

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application of     ) Docket No. UT-100820  
                                                          )  
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.                                   )  
                                                          )  
..... )

EXHIBIT DD-2  
  
TO THE  
  
RESPONSIVE TESTIMONY  
  
OF  
  
DOUGLAS DENNEY  
  
ON BEHALF OF INTEGRA TELECOM

September 27, 2010

## **ADDITIONAL PERFORMANCE ASSURANCE PLAN**

### **1.0 Introduction**

1.1 As set forth in this Agreement, Qwest<sup>1</sup> and CLEC agree to the terms of the following Additional Performance Assurance Plan ("APAP"), initially prepared in conjunction with CenturyLink's merger with Qwest.

### **2.0 Plan Structure**

2.1 The APAP is a self-executing remedy plan. CLEC shall be provided with payments if, as applicable, Qwest does not provide parity between the service it provides to CLEC and that which it provided to CLECs in the year prior to the Merger Filing Date.<sup>2</sup>

2.2 As specified in sections 6.0 and 7.0 and Attachments 1 and 2, payment is generally on a per occurrence basis, (i.e., a set dollar payment times the number of non-conforming service events). For the performance measurements which do not lend themselves to per occurrence payment, payment is on a per measurement basis, (i.e., a set dollar payment). The level of payment also depends upon the number of consecutive months of non-conforming performance, (i.e., an escalating payment the longer the duration of non-conforming performance) unless otherwise specified.

2.3 Qwest shall be in conformance with the parity standard when service Qwest provides to CLEC in the current month ("CLEC current") is at least equivalent to the service Qwest provided to CLEC in the year prior to the Merger Filing Date ("CLEC prior"). The APAP relies upon statistical scoring to determine whether any difference between CLEC current and CLEC prior performance results is significant, that is, not attributable to simple random variation. Statistical parity shall exist when performance results for CLEC current performance and CLEC prior performance result in a z-value that is no greater than the critical z-values listed in the Critical Z-Statistical Table in section 5.0.

### **3.0 Performance Measurements**

3.1 The performance measurements that are in the APAP are identified in Attachment 1 and sections 6.3 and 7.4. Each performance measurement identified is

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<sup>1</sup> "Qwest," as used in this agreement, refers to the legacy Qwest ILEC territory.

<sup>2</sup> The "Merger Filing Date" refers to May 10, 2010, which is the date on which Qwest and CenturyLink made their merger filing with the FCC.

defined in the Performance Indicator Definitions ("PIDs") included in the SGAT at Exhibit B.

3.1.1 On Attachment 1 the measurements have been given a High, Medium, or Low designation.

3.1.2 Where applicable elsewhere in the APAP, this provision modifies other provisions and operates as follows: For any non-interval parity performance sub-measure, Qwest shall apply one allowable miss to a sub-measure disaggregation that otherwise would require 100% performance before the performance is considered as non-conforming to standard (1) if at the CLEC-aggregate level, the performance standard is met or (2) where the CLEC-aggregate performance must be 100% to meet the standard, the CLEC-aggregate performance is conforming after applying one allowable miss at that level.

#### 4.0 Statistical Measurement

4.1 Qwest uses a statistical test, namely the modified "z-test," for evaluating the difference between two means or two percentages, to determine whether a parity condition exists between the results for CLEC current and CLEC prior. The modified z-tests shall be applicable if the number of data points are greater than 30 for a given measurement. For testing measurements for which the number of data points are 30 or less, Qwest will use a permutation test to determine the statistical significance of the difference between CLEC current and CLEC prior performance.

4.2 Qwest shall be in conformance when the monthly performance results for parity measurements (whether in the form of means, percents, or proportions and at the equivalent level of disaggregation) are such that the calculated z-test statistics are not greater than the critical z-values as listed in Table 1, section 5.0.

