

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

NORTHWEST TELEPHONE, INC.,

Complainant,

v.

QWEST CORPORATION,

Respondent.

Docket No. UT-053081

**JOINT MOTION TO APPROVE  
SETTLEMENT AGREEMENT AND  
DISMISS COMPLAINT WITH  
PREJUDICE**

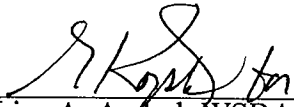
1 Northwest Telephone, Inc. ("NTI") and Qwest Corporation ("Qwest") respectfully move the Commission to approve the confidential Settlement Agreement between the parties and to dismiss NTI's complaint against Qwest with prejudice.

2 NTI and Qwest have reached a full and complete settlement of all issues and claims raised in NTI's complaint. The parties' confidential Settlement Agreement is attached and should be approved as the final resolution of NTI's complaint.

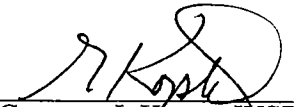
3 NTI and Qwest, therefore, request that the Commission approve the confidential Settlement Agreement and dismiss NTI's complaint with prejudice.

DATED this 25<sup>th</sup> day of April, 2006.

QWEST CORPORATION

  
\_\_\_\_\_  
Lisa A. Anderl, WSBA #13236  
Adam L. Sherr, WSBA #25291  
1600 7<sup>th</sup> Avenue, Room 3206  
Seattle, WA 98191  
Phone: (206) 398-2500

NORTHWEST TELEPHONE, INC.

  
\_\_\_\_\_  
Gregory J. Kopta, WSBA #20519  
Davis Wright Tremaine LLP  
1501 Fourth Avenue, Suite 2600  
Seattle, WA 98101-1688  
Phone: (206) 628-7692

**ISP-Bound Reciprocal Compensation Amendment  
to the Interconnection Agreement  
between  
Qwest Corporation  
and  
Northwest Telephone Inc.  
for the State of Washington**

This is an Amendment ("Amendment") to the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and Northwest Telephone Inc. ("Competitive Local Exchange Carrier" or "CLEC") a Washington corporation. CLEC and Qwest shall be known jointly as the ("Parties").

**RECITALS**

WHEREAS, the Parties entered into an Interconnection Agreement for service in the State of Washington which was approved by the Washington Utilities and Transportation Commission ("Commission") June 13, 2001; and

WHEREAS, the FCC released Order FCC 04-241 on October 18, 2004, in *Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. 160(c) from Application of the ISP Remand Order*, WC Docket No. 03-171, effective October 8, 2004 ("Core Forbearance Petition"), which modified the terms under which the Parties must compensate each other for termination of internet service provider bound traffic ("ISP-bound traffic"); and

WHEREAS, previously, the FCC issued an Order on Remand and Report and Order in CC Docket 99-68 (Inter-carrier Compensation for ISP-Bound Traffic); and

WHEREAS, the Parties wish to replace, in its entirety, Section 7.3.6 and other selected provisions of the Interconnection Agreement governing ISP-Bound Traffic with the terms and conditions contained herein.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Amendment Terms**

Inter-carrier Compensation for ISP-Bound Traffic shall be modified pursuant to the terms, conditions and rates set forth in Attachment 1, to this Amendment, attached hereto and incorporated herein.

**Effective Date**

This Amendment shall be deemed effective upon approval by the Commission.

  
Date/Initials/CLEC/State  
Amendment to:

**Further Amendments**

Except as modified herein, the provisions of the Agreement shall remain in full force and effect. The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**Entire Agreement**

The Agreement as amended (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of the Agreement as amended and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of the Agreement as amended.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

**CLEC**

Andrew Metcalfe  
Signature

Andrew Metcalfe  
Name Printed/Typed

President / CEO  
Title

3/30/06  
Date

**Qwest Corporation**

L. T. Christensen  
Signature

L. T. Christensen  
Name Printed/Typed

Director - Interconnection Agreements  
Title

3/31/06  
Date

Qwest  
Date/Initials/CLEC/State  
Amendment to:

ATTACHMENT 1

ATTACHMENT 1

**1.0 Compensation for ISP-Bound Traffic**

1.1 Subject to the terms of this Section, intercarrier compensation for ISP-bound traffic exchanged between Qwest and CLEC will be billed as follows, without limitation as to the number of MOU ("minutes of use") or whether the MOU are generated in "new markets" as that term has been defined by the FCC:

\$ .0007 per MOU or the state ordered rate, whichever is lower.

