BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-411T

IN THE MATTER OF THE COMBINED APPLICATION OF QWEST CORPORATION FOR RECLASSIFICATION AND DEREGULATION OF CERTAIN PART 2 PRODUCTS AND SERVICES AND DEREGULATION OF CERTAIN PART 3 PRODUCTS AND SERVICES.

DOCKET NO. 04D-440T

STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION'S PETITION FOR A DECLARATORY ORDER CONCERNING THE RECLASSIFICATION AND DEREGULATION OF TELECOMMUNICATIONS SERVICES UNDER PARTS 2 AND 3, TITLE 40, ARTICLE 15 OF THE COLORADO REVISED STATUTES.

THIRD ~~SECOND~~ CORRECTED STIPULATION AND SETTLEMENT AGREEMENT

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Qwest Corporation ("Qwest" or the "Company"), the Staff of the Colorado Public Utilities Commission ("Staff"), and the Colorado Office of Consumer Counsel ("OCC"), collectively referred to as the "Parties," hereby state that they have resolved by settlement (as among the Parties) all issues necessary to resolve the Company's Application initiating this proceeding. The Parties respectfully submit this Stipulation and Settlement Agreement ("Stipulation" or "Agreement") for approval by the Colorado Public Utilities Commission (the "Commission"), pursuant to Rule 83(a) of the Commission Rules of Practice and Procedure.

I. RECITALS

A. On October 1, 2004, Qwest filed its Application for: reclassification and deregulation of certain Part 2 retail services; deregulation of certain Part 3 retail services; and for such further relief as may be deemed appropriate by the Commission ("Application").

B. On November 5, 2004, the Commission ruled that "... Qwest's application for deregulation applies to services...." Decision No. C04-1296, p. 5, ¶ 9. The Commission further ruled that "Qwest Corporation's application shall apply to services provided by Qwest in its service territory as of October 1, 2004. Qwest Corporation's application shall apply to its service area for each of the services it offers." *Id.*, Ordering ¶ A.1.

C. Qwest was required to give notice of its application in three ways. First, Qwest provided a bill insert to its customers during the September, 2004 billing cycle, which began on September 1, 2004 and ended on October 1, 2004 ("Bill Insert"). The full text of the Bill Insert is attached to this Stipulation and labeled Attachment 1. The Bill Insert stated in part that Qwest "has filed a proposal with the Colorado Public Utilities Commission (PUC) that asks the PUC to stop regulating most of your telephone service." Qwest was ultimately required to also publish two separate newspaper notices of its Application. The first notice was published in newspapers

of general circulation in each county in the state of Colorado ("First Newspaper Notice"), and stated in part that "Qwest Corporation has filed a proposal with the Colorado Public Utilities Commission (PUC) that asks the PUC to stop regulating most of your telephone services." The full text of the First Notice is set forth in Attachment 2 to this Stipulation. See Decision No. C04-1203. The second notice was published only in the Rocky Mountain News and the Denver Post pursuant to Commission Decision No. C04-1296 ("Second Newspaper Notice"). The text of the Second Newspaper Notice stated in part that "No matter which company provides your telephone service, regulation may end for most Colorado telephone services because of a proposal filed by Qwest with the Colorado Public Utilities Commission (PUC)." The full text of the Second Newspaper Notice is set forth in Attachment 3 to this Stipulation. *Id.*

D. Staff, OCC, Colorado Payphone Association ("CPA") and Colorado Association of Home Builders ("CAHB"), AARP, CenturyTel of Eagle, Inc., and CenturyTel of Colorado and the Colorado Telecommunications Association ("CTA"), intervened in the case. All service providers listed on Appendix A of Commission Decision No. C04-1296 were made indispensable parties to the docket.