The formula for determining parity using the modified z-test is:

$$z = \text{DIFF} / \sigma_{\text{DIFF}}$$

Where:

$$\text{DIFF} = M_{\text{Prior}} - M_{\text{CLEC}}$$

$M_{\text{Prior}}$  = CLEC prior average or proportion from May 2009 through April 2010

$M_{\text{CLEC}}$  = CLEC current average or proportion

$$\sigma_{\text{DIFF}} = \text{square root } [\sigma^2_{\text{Prior}} (1/ n_{\text{CLEC}} + 1/ n_{\text{Prior}})]$$

$\sigma_{\text{Prior}}$  = calculated variance for CLEC prior performance from May 2009 through April 2010

$n_{\text{Prior}}$  = number of observations or samples used in CLEC prior measurement

$n_{\text{CLEC}}$  = number of observations or samples used in CLEC current measurement

The modified z-tests will be applied to reported parity measurements that contain more than 30 data points.

In calculating the difference between CLEC prior and CLEC current performance, the above formula applies when a larger CLEC prior value indicates a better level of performance. In cases where a smaller CLEC prior value indicates a higher level of performance, the order is reversed, i.e.,  $M_{\text{CLEC}} - M_{\text{Prior}}$ .

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4.3.1 For parity measurements where the number of data points is 30 or less, Qwest will apply a permutation test to test for statistical significance. Permutation analysis will be applied to calculate the z-statistic using the following logic:

Calculate the modified z-statistic for the actual arrangement of the data

Pool and mix the CLEC prior and CLEC current data sets

Perform the following 1000 times:

Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC current data set ( $n_{\text{CLEC}}$ ) and one reflecting the remaining data points, (which is equal to the size of the original CLEC prior data set or  $n_{\text{Prior}}$ ).

Compute and store the modified z-test score ( $Z_S$ ) for this sample.

Count the number of times the z-statistic for a permutation of the data is greater than the actual modified z- statistic

Compute the fraction of permutations for which the statistic for the rearranged data is greater than the statistic for the actual samples

If the fraction is greater than  $\alpha$ , the significance level of the test, the hypothesis of no difference is not rejected, and the test is passed. The  $\alpha$  shall be .05 when the critical z value is 1.645 and .15 when the critical z value is 1.04.

#### 5.0 Critical Z-Value

5.1 The following table shall be used to determine the critical z-value that is referred to in section 6.0. It is based on the monthly business volume of the CLEC for the particular performance measurements for which statistic testing is being performed.

**TABLE 1: CRITICAL Z-VALUE**

CLEC volume (Sample size)	LIS Trunks, UDITs, Resale, UBL-DS1 and DS- 3	All Other
1-10	1.04*	1.645
11-150	1.645	1.645
151-300	2.0	2.0
301-600	2.7	2.7
601-3000	3.7	3.7
3001 and above	4.3	4.3

\* The 1.04 applies for individual month testing for performance measurements involving LIS trunks and DS-1 and DS-3 that are UDITs, Resale, or Unbundled Loops. The performance measurements are OP-3d/e, OP-4d/e, OP-5a, OP-6-4/5, MR-5a/b, MR-7d/e, and MR-8.

For purposes of determining consecutive month misses, 1.645 shall be used. Where performance measurements disaggregate to zone 1 and zone 2, the zones shall be combined for purposes of statistical testing.

## 6.0 Payments to CLEC

6.1 Payments to CLEC shall be made solely for the performance measurements designated on Attachment 1. The payment amount for non-conforming service varies depending upon the designation of performance measurements as High, Medium, and Low and the duration of the non-conforming service condition as described below. Non-conforming service is defined in section 4.0.

6.1.1 Determination of Non-Conforming Measurements: The number of performance measurements that are determined to be non-conforming and, therefore, eligible for payments, are limited according to the critical z-value shown in Table 1, section 5.0. The critical z-values are the statistical standard that determines for each CLEC performance measurement whether Qwest has met parity with CLEC prior performance. The critical z-value is selected from Table 1 according to the monthly CLEC volume for the performance measurement. For instance, if the CLEC sample size for that month is 100, the critical z-value is 1.645 for the statistical testing of that parity performance measurement.