1.2 Identification of ISP-Bound traffic – The Parties will utilize actual traffic data to identify ISP-bound traffic.

1.3 In the event any action by the state or federal regulatory authority alters the interpretation of recent decisions by the Commission regarding the propriety of a network architecture where calls between end users and other end users (including ISPs) that are physically located in different local calling areas (Qwest refers to this architecture and traffic resulting from that architecture as "VNXX"), the Parties agree to implement the Change in Law or Change in Existing Rules provision of the underlying Interconnection Agreement as it relates to compensation for VNXX traffic. Such change in law for VNXX traffic shall be effective as of the effective date of the change in law and the Parties agree to pay any monies or credit each other's accounts as needed to effectuate the effective date.

1.4 In addition to the foregoing, the following language shall supersede and replace the existing corresponding language in the Parties' Interconnection Agreement:

**7.1.2 Methods of Interconnection**

The Parties will negotiate the facilities arrangement used to interconnect their respective networks. CLEC shall establish at least one (1) physical Point of Interconnection in Qwest territory in each LATA CLEC has local End User Customers. The Parties shall establish, through negotiations, at least one (1) of the following Interconnection arrangements, at any Technically Feasible point: (1) a DS1 or DS3 Qwest-provided facility; (2) Collocation; (3) negotiated Mid-Span Meet POI facilities; or (4) other Technically Feasible methods of Interconnection via the Bona Fide Request (BFR) process unless a particular arrangement has been previously provided to a third party, or is offered by Qwest as a product.

7.1.2.1 Qwest-provided Facility. Interconnection may be accomplished through the provision of a DS1 or DS3 Entrance Facility, direct trunked transport, or both. An Entrance Facility extends from the Qwest Serving Wire Center to CLEC's Switch location or POI chosen by CLEC. Entrance Facilities may not extend beyond the area served by the Qwest Serving Wire Center. The rates for Entrance Facilities are provided in Exhibit A. Qwest's private line transport service is available as an alternative to Entrance Facilities, when CLEC uses such private line transport service for multiple services. Entrance Facilities may

*[Signature]*  
Date/Initials/CLEC/State  
Amendment to:

ATTACHMENT 1

not be used for Interconnection with Unbundled Network Elements.

7.1.2.2 Collocation. Interconnection may be accomplished through the Collocation arrangements offered by Qwest. The terms and conditions under which Collocation will be available are described in Section 8 of this Agreement.

7.1.2.3 Mid-Span Meet POI. A Mid-Span Meet POI is a negotiated Point of Interface, limited to the Interconnection of facilities between one (1) Party's Switch and the other Party's Switch. The actual physical Point of Interface and facilities used will be subject to negotiations between the Parties. Each Party will be responsible for its portion of the build to the Mid-Span Meet POI. CLEC may not use remaining capability in an existing Mid-Span Meet POI to gain access to Unbundled Network Elements. These Mid-Span Meet POIs will consist of facilities used for the Provisioning of one-way or two-way local/IntraLATA and Jointly Provided Switched Access Interconnection trunks, as well as miscellaneous trunks such as Mass Calling Trunks, OS/DA, 911 and including any dedicated DS1, DS3 transport trunk groups used to provision originating CLEC traffic.

7.1.2.3.1 The Mid-Span Fiber Meet architecture requires each Party to own its equipment on its side of the Point of Interconnection (POI). CLECs may designate Mid-Span Fiber Meet as the target architecture, except in scenarios where it is not Technically Feasible or where the Parties disagree on midpoint location.

