digital signals. The primary difference is checking for loads and bridge tap for the non-loaded loops, i.e., LX-N. ***Qwest will provision to meet core standards, i.e. less than 2500 total bridge***

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		tap, with no single bridge tap greater than 2,000 feet. If your end-user equipment requires a different facility, with less bridge tap, then ***you may need to order a different product***." Qwest (Mary Dobesh)1/21/08 responses, Attachment L, p. 008. *See* Row Nos. 1-2 above re. Qwest forcing CLECs to order the more expensive, fully leased DS1 capable loop "product."
G	**QWEST CHARGING CLEC FOR REPAIR, EVEN THOUGH THE TROUBLE IS IN QWEST NETWORK (E.G., DUE TO BRIDGE TAP)**	
7	Arbitrated ICA, §9.2.5.1: " . . .For Unbundled Loops, each Party shall be responsible for the costs of performing trouble isolation ***on its facilities***, subject to Sections 9.2.5.2 and 9.2.5.3." Arbitrated ICA, §9.2.5.2: "When CLEC requests that Qwest perform trouble isolation with CLEC, a Maintenance of Service ***Charge will apply when Qwest dispatches a technician <u>and</u> the trouble is found to be on the End User Customer's side*** of the Loop Demarcation Point. If the trouble is on the End User Customer's side of the Loop Demarcation Point, and CLEC authorizes Qwest to repair the trouble on CLEC's behalf, Qwest will charge CLEC the appropriate Additional Labor Charges and Maintenance of Service Charge, if any, as set forth in Exhibit A at 9.20. ***No charges shall apply if CLEC provides Qwest with test results indicating trouble in Qwest's network and Qwest confirms that such trouble is in Qwest's network.*** In the event that Qwest reports no trouble found in its network on a trouble ticket and it is ***subsequently determined that the reported trouble is in Qwest's network, then Qwest will waive or refund*** to	Even though there is bridge tap that could diminish xDSL capability on a loop (see Row No. 6 above), the trouble ticket "is closed to CPE by Qwest, because the loop meets ANSI standards for the LX-N product." Qwest (Mary Dobesh) email, 10/29/07 See previous Row No. 5 above re. Qwest's position that it meets the standard even though bridge tap not removed. Qwest's closing trouble tickets to Customer Premise Equipment ("CPE") or No Trouble Found ("NTF") (*i.e.*, to CLEC-caused reasons) results in Qwest charging CLECs maintenance and repair charges, even though the trouble (*i.e.*, the bridge tap) is in Qwest's network, and the customer's DSL service is not restored.

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	CLEC any Maintenance of Service Charges assessed to CLEC for that same trouble ticket. If Qwest reported no trouble found in its network but, as a result of a repeat trouble (accepted trouble)**,** CLEC demonstrates that the trouble is in Qwest's network, CLEC will charge Qwest a trouble isolation charge as described in Section 12.4.1.8." Arbitrated ICA, §9.2.5.3: "When CLEC elects not to perform trouble isolation and Qwest dispatches to perform tests on the Unbundled Loop at CLEC's request, a Maintenance of Service Charge shall apply ***if the trouble is not in Qwest's facilities***. Maintenance and Repair processes are set forth in Section 12.3 of this Agreement. Maintenance of Service Charges are set forth in Exhibit A." Arbitrated ICA, §12.4.1.5: "When CLEC requests that Qwest perform trouble isolation with CLEC, a Maintenance of Service Charge, if any, will apply ***when Qwest dispatches a technician <u>and</u> the trouble is found to be on the End User Customer's side*** of the Demarcation Point. If the trouble is on the End User Customer's side of the Demarcation Point, and the CLEC authorizes Qwest to repair trouble on the CLEC's behalf, Qwest will charge CLEC the appropriate Additional Labor Charge set forth in Exhibit A in addition to the Maintenance of Service Charge, if any. Rates shall be "based on cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element	