6.2 Determination of the Amount of Payment: Payments to CLEC, except as provided for in sections 6.2.3, 6.3 and 10.0, are calculated and paid monthly based on the number of performance measurements exceeding the critical z-value. Payments will be made on either a per occurrence or per measurement basis, depending upon the performance measurement, using the dollar amounts specified in Table 2 below. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low and escalate depending upon the number of consecutive months for which Qwest has not met the standard for the particular measurement.

6.2.1 The escalation of payments for consecutive months of non-conforming service will be matched month for month with de-escalation of payments for every month of conforming service. For example, if Qwest has four consecutive monthly “misses” it will make payments that escalate from month 1 to month 4 as shown in Table 2. If, in the next month, service meets the standard, Qwest makes no payment. A payment “indicator” de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 2 because that is where the payment “indicator” presently sits. If Qwest misses again the following month, it will make payments that escalate back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon conforming service sufficient to move the payment “indicator” back to the month 1 level.

6.2.2 For those performance measurements listed on Attachment 2 as “Performance Measurements Subject to Per Measurement Caps,” excluding BI-3A, payment to a CLEC in a single month shall not exceed the amount listed in Table 2 below for the “Per Measurement Cap” category. For those performance measurements listed on Attachment 2 as “Performance Measurements Subject to Per Measurement Payments,” if any should be added at a later time, payment to a CLEC will be the amount set forth in Table 2 below under the section labeled “Per Measurement Cap.”

**TABLE 2: PAYMENTS TO CLEC**

Per Occurrence	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Each following month after Month 6 add
High	\$150	\$250	\$500	\$600	\$700	\$800	\$100
Medium	\$ 75	\$150	\$300	\$400	\$500	\$600	\$100
Low	\$ 25	\$ 50	\$100	\$200	\$300	\$400	\$100

Per Measurement Cap							
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Each following month after Month 6 add
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000	\$25,000
Medium	\$10,000	\$20,000	\$30,000	\$ 40,000	\$ 50,000	\$ 60,000	\$10,000
Low	\$ 5,000	\$10,000	\$15,000	\$ 20,000	\$ 25,000	\$ 30,000	\$ 5,000

6.2.3 For the BI-3A performance measurement, the dollar payment amount for non-conforming performance varies depending upon the Total Bill Adjustment Amount for the CLEC. The payment amount is calculated using Table 2A below by multiplying the per occurrence amount times the number of occurrences based on the Total Bill Adjustment Amount,<sup>3</sup> capped at the amount shown in the table for that Total Bill Adjustment Amount. The escalation of payments for consecutive months as stated in section 6.2.1 does not apply.

**TABLE 2A: PAYMENTS TO CLECS FOR BI-3A**

Total Bill Adjustment Amount	Per Occurrence Amount	Cap
\$0 - \$0.99	\$0	\$0
\$1 - \$199.99	\$1	\$200
\$200 - \$999.99	\$10	\$5,000
\$1,000 - \$9,999.99	\$10	\$10,000
\$10,000 - \$49,999.99	\$15	\$15,000
\$50,000 - \$99,999.99	\$20	\$20,000
\$100,000 and over	\$25	\$25,000

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7.4 Performance Measurements Subject to Per Measurement Payment: The following performance measurements shall have their performance results measured on a region-wide (14 state) basis. Failure to meet the performance standard, therefore, will

<sup>3</sup> Total Bill Adjustment Amount is determined by subtracting the BI-3A numerator from the BI-3A denominator as defined in the BI-3 PID formula.

result in a per measurement payment in each of the Qwest in-region 14 states adopting this APAP. The performance measurements are:

- GA-1: Gateway Availability - IMA-GUI
- GA-3: Gateway Availability – EB-TA
- GA-4: System Availability – EXACT
- GA-6: Gateway Availability – GUI-Repair
- GA-8: Gateway Availability – IMA XML
- PO-1: Pre-Order/Order Response Times
- OP-2: Call Answered within Twenty Seconds – Interconnect Provisioning Center
- MR-2: Calls Answered within Twenty Seconds – Interconnect Repair Center

GA-1 has two sub-measurements: GA-1A and GA-1D. PO-1 shall have two sub-measurements: PO-1A and PO-1X. PO-1A and PO-1X shall have their transaction types aggregated together.