E. On February 10, 2005, the Commission issued an order in which it held that "Telecommunications services currently regulated under § 40-15-201 *et seq.*, C.R.S., must be regulated under § 40-15-301 *et seq.*, C.R.S., before being deregulated ...." Decision No. C05-0178, p. 13, Ordering ¶ A.1. On September 1, 2004, pursuant to Commission Decision No. C04-0984, the Commission opened Docket No. 04M-435T. In Decision No. C04-0984, the Commission stated that, in preparation for Qwest's refiling of its Application that is the subject of this proceeding, the Commission opened Docket No. 04M-435T for the purposes of gathering certain information regarding the state of competition in regulated telecommunications markets

in Colorado. The Commission stated that it anticipated that this information would assist the Commission and interested parties. The Commission required that Colorado telecommunications providers respond to a survey on competition in Colorado. Staff compiled the result of the individual surveys into a report, filing with the Commission both a public version and a highly confidential version of the report. In addition, pursuant to Commission order, Staff filed with the Commission the highly confidential individual provider surveys. On January 7, 2005, the Commission issued Decision No. C05-0027, closing Docket No. 04M-435T.

Pursuant to Decision No. C05-0197, Docket No. 04M-411T, mailed February 15, 2005, the Commission took administrative notice of all matters in the Commission's files concerning Docket No. 04M-435T. The administrative notice was intended to, in effect, move all of the information in Docket No. 04M-435T to this docket. Decision No. C05-0197 did not automatically move this information into evidence or make any interpretation of the evidence.

F. In its Application and direct case, filed on October 1, 2004, Qwest proposed the reclassification and deregulation of certain Part 2 retail services and deregulation of certain current and reclassified Part 3 retail services. Answer testimony was filed by Staff, OCC, the regulated subsidiaries of MCI, Inc., Time Warner, CPA and AARP on February 18, 2005. Cross-Answer and Rebuttal Testimony was filed by Qwest, Staff, AARP and ICG on March 25, 2005. The positions of the Parties are fully set forth in their respective Direct, Answer, Rebuttal, ~~and~~ Cross-Answer and Substituted Supplemental Testimonies.

G. While these proceedings were pending, all active parties were invited to participate in settlement discussions. While Staff invited all active parties in the proceeding to join in the settlement negotiation, some active parties chose not to participate. The Parties have engaged in extensive settlement discussions in an attempt to resolve their differences regarding

the various issues raised in this proceeding. This Agreement reflects the results of those negotiations and resolves all necessary issues. The Parties acknowledge that there were certain issues raised during the docket that were not resolved; however, resolution of those issues was not necessary in order to reach agreement. The Parties anticipate that those unresolved issues will be resolved in future proceedings.

H. The Parties have reached a mutually acceptable compromise, which they believe to be in the public interest, supported by the record and consistent with the following state and federal statutes and Commission rules:

1. In 1987, the Colorado General Assembly enacted House Bill 1336, codified at § 40-15-101, C.R.S. *et seq.*, promoting competition in the local telecommunications market. Section 40-15-101, C.R.S. declares, in relevant part, as follows:

> The general assembly hereby finds, determines, and declares that it is the policy of the state of Colorado to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high-quality telecommunications services. Such goals are best achieved by legislation that brings telecommunications regulation into the modern era by guaranteeing the affordability of basic telephone service while fostering free market competition within the telecommunications industry. The general assembly further finds that technological advancements and increases in customer choices for telecommunications services generated by such market competition will enhance Colorado's economic future. However, the general assembly recognizes that the strength of competitive force varies widely between markets and products and services. Therefore, to foster, encourage and accelerate the continuing emergence of a competitive telecommunications environment, the general assembly declares that flexible regulatory treatments are appropriate for different telecommunications services.

2. House Bill 1336 created the statutory framework pursuant to which the Commission, consumers and carriers operate today, including the division of services among Part 2 regulated, Part 3 emerging competitive, and Part 4 deregulated services. Among the statutes enacted as part of House Bill 1336 were:

(i) Section 40-15-207, C.R.S., which authorizes the Commission to reclassify a Part 2 regulated service as a Part 3 emerging competitive service upon a finding that there is effective competition in the relevant market for the service and that regulation under Part 3 will promote the public interest, and the provision of adequate and reliable service at just and reasonable rates based on the following factors:

> (I) The extent of economic, technological, or other barriers to market entry and exit;
>
> (II) The number of other providers offering similar services in the relevant geographic area;
>
> (III) The ability of consumers in the relevant geographic area to obtain the service from other providers at reasonable and comparable rates, on comparable terms, and under comparable conditions;
>
> (IV) The ability of any provider of such telecommunications service to affect prices or deter competition; and
>
> (V) Such other factors as the commission deems appropriate.
>
> (c) In determining geographic areas under paragraph (b) of this Subsection (1), the commission shall not be unduly restrictive.