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	(whichever is applicable), and nondiscriminatory, and may include a reasonable profit." 47 U.S.C. §252(d)(1); see also Minn. Stat. §§ 237.06, 237.09, 237.60, subd. 3, 237.081, subd. 4, 237.082 & 237.12, subd. 4.	
H	**QWEST REFUSING TO PROCEED WITH REPAIR, UNLESS CLEC AUTHORIZES CHARGES FOR TESTING THAT IS SUPPOSED TO BE OPTIONAL**	
8	Arbitrated ICA, §9.2.5.3: "When CLEC elects not to perform trouble isolation and Qwest ***dispatches to perform tests*** on the Unbundled Loop at CLEC's request, a Maintenance of Service Charge shall apply ***if the trouble is not in Qwest's facilities***. Maintenance and Repair processes are set forth in Section 12.3 of this Agreement. Maintenance of Service Charges are set forth in Exhibit A." Arbitrated ICA, §12.4.1.6: "When CLEC ***elects not to perform trouble isolation*** and CLEC requests Qwest to perform ***optional*** testing, Qwest will charge CLEC the applicable optional testing rate as set forth in Exhibit A. If after completing the optional testing Qwest dispatches a technician ***at CLEC request***, a Maintenance of Service Charge shall apply ***if the trouble is not in Qwest's facilities***, including Qwest's facilities leased by CLEC. Maintenance of Service Charges are set forth in Exhibit A. When trouble is found on Qwest's side of the Demarcation Point, or Point of Interface during the investigation of the initial or repeat trouble report for the same line or circuit within thirty (30) Days, Maintenance of Service Charges shall not apply." MN Cost Docket UNE Elements Description Matrix:	Even when Integra provides test results and the troubles are in the Qwest network/facilities, Qwest said it imposes optional testing charges if it deems the results are not "metallic": "Qwest responds that, by 'metallic' testing, Qwest is referring to loss at 1004 Hz and 40 kHz, Loop Noise, Foreign Voltage, Resistance to Ground, Conductor Loop Resistance. . . . If you order a metallic loop from us, then we require metallic testing. If Integra has ordered a loop, but does not provide test results that show it has isolated the trouble to Qwest's network, i.e., metallic tests, then Integra must authorize optional testing, and Integra need not provide any test results. Where Integra has ordered an unbundled loop, and metallic test results isolate trouble to the loop, then Qwest will repair the loop." (Qwest attorney Daphne Butler 10/16/09 email.) *Note*: "repair the loop" does not include removal of certain bridge tap. See Row No. F. Even though Qwest claims that the problem is the type of test results provided, when Integra has provided metallic test results, Qwest has still indicated an intent to impose optional testing charges. "The CLEC will receive the benefit of this Optional Testing in that

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	§9.20.3: "Miscellaneous Charges, Additional Labor Other - Optional Testing, per half hour, or fraction thereof. This is a nonrecurring charge applied per half hour: . . . for ***optional*** testing, performed by Qwest on the CLEC's behalf, with CLEC authorization, ***when CLEC chooses not to provide trouble isolation results***, per the CLEC's interconnection agreement. The charge will be the basic rate, unless overtime or premium hours are requested by the CLEC." Rates shall be "based on cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and nondiscriminatory, and may include a reasonable profit." 47 U.S.C. §252(d)(1); see also Minn. Stat. §§ 237.09, 237.60, subd. 3, 237.081, subd. 4, 237.082 & 237.12, subd. 4.	the test results will be provided to the CLEC either verbally or electronically. . . . Once the test is complete, the test results will be related back to the CLEC. The CLEC can then choose to amend these test results to its initial request and submit a trouble ticket to Qwest or can then choose to resolve the trouble without Qwest's assistance." Qwest CMP Response CR #PC100101-5, 12/13/01. Although Qwest assured CLECs that it would provide test results to CLEC, Qwest does not provide results to CLECs, at least not consistently. Qwest nonetheless bills CLEC for optional testing charges. Even assuming Qwest would provide results, since Qwest is testing to "core" tests for insertion loss (Row No. 5) and bridge tap (Row Nos. 6-7), Qwest's current tests would not reveal the trouble in Qwest's network when the trouble is either that the circuit works at levels for voice but not data or is caused by bridge tap that Qwest refuses to remove.
I	**QWEST NOT ASSIGNING THE BEST AVAILABLE LOOP – ASSIGNING TO VOICE PARAMETERS FOR CLECs**	
9	Qwest's ICA template[10] and the Arbitrated ICA, §9.2.2.1.1 provide: "Use of the word 'capable' to describe Loops in § 9.2 means that ***Qwest assures*** that the Loop meets the technical standards associated with the specified Network Channel/***Network Channel Interface*** codes, as contained in the relevant technical publications ***and industry standards***."	"Based on the HDSL NCI codes we provide on our LSR would Qwest automatically assign Loop 1 or Loop 2 because they are more likely to meet the HDSL technical specifications? No, the assignment system would NOT automatically assign Loop 1 or Loop 2 because they are most likely to meet HDSL technical specifications." Qwest (Mary Dobesh) 1/21/08 email, Attachment L, p. 003. "The CLEC cannot 'reserve' available loops. . . .Even though Qwest highly recommends that the CLEC use the Loop

[10] Qwest's negotiations template reflects its stated position. To the extent that CLECs have the template terms in their ICAs, they reflect contractual obligations.