For these measurements, Qwest will make a payment based upon monthly performance results according to Table 6: Per Measurement Payments will be allocated to CLECs that have opted into the APAP based on their relative level of circuits as contained in the denominator to the MR-8 measure.

**TABLE 6: PER MEASUREMENT PAYMENTS TO STATE FUNDS**

Measurement	Performance	State Payment	14 State Payment
GA-1,3,4,6,8	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$10,000	\$140,000
	>3% to 5%	\$20,000	\$280,000
	>5%	\$30,000	\$420,000
PO-1	2 sec. Or less	\$1,000	\$14,000
	>2 sec. to 5 sec.	\$5,000	\$70,000
	>5 sec. to 10 sec.	\$10,000	\$140,000
	>10 sec.	\$15,000	\$210,000
OP-2/MR-2	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$5,000	\$70,000
	>3% to 5%	\$10,000	\$140,000
	>5%	\$15,000	\$210,000



## **8.0 Step by Step Calculation of Monthly Payments to CLEC**

8.1 Application of the Critical Z-Values: Qwest shall identify the parity performance measurements that measure the service provided to CLEC by Qwest for the month in question and the critical z-value from Table 1 in section 5.0 that shall be used for purposes of statistical testing for each particular performance measurement. The statistical testing procedures described in section 4.0 shall be applied. For the purpose of determining the critical z-values, each disaggregated category of a performance measurement is treated as a separate sub-measurement. The critical z-value to be applied is determined by the CLEC current volume at each level of disaggregation or sub-measurement.

### **8.2 Performance Measurements for which Payment is Per Occurrence:**

#### **8.2.1 Performance Measurements that are Averages or Means:**

8.2.1.1 Step 1: For each performance measurement, the average or the mean that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used.

8.2.1.2 Step 2: The percentage differences between the actual averages and the calculated averages shall be calculated. The calculation is  $\% \text{ diff} = (\text{CLEC result} - \text{Calculated Value}) / \text{Calculated Value}$ . The percent difference shall be capped at a maximum of 100%. In all calculations of percent differences in sections 8.0 and 9.0, the calculated percent differences is capped at 100%.

8.2.1.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the percentage calculated in the previous step and the per occurrence dollar amounts from the Payment Table shall determine the payment to the CLEC for each non-conforming performance measurement.

#### **8.2.2 Performance Measurements that are Percentages:**

8.2.2.1 Step 1: For each performance measurement, the percentage that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z- statistic for the measurement shall be used.

8.2.2.2 Step 2: The difference between the actual percentages for the CLEC and the calculated percentages shall be determined.

8.2.2.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference in percentage calculated in the previous step, and the per occurrence dollar amount taken from the Payment Table, to determine the payment to the CLEC for each non-conforming performance measurement.

### 8.2.3 Performance Measurements that are Ratios or Proportions:

8.2.3.1 Step 1: For each performance measurement the ratio that would yield the critical z-value shall be calculated. The same denominator as the one used in calculating the z-statistic for the measurement shall be used.

8.2.3.2 Step 2: The absolute difference between the actual rate for the CLEC and the calculated rate shall be determined.

8.2.3.3 Step 3: For each performance measurement, the total number of data points shall be multiplied by the difference calculated in the previous step, and the per occurrence dollar amount taken from the Payment Table, to determine the payment to the CLEC for each non-conforming performance measurement.

### 8.3 Performance Measurements for which Payment is Per Measure:

8.3.1 For each performance measurement where Qwest fails to meet the standard, the payment to the CLEC shall be the dollar amount shown on the "per measure" portion of Table 2: Payments to CLEC.