7.1.2.3.2 In a Mid-Span Fiber Meet the Parties agree to establish technical interface specifications for Fiber Meet arrangements that permit the successful Interconnection and completion of traffic routed over the facilities that interconnect at the Fiber Meet. CLEC is responsible for providing at its location the Fiber Optic Terminal (FOT) equipment, multiplexing, and fiber required to terminate the optical signal provided by Qwest. Qwest is responsible for providing corresponding FOT(s), multiplexing, and fiber required to terminate the optical signal provided by CLEC.

7.1.2.3.3 The Parties shall, wholly at their own expense, procure, install, and maintain the FOT(s) in each of their locations where the Parties establish a Fiber Meet with capacity sufficient to provision and maintain all trunk groups. The Parties shall mutually agree on the capacity of the FOT(s) to be utilized based on equivalent DS1s and DS3s necessary for transport of forecasted local Interconnection trunking. Each Party will also agree upon the optical frequency and wavelength necessary to implement the Interconnection.

7.1.2.3.3 Qwest agree to provide local interconnection trunk diversity to the same extent it does so in its local network.


7.3.1.1.3.1 The provider of the LIS two-way Entrance Facility (EF) will initially share the cost of the LIS two-way EF by assuming an initial relative use factor (RUF) of fifty percent (50%) for a minimum of one (1) quarter if the Parties have not exchanged LIS traffic previously. The nominal charge to the other Party for

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Date/Initials/CLEC/State  
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ATTACHMENT 1

the use of the EF, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one (1) quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data. If either Party demonstrates with traffic data that actual minutes of use during the previous quarter justifies a new relative use factor that Party will send a notice to the other Party. The new factor will be calculated based upon Exhibit H. Once the Parties finalize a new factor, bill reductions and payments will apply going forward from the date the original notice was sent.

7.3.2.2.1 The provider of the LIS two-way DTT facility will initially share the cost of the LIS two-way DTT facility by assuming an initial relative use factor of fifty percent (50%) for a minimum of one (1) quarter if the Parties have not exchanged LIS traffic previously. The nominal charge to the other Party for the use of the DTT facility, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one (1) quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor. If either Party demonstrates with data that actual minutes of use during the previous quarter justifies a new relative use factor that Party will send a notice to the other Party. The new factor will be calculated based upon Exhibit H. Once the Parties finalize a new factor, bill reductions and payments will apply going forward from the date the original notice was sent.

  
Date/Initials/CLEC/State  
Amendment to:

## CONFIDENTIAL SETTLEMENT AGREEMENT

This Confidential Settlement Agreement (the "Agreement") is made and effective as of the 31st day of March, 2006 (the "Effective Date"), between Qwest Corporation ("Qwest") and Northwest Telephone, Inc. ("NTI") (Qwest and NTI may be hereafter individually referred to as a "Party" and collectively referred to as the "Parties").

### RECITALS

WHEREAS, Qwest and NTI are parties to an Agreement for Local Wireline Network Interconnection and Service Resale, as amended (the "Interconnection Agreement"), which was effective June 13, 2001, and

WHEREAS, NTI and Qwest have been engaged in a dispute regarding NTI's interconnection architecture under the Interconnection Agreement and the applicability of tariffed charges and charges for certain rate elements under the Interconnection Agreement, including but not limited to the application of charges according to the relative use factor ("RUF"), as specifically described in the Interconnection Agreement (the "Billing Dispute"), and

WHEREAS, the Parties subsequently entered into a Payment Agreement for Certain Undisputed Charges, effective June 2, 2005 (the "Payment Agreement") and a Depository Escrow Agreement, effective June 2, 2005 (the "Escrow Agreement") wherein the Parties agreed to place certain disputed amounts in escrow and continue payment for services obtained by NTI pursuant to the applicable tariff and/or Interconnection Agreement, and

WHEREAS, in accordance with the Payment Agreement, NTI filed a complaint with the Washington Utilities and Transportation Commission ("WUTC"), Docket No. UT-053081, wherein NTI made certain allegations against Qwest with respect to the Billing Dispute and Qwest has responded and alleged that NTI must pay the monies placed in escrow under the Payment Agreement to Qwest (the "Complaint"), and

WHEREAS, the Parties desire to settle the dispute related to the Billing Dispute and agree upon a mutually acceptable method for billing the use of the facilities that is the subject of the Billing Dispute to avoid future disputes regarding such facilities.