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		Qualification tools, e.g., Raw Loop Data Tool (RLDT) and Facility Check, it is noted on page 14 of the Loop Qualification and Raw Loop CLEC Job Aid, that 'A response to a Facility Loop or Loop Qualification query does not reserve facilities nor does it guarantee that they will be available at the time a request for service is processed by the Service Center Representative." Qwest (Mary Dobesh) 1/21/08 email, Attachment L, p. 002.
	Qwest's ICA template and the Arbitrated ICA, §9.2.2.3, provide: Qwest "will provision digital Loops in a non-discriminatory manner, ***using the same facilities assignment processes that Qwest uses for itself to provide the requisite service***." The "following network elements must be unbundled: (1) loops – "including high-capacity lines, ***xDSL-capable*** loops. . . ." TRO ¶23. See also Minn. Stat. §§ 237.06 and 237.09.	Qwest is just as likely, or more likely, to assign a voice grade loop to fill a CLEC request for a digital capable loop. In contrast, for Qwest retail, Qwest automatically assigns the best (most qualified) loop available *for the type of loop ordered* by Qwest retail: "The Qwest HDSL2 goes through the CSA guidelines and Qwest will do remote testing from the center."; "Qwest said that we have to take the necessary steps for the centers and LFACs to make sure the facility is qualified. He said that we have 2 extra steps - the technician needs to be equipped and that we have the insertion for the CSA guidelines." See, e.g., CMP Minutes from 12/17/08 CMP meeting (Jamal Boudhaouia-Qwest). http://www.qwest.com/wholesale/cmp/cr/CR_PC082808-1IGX.html "Qwest retail does not use a manual process." See CMP Minutes from 1/21/09 CMP Meeting (Jamal Boudhaouia-Qwest), Attachment D, p. 015.

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J.	**QWEST IGNORING INDUSTRY STANDARD FOR NCI CODES IN ASSIGNMENT PROCESS, WHILE BLAMING NC/NCI CODES FOR REPAIR AND SPECTRUM MANAGEMENT PROBLEMS**	
10	*LOOP ASSIGNMENT/PROVISIONING* The Qwest template, SGATs and Arbitrated ICA require Qwest to comply with the full "NC/NCI codes" (See, e.g., §§ 9.2.2.1.1-9.2.2.1.2.) They do not use the term "NC" without "NCI," nor do they say that Qwest may comply with the NC code while ignoring the NCI code or treating it as informational: Qwest's ICA template and the Arbitrated ICA, §9.2.2.1.1, provide: "Use of the word 'capable' to describe Loops in § 9.2 means that ***Qwest assures*** that the Loop meets the technical standards associated with the specified Network Channel/***Network Channel Interface*** codes, as contained in the relevant technical publications ***and industry standards***." The Qwest template and the Arbitrated ICA, §9.2.6.6, state: "***When ordering*** xDSL Loops, CLEC will provide Qwest with appropriate information ***using NC/NCI codes*** to describe the Power Spectral Density Mask (PSD) for the type of technology CLEC will deploy. . . .".	*LOOP ASSIGNMENT/PROVISIONING* "For Unbundled Loop LX-N Network Channel (NC) codes, the ***NCI codes are informational only***, as stated in the above mentioned Technical Publication and do not affect transport designs or performance." See Qwest 3/13/09 CMP CR Response #PC082808-1IGX. "Qwest does not provision requests to meet a specific facility or technology, but rather provisions a class of service, based on the NC codes the CLEC orders. The Network Channel Interface (NCI) codes for the Unbundled Loop LX-N and LXR- products are informative to Qwest. . . . . For Unbundled Loops, ***the NCI codes do not affect transport designs or performance***." Qwest, RVP Ken Beck, 6/05/08 email, Attachment C(3), p. 015. See also Attachment L, p. 002, Qwest (Mary Dobesh)1/21/08 responses, Attachment L, p. 001, citing Qwest Technical Publication 77384, Chapter 3, Section 3.4.3 and Section 3.8.3.
11	*REPAIR/SPECTRUM MANAGEMENT* See Arbitrated ICA Section 9.2.6 ("Spectrum Management"), including: Arbitrated ICA §9.2.6.1: "Qwest will provide 2/4 Wire non-loaded Loops, ADSL compatible Loops, ISDN	*REPAIR/SPECTRUM MANAGEMENT* "Jamal [Qwest] said that we ***test and manage to current NCI codes***." CMP Meeting Minutes 11/19/08, Attachment D, p.018. PAETEC/McLeod discussed in CMP that it experienced significant customer-affecting problems at the repair stage from using codes