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## 11.0 Payment

11.1 Payments to CLEC or the State shall be made one month following the due date of the performance measurement report for the month for which payment is being made. Qwest will pay interest on any late payment and underpayment at the prime rate as reported in the Wall Street Journal. On any overpayment, Qwest is allowed to offset future payments by the amount of the overpayment plus interest at the prime rate.

11.2 Payment to CLEC shall be made via bill credits. To the extent that a monthly payment owed to CLEC under this APAP exceeds the amount owed to Qwest by CLEC on a monthly bill, Qwest will issue a check or wire transfer to CLEC in the amount of the overage. Payment to the State shall be made via check or wire transfer.

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## 13.0 Limitations

13.1 The APAP shall not become available in the State unless and until the CenturyLink / Qwest merger closes.

13.2 Qwest will not be liable for payments to CLEC until the Commission has approved an interconnection agreement between CLEC and Qwest which adopts the provisions of this APAP.

13.3 Qwest shall not be obligated to make payments for any measurement if and to the extent that non-conformance for that measurement was the result of any of the following: 1) a Force Majeure event, including but not limited to acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers; 2) an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with Qwest or under federal or state law; an act or omission by CLEC that is in bad faith. Examples of bad faith conduct include, but are not limited to: unreasonably holding service orders and/or applications, "dumping" orders or applications in unreasonably large batches, "dumping" orders or applications at or near the close of a business day, on a Friday evening or prior to a holiday, and failing to provide timely forecasts to Qwest for services or facilities when such forecasts are required to reasonably provide services or facilities; or 3) problems associated with third-party systems or equipment, which could not have been avoided by Qwest in the exercise of reasonable diligence, *provided, however*, that this third party exclusion will not be raised in the State more than three times within a calendar year.

13.3.1 Qwest will not be excused from payments for any reason except as described in Section 13.0. Qwest will have the burden of demonstrating that its non-conformance with the performance measurement was excused on one of the grounds described in this APAP.

13.4 The implementation of these enforcement terms, and specifically Qwest's payment of any "liquidated damages" hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating in whole or in part to the same performance.

13.4.1 CLEC may not use: 1) the existence of this enforcement plan; or 2) Qwest's payment of Tier -1 "liquidated damages" as evidence that Qwest has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. Qwest's conduct

underlying its performance measures, however are not made inadmissible by its terms.

13.4.2 By accepting this performance remedy plan, CLEC agrees that Qwest's performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. (Nothing herein is intended to preclude Qwest from introducing evidence of any "liquidated damages" under these provisions for the purpose of offsetting the payment against any other damages or payments a CLEC might recover.) .

13.5 By incorporating these liquidated damages terms into the APAP, Qwest and CLEC accepting this APAP agree that proof of damages from any non-conforming performance measurement would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damages that may result from a non-conforming performance measurement. Qwest and CLEC further agree that payments made pursuant to this APAP are not intended to be a penalty. The application of the damages provided for herein is not intended to foreclose other noncontractual legal and non-contractual regulatory claims and remedies that may be available to a CLEC.

13.6 This APAP contains a comprehensive set of performance measurements, statistical methodologies, and payment mechanisms that are designed to function together, along with the Qwest Performance Assurance Plan ("QPAP"), as an integrated whole. To elect the APAP, CLEC must adopt the APAP and QPAP in their entirety, in its interconnection agreement with Qwest in lieu of other alternative standards or relief for the same wholesale services governed by the APAP and QPAP. Where alternative standards or remedies for Qwest wholesale services governed by the APAP and QPAP are available under rules, orders, or contracts, including interconnection agreements, CLEC will be limited to either APAP and QPAP standards and remedies or the standards and remedies available under rules, orders, or contracts and CLECs choice of remedies shall be specified in its interconnection agreement.

13.7 Any liquidated damages payment by Qwest under these provisions is not hereby made inadmissible in any proceeding related to the same conduct where Qwest seeks to offset the payments against any other damages a CLEC may recover; whether or not the nature of the damages sought by the CLEC is such that an offset is appropriate will be determined in the relevant proceeding.