NOW, THEREFORE, in consideration of the mutual agreements, undertakings, and representations contained herein, the payment of the amounts set forth below, and other good and valuable consideration, which is hereby acknowledged, the Parties agree as follows:

### AGREEMENTS AND COVENANTS

1.

## **REDACTED**

Furthermore, concurrent with the execution of this Agreement, the Parties shall execute an amendment to the Interconnection Agreement (the "ICA Amendment") that implements certain adjustments to the Interconnection Agreement, as detailed in the ICA Amendment. NTI and Qwest further agree that the Parties shall continue to operate under the Interconnection Agreement, as amended, and that NTI and Qwest shall pay all monies as required by the ICA on a going-forward basis.

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2. In consideration of the payments, covenants, agreements and commitments contained herein and the Parties' performance of this Agreement, each Party releases, acquits, holds harmless and forever discharges the other Party, its officers, directors, employees, agents, attorneys, successors, assigns, parents, subsidiaries, affiliates, shareholders, partners, insurance companies and bonding companies and each of their directors, officers, agents, attorneys, employees and representatives (collectively the "Released Parties") from any and all claims, demands, damages, disputes, actions, causes of action, suits, debts, duties, losses, and obligations of any kind or nature whatsoever, known or unknown, related to or arising out of the Billing Dispute which it has, had or may have that accrued from the beginning of time through the date of the execution of this Agreement against each respective Released Parties, or any of them. This Agreement shall constitute a full satisfaction, discharge and release of all claims related to the Billing Dispute. In addition, NTI and Qwest shall jointly file a motion with the WUTC seeking to dismiss the Complaint with prejudice in order to reflect that all issues surrounding the Billing Dispute have been resolved and also file the ICA Amendment with the WUTC.

3. This Agreement shall be confidential, and each Party shall maintain the confidentiality of this Agreement. If either Party is compelled to disclose the existence or terms of this Agreement in judicial or administrative proceedings, such Party will notify the other party in writing, at least 30 days in advance of such disclosure, to provide the other Party an opportunity to seek protective arrangements. Each Party will cooperate with the other Party in that regard. Notwithstanding the foregoing, the parties agree that this Agreement will be filed with the WUTC concurrently with the motion to dismiss. The Agreement will be designated as confidential to the extent permitted by WUTC rules.

4. Qwest and NTI each represents and warrants, that:
- A. It has full authority and the present ability to perform all of its obligations under this Agreement;
  - B. It has obtained all governmental consents, approvals and authorizations required or necessary in order for it to perform all of its obligations under this Agreement;
  - C. It has all requisite corporate and other legal power and authority to enter into and perform its obligations under this Agreement;
  - D. It will comply with all applicable laws, rules, regulations and orders of all governmental agencies, bodies and other organizations in performing its obligations under this Agreement;
  - E. No consents, approvals, authorizations or notices from any third parties are required in connection with or for: (i) the performance of its obligations under this Agreement; (ii) the validity and enforceability of this Agreement; or (iii) its execution, delivery and performance of its obligations under this Agreement; and
  - F. It has not assigned, sold or transferred its right, power or authority to execute and grant the releases and enter into the covenants and agreements contained herein.

5. If either Party fails to enforce any right or remedy available under this Agreement, that failure will not be construed as a waiver of any right or remedy with respect to any other prior or subsequent default, misrepresentation or breach of any term or condition of this Agreement or in any manner affect any rights arising by reason of any such prior or subsequent default, misrepresentation or breach.