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	capable Loops, xDSL-I capable Loops, DS1 capable Loops and DS3 capable Loops (collectively referred to in this Section 9.2.6 as "***xDSL Loops***") in a non-discriminatory manner to permit CLEC ***to provide Advanced Services to its End User Customers***. Such Loops are defined herein and are ***in compliance with FCC requirements and guidelines recommended by the Network Reliability and Interoperability Council (NRIC) to the FCC, such as guidelines set forth in T1-417***." Arbitrated ICA §9.2.6.8: "Qwest will not have the authority to unilaterally determine what Advanced Services technologies may be deployed or to resolve any dispute over spectral interference among Carriers. Notwithstanding any other provision herein, ***Qwest shall not disconnect Carrier services to resolve a spectral interference dispute***, except when voluntarily undertaken by the interfering Carrier or Qwest is ordered to do so by a Commission or other authorized dispute resolution body. CLEC may submit any claims for resolution under Section 5.18 of this Agreement." Arbitrated ICA §9.2.6.9: "A CLEC that has deployed any Central Office based xDSL service that meets the requirements set forth in Sections 9.2.6.2 or 9.2.6.3 shall be entitled ***to require Qwest to take appropriate measures to mitigate the demonstrable adverse effects on such service that arise from Qwest's use of repeaters or remotely deployed DSL service in that area***." See 47 C.F.R. §51.230 ("Presumption of applicability for	that Qwest had told them to use at the provisioning stage. Qwest then took the position that PAETEC/McLeod must place orders to ***disconnect customers*** and re-install them simply to change the code. See, *e.g.*, CMP Meeting Minutes 11/19/08, Attachment D, p.018. See also Integra Oregon example discussed in Row No. 4 above. "Jamal Boudhaouia-Qwest said that you could qualify a loop for HDSL and that the NC code determines the type of loop being requested. Kim Isaacs-Integra said that in reality you order HDSL or ADSL using LX-N and the appropriate NC/NCI codes. Kim said that pre-qual, in the past, has delivered a loop that does not support the functionality. She said that when a bridge tap issue is identified, Qwest says they only need to provide to voice grade standards and still does not understand why NC/NCI codes are informational only. ***Jamal Boudhaouia-Qwest said that the NCI codes are used for spectrum management purposes within copper*** (3/27/09 Comments to minutes received from Integra) ***but not for provisioning or testing.*** The language in the ICAs and the negotiation template provides the reasons for the CLECs to provide Qwest with the correct NC/NCI code combinations." CMP 3/18/09 Meeting Minutes, Attachment D, p. 005. "Jamal Boudhaouia-Qwest said that is correct from a process perspective. He said that in these offices the process we are introducing with this CR would be across the board. Bonnie Johnson-Integra asked when Qwest includes new technology or service is the criteria included in the binder group. ***Jamal Boudhaouia-Qwest assuming that Qwest knows the NC/NCI codes in the binder group are running each pair is assigned the correct codes in the cable. He said that he tried to make manage spectrum management process – DS1 on it if the separate CO***

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	deployment of an advanced services loop technology") See 47 C.F.R. §51.231 ("Provision of information on advanced services deployment") See 47 C.F.R. §51.232 ("Binder group management")	***based HDSL and ADSL interfere with the CO based – interference will appear after a certain amount of time and that is how the spectrum if we know the codes in binder group. Kim Isaacs-Integra asked how Qwest gets the NC/NCI information to manage spectrum etc. Jamal Boudhaouia-Qwest said that it is driven by the service order and that is how they get assigned to the cable.*** Kim Isaacs-Integra said that (12/30/08 Comments to minutes received from Integra) service modifier LFXU is for 2 Wire Analog and Non Loaded Loops and they all carry the same service modifier code and asked how Qwest could manage spectrum correctly/interference on the loop. ***Jamal Boudhaouia-Qwest said that (12/30/08 Comments to minutes received from Integra) historically the NC/NCI codes were not loaded. He said that when we have a UBL the NC/NCI codes need to be correct on the loop and that is what we are trying to do going forward in order to manage spectrum..*** Kim Isaacs-Integra asked how Qwest determines the NC/NCI codes on LXFU. Jamal Boudhaouia-Qwest said that if we have LXFU would be able to manage with NC/NCI codes and we are looking at the total technical parameters with the NCI/SECNCI going forward." CMP 2/17/08 Meeting Minutes, Attachment D, p. 017 *Note*: Although Qwest in February of 2008 indicated it may try to do this "going forward" (*i.e.*, an admission it has not been doing it), Qwest later also denied Integra's Change Request and Integra's CMP escalation of Qwest's denial to remedy the situation going forward.