13.9 Whenever a Qwest payment to an individual CLEC exceeds \$3 million in a month, Qwest may commence a proceeding to demonstrate why it should not be required to pay any amount in excess of the \$3 million. Upon timely commencement of the proceeding, Qwest must pay the balance of payments owed in excess of \$3 million into escrow, to be held by a third-party pending the outcome of the proceeding. To invoke these escrow provisions, Qwest must file, not later than the due date of the payments, its application. Qwest will have the burden of proof to demonstrate why,

under the circumstances, it would be unjust to require it to make the payments in excess of \$3 million. If Qwest reports non-conforming performance to CLEC for three consecutive months on 20% or more of the measurements reported to CLEC and has incurred no more than \$1 million in liability to CLEC, then CLEC may commence a similar proceeding. In any such proceeding CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires Qwest to make payments in excess of the amount calculated pursuant to the terms of the APAP. The disputes identified in this section shall be resolved in a manner specified in the Dispute Resolution section of the SGAT or interconnection agreement with the CLEC.

## **14.0 Reporting**

14.1 Upon the Closing Date<sup>4</sup>, Qwest will provide CLEC that has an approved interconnection agreement with Qwest, a monthly report of Qwest's performance for the measurements identified in the APAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Qwest will collect, analyze, and report performance data for the measurements listed on Attachment 1 in accordance with the most recent version of the PIDs. Upon CLEC's request, data files of the CLEC's raw data, or any subset thereof, will be transmitted, without charge, to CLEC in a mutually acceptable format, protocol, and transmission medium.

14.2 Qwest will also provide the Commission a monthly report of aggregate CLEC performance results pursuant to the APAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Solely upon the specific order of the Commission, data files of participating CLEC raw data, or any subset thereof, will be transmitted, without charge, to the Commission in a mutually acceptable format, protocol, and transmission form, provided that Qwest shall first initiate any procedures necessary to protect the confidentiality and to prevent the public release of the information pending any applicable Commission procedures. Qwest shall provide such notice as the Commission directs to the CLEC involved. By accepting this APAP, CLEC consents to Qwest providing CLEC's report and raw data to the Commission.

14.3 In the event Qwest does not provide CLEC and the Commission with a monthly report by the last day of the month following the month for which performance results are being reported, Qwest will pay to the State a total of \$500 for each business day for

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<sup>4</sup> The "Closing Date" refers to the closing date of the transaction for which the Applicants have sought approval from the Federal Communications Commission (FCC) and state commissions.

which performance reports are 6 to 10 business days past the due date; \$1,000 for each business day for which performance reports are 11 to 15 business days past the due date; and \$2,000 for each business day for which performance results are more than 15 business days past the due date. If reports are on time but are missing performance results, Qwest will pay to the State a total of one-fifth of the late report amount for each missing performance measurement, subject to a cap of the full late report amount. These amounts represent the total payments for omitting performance measurements or missing any report deadlines, rather than a payment per report. Prior to the date of a payment for late reports, Qwest may file a request for a waiver of the payment, which states the reasons for the waiver. The Commission may grant the waiver, deny the waiver, or provide any other relief that may be appropriate.

14.4 To the extent that Qwest recalculates payments made under this APAP, such recalculation shall be limited to the preceding three years (measured from the later of the provision of a monthly credit statement or payment due date). Qwest shall retain sufficient records to demonstrate fully the basis for its calculations for long enough to meet this potential recalculation obligation. CLEC verification or recalculation efforts should be made reasonably contemporaneously with Qwest measurements. In any event, Qwest shall maintain the records in a readily useable form for one year. For the remaining two years, the records may be retained in archived format. Any payment adjustments shall be subject to the interest rate provisions of section 11.1.

## **15.0 Integrated Audit Program/Investigations of Performance Results**

15.1 Audits of the APAP may be conducted in a two-year cycle under the auspices of the participating Commissions in accordance with a detailed audit plan developed by an independent auditor retained for a two-year period. The participating Commissions may select the independent auditor with input from Qwest and CLECs.