6. This Agreement constitutes the full, entire and complete understanding and agreement between Qwest and NTI and supersedes any prior understandings, agreements or representations, if any,



whether written, oral or otherwise, that relate in any manner whatsoever to the subjects of this Agreement. Notwithstanding, this Agreement does not supersede Qwest's tariffs and no term or condition of this Agreement shall be read in a manner inconsistent with Qwest's tariffs. To the extent a conflict exists between the Agreement and Qwest's tariffs, the tariffs shall control.

7. Qwest reserves the right to modify its tariffs, and any term of this Agreement that is inconsistent with Qwest tariffs, as amended, shall be governed by said tariffs; provided, however and subject to applicable law, that Qwest shall not modify its tariffs for the purpose of invalidating any portion of this Agreement. In all other respects, no term or condition of this Agreement, including without limitation the terms and conditions of this paragraph, may be amended, modified or supplemented, and no waivers or consents to departures from any of the terms and conditions of this Agreement shall be effective or of any force or effect other than as shall be set forth in and pursuant to a written instrument signed by both Qwest and NTI. In addition, any conflicts between the terms of this Agreement and the Interconnection Agreement shall be controlled by the terms of the Interconnection Agreement. Nothing in this Agreement is intended to modify or amend any terms of the Interconnection Agreement.

8. To the extent not governed by the Communications Act of 1934, as amended (47 USC Section 201 et seq.), this Agreement shall be interpreted and construed in accordance with the laws of the state of Washington.

9. This Agreement has been jointly drafted by Qwest and NTI and shall not be interpreted in favor of or against either Party. Qwest and NTI have each sought and obtained advice of counsel in negotiating and entering into this Agreement.

10. Any dispute arising out of, or relating to, this Agreement shall be settled according to the processes described in the Dispute Resolution provisions of the Parties' Interconnection Agreement.

11. Any notice to Qwest or NTI required or permitted under this Agreement shall be in writing and shall be personally served, delivered by Certified US Mail, or by a courier service. Upon prior agreement of Qwest's and NTI designated recipients listed below, such notice may also be provided by facsimile. Any notice shall be delivered using one of the aforementioned means and shall be directed as indicated below:

If to Qwest: Qwest Corporation  
Attention: Legal Department  
1801 California Street, Suite 5100  
Denver, Colorado 80202

If to NTI: Northwest Telephone, Inc.  
250 East Penny Road  
Wenatchee WA, 98801

12. Qwest and NTI acknowledge and agree that this Agreement does not constitute an admission by either of them of the truth, accuracy or merit of any fact, asserted principle of law, any matter, claim or cause of action alleged or asserted in any judicial, regulatory or other forum, whether past, present or future, relating to the subject matter of this Agreement. This Agreement does not constitute an admission with respect to the appropriateness or legality of any charges, billed or unbilled, whether paid or unpaid, nor does it constitute an ongoing term or condition of any interconnection agreement, and each Party reserves any and all rights to take any action with respect to any other billing

disputes it may have. Nothing contained herein shall be construed or interpreted to preclude representatives of Qwest or NTI from responding to legal process in connection with the subject matter of this Agreement; provided, that any such responding Party shall provide prompt notice of any such response to the other Party.

13. This Agreement may be executed by facsimile and in multiple counterparts, each of which shall be deemed an original, but all of which shall be deemed one and the same document.

14. If reporting or filing obligations or requirements are imposed upon Qwest by any third party or regulatory agency in connection with this Agreement or the Billing Dispute, including the Complaint, NTI agrees to assist Qwest in complying with such obligations and requirements, as reasonably required by Qwest and to hold Qwest harmless for any failure by NTI in this regard.

IN WITNESS THEREOF, Qwest and NTI have caused this Agreement to be duly executed and delivered as of the date first set forth above.

Qwest Corporation

Northwest Telephone, Inc.

By: *[Signature]*  
Name: Don E. Huff  
Title: Director - Carrier Relations

By: *[Signature]*  
Name: Andrew Metcalfe  
Title: President / CEO