15.1.1 The participating Commissions may form an oversight committee of Commissioners who will choose the independent auditor and approve the audit plan. Any disputes as to the choice of auditor or the scope of the audit shall be resolved through a vote of the chairs of the participating commissions pursuant to Section 15.1.4.

15.1.2 The audit plan may be conducted over two years. The audit plan will identify the specific performance measurements to be audited, the specific tests to be conducted, and the entity to conduct them. The audit plan will give priority to auditing the higher risk areas identified in the OSS report. The two-year cycle will examine risks likely to exist across that period and the past history of testing, in order to determine what combination of high and more moderate areas of risk should be examined during the two-year cycle. The first year of a two-year cycle will concentrate on areas most likely to require follow-up in the second year.

15.1.3 The audit plan shall be coordinated with other audit plans that may be conducted by other state commissions so as to avoid duplication, shall not impede Qwest's ability to comply with the other provisions of the APAP and should be of a nature and scope that can be conducted in accordance with the reasonable course of Qwest's business operations.

15.1.4 Any dispute arising out of the audit plan, the conduct of the audit, or audit results shall be resolved by the oversight committee of Commissioners. Decisions of the oversight committee of Commissioners may be appealed to a committee of the chairs of the participating Commissions.

15.2 Qwest may make management processes more accurate or more efficient to perform without sacrificing accuracy. These changes are at Qwest's discretion but will be reported to participating CLECs, the state Commissions and the independent auditor, if any, in meetings in which any party may ask questions about changes made in the Qwest measurement regimen.

15.3 In the event of a disagreement between Qwest and CLEC as to any issue regarding the accuracy or integrity of data collected, generated, and reported pursuant to the APAP, including disagreement regarding changes as part of 15.2, Qwest and the CLEC shall first consult with one another and attempt in good faith to resolve the issue. If an issue is not resolved within 45 days after a request for consultation, CLEC and Qwest may, upon a demonstration of good cause, (e.g., evidence of material errors or discrepancies) request an independent audit to be conducted, at the initiating party's expense. The independent auditor will assess the need for an audit based upon whether there exists a material deficiency in the data or whether there exists an issue not otherwise addressed by the audit plan for the current cycle. The dispute resolution provision of section 18.0 is available to any party questioning the independent auditor's decision to conduct or not conduct a CLEC requested audit and the audit findings, should such an audit be conducted. An audit may not proceed until dispute resolution is completed. Audit findings will include: (a) general applicability of findings and conclusions (i.e., relevance to CLECs or jurisdictions other than the ones causing test initiation), (b) magnitude of any payment adjustments required and, (c) whether cost responsibility should be shifted based upon the materiality and clarity of any Qwest non-conformance with measurement requirements (no pre-determined variance is appropriate, but should be based on the auditor's professional judgment). CLEC may not request an audit of data more than three years from the later of the provision of a monthly credit statement or payment due date.

## **16.0 Reviews**

### **16.1 Intentionally Left Blank**

16.1.1 Any party may submit a root cause analysis to the Commission requesting removal of a PID or sub-measure from the APAP. In the analysis and recommendations concerning the root cause analysis, the Commission is to consider, at a minimum, whether the root cause analysis provides evidence of no harm, the same harm as covered by other PID measures, non-Qwest related causes, or other factors which directly relate to the harm or circumstances specific to the PID or sub-measure being analyzed.

16.3 Qwest will make the APAP available for CLEC interconnection agreements until five years after the Closing Date. At that time, the Commission and Qwest shall review the appropriateness of the APAP and whether its continuation is necessary.

### **17.0 Intentionally Left Blank**

### **18.0 Dispute Resolution**

For the purpose of resolving disputes over the meaning of the provisions of the APAP and how they should be applied, the dispute resolution provisions of the CLEC Interconnection Agreement, shall apply.



**Attachment 1: Performance Measurements Subject to Per Occurrence Payment**

Performance Measurement		Payments					
		Low	Med	High			
<b>GATEWAY</b>							
Timely Outage Resolution	GA-7			X			
<b>PRE-ORDER/ORDERS</b>							
LSR Rejection Notice Interval	PO-3 <sup>a</sup>	X					
Firm Order Confirmations On Time	PO-5	X					
Work Completion Notification Timeliness	PO-6 <sup>b</sup>	X					
Billing Completion Notification Timeliness	PO-7 <sup>b</sup>	X					
Jeopardy Notice Interval	PO-8	X					
Timely Jeopardy Notices	PO-9	X					
Release Notifications	PO-16			X			
(Expanded) – Manual Service Order Accuracy	PO-20		X				
<b>ORDERING AND PROVISIONING</b>							
Installation Commitments Met	OP-3 <sup>g</sup>			X			
Installation Intervals	OP-4 <sup>c,g</sup>			X			
New Service Quality	OP-5 <sup>a,g</sup> , b <sup>d,g</sup>			X			
Delayed Days	OP-6 <sup>e,g</sup>			X			
Number Portability Timeliness	OP-8			X			
Coordinated Cuts On Time – Unbundled Loops	OP-13a			X			
LNP Disconnect Timeliness	OP-17			X			
<b>MAINTENANCE AND REPAIR</b>							
Out of Service Cleared within 24 hours	MR-3 <sup>g</sup>			X			
All Troubles Cleared within 4 hours	MR-5 <sup>g</sup>			X			
Mean time to Restore	MR-6 <sup>a,g</sup> , b <sup>g</sup> , c <sup>g</sup> , d <sup>f</sup> , e <sup>f</sup>			X			
Repair Repeat Report Rate	MR-7 <sup>g</sup>			X			
Trouble Rate	MR-8 <sup>g</sup>			X			
LNP Trouble Reports Cleared within Specified Timeframes	MR-11			X			
<b>BILLING</b>							
Time to Provide Recorded Usage Records	BI-1	X					
Billing Accuracy-Adjustments for Errors	BI-3	X					
Billing Completeness	BI-4	X					
<b>NETWORK PERFORMANCE</b>							
Trunk Blocking	NI-1			X			
NXX Code Activation	NP-1			X			

- a. PO-3 is limited to PO-3a-1, PO-3b-1, and PO-3c.
- b. PO-6 is included with PO-7 as two "families:" PO-6a/PO-7a and PO-6b/PO-7b. Measurements within each family share a single payment opportunity with only the measurements with the highest payment being paid.
- c. OP-4 is included with OP-6 as five "families:" OP-4a/OP-6-1, OP-4b/OP-6-2, OP-4c/OP-6-3, OP-4d/OP-6-4, and OP-4e/OP-6-5. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.
- d. Section 3.1.2 applies to OP-5b only if the number of orders with trouble in OP-5a is no more than one.
- e. For purposes of the APAP, OP-6a and OP-6b will be combined and treated as one. The combined OP-6 breaks down to OP-6-1 (within MSA), OP-6-2 (outside MSA), OP-6-3 (no dispatch), OP-6-4 (zone 1), and OP-6-5 (zone 2).
- f. Applicable only to xDSL-I capable loops.
- g. Excludes the following product disaggregations as applicable to this PID: Resale Centrex, Resale Centrex 21, Resale DS0 (non-designed), Resale DS0 (designed), Resale DS0, E911/911 Trunks, Resale Frame Relay, Resale Basic ISDN (non-designed), Resale Basic ISDN (designed), Resale Basic ISDN, Resale Primary ISDN (non-designed), Resale Primary ISDN (designed), Resale Primary ISDN, Resale PBX (non-designed), Resale PBX (designed), Resale PBX, Sub-Loop Unbundling, UNE-P (POTS), UNE-P (Centrex), and UNE-P (Centrex 21).

**Attachment 2: Performance Measurements Subject to Per Measurement Caps**

Billing

Time to Provide Recorded Usage Records – BI-1  
Billing Accuracy – Adjustments for Errors – BI-3  
Billing Completeness – BI-4