(ii.) Sections 40-15-203(6) through (8) C.R.S., which authorize the Commission either on its own motion or upon application of a provider of telecommunications services regulated under Part 2 to refrain from regulation for competitive need for specific telecommunications service otherwise subject to its jurisdiction in lieu of reclassification of a service under § 40-15-207; and § 40-15-203(6) through (8), C.R.S., which

requires that no expenses incurred in the solicitation and the provision of services under this section shall be paid, directly or indirectly, by the subscribers of the applicant's regulated services.

(iii) Section 40-15-305, C.R.S., which authorizes the Commission to deregulate a service upon a finding that there is effective competition in the relevant market for the service based on the following factors:

> (I) The extent of economic, technological, or other barriers to market entry and exit;
>
> (II) The number of other providers offering similar services;
>
> (III) The ability of consumers to obtain the service from other providers at reasonable and comparable rates, on comparable terms, and under comparable conditions;
>
> (IV) The ability of any provider of such telecommunications service to affect prices or deter competition;
>
> (V) Such other relevant and necessary factors, including but not limited to relevant geographic areas, as the commission deems appropriate.

3. In 1995, the Colorado General Assembly enacted House Bill 1335, codified at § 40-15-501, C.R.S. *et seq*. Among the policies the legislature sought to advance through House Bill 1335 were those enunciated in § 40-15-501(1) C.R.S.:

> The general assembly hereby finds, determines, and declares that competition in the market for basic local exchange service will increase the choices available to customers and reduce the costs of such service. Accordingly, it is the policy of the State of Colorado to encourage competition in this market and strive to ensure that all consumers benefit from such increased competition. The commission is encouraged, where competition is not immediately possible, to utilize other interim marketplace mechanisms wherever possible, with the ultimate goal of replacing the regulatory framework established in Part 2 of this Article with a fully competitive telecommunications marketplace statewide as contemplated in this Part 5.

4. Section 40-15-502, C.R.S., sets forth further specific expressions of state policy to be considered by the Commission in moving to a more competitive telecommunications environment. As relevant here, the General Assembly defined basic service as "the availability of high quality, minimum elements of telecommunications services, as defined by the Commission, at just, reasonable and affordable rates" and directed the Commission to "require the furtherance of universal basic service, toward the ultimate goal that basic service be available and affordable to all citizens of the state of Colorado." §§ 40-15-502(2) & (3), C.R.S.

5. Section 40-15-503(2)(c), C.R.S., directs the Commission to consider changing to forms of price regulation other than rate-of-return regulation for any telecommunications provider that provides services regulated under Part 2 or 3 of Article 40:

> (c)(I) The commission shall consider changing to forms of price regulation other than rate-of-return regulation for any telecommunications provider that provides services regulated under part 2 or 3 of this article and shall consider the conditions under which such a change may take place to ensure that telecommunications services continue to be available to all consumers in the state at fair, just, and reasonable rates. This paragraph (c) shall not be construed to limit the manner and methods of regulation available under § 40-15-302.
>
> (II) As used in this paragraph (c), "price regulation" means a form of regulation that may contain, without limitation, any of the following elements:
>
> (A) Regulation of the price and quality of services;
> (B) Price floors and price ceilings;
> (C) Flexibility in pricing between price floors and price ceilings;
> (D) Modified tariff requirements;
> (E) Incentives for increased efficiency, productivity, and quality of service.

6. On February 8, 1996, the Telecommunications Act of 1996 (the "federal Act") became law. The purpose of the federal Act is to "provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector

deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition." *Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 1* (1996). As part of the federal Act, Congress required that the Bell Operating Companies ("BOCs") like Qwest demonstrate compliance with certain market-opening requirements contained in § 271 of the Act before providing in-region, interLATA long distance service. Congress provided for Federal Communications Commission ("FCC") review of BOC applications to provide such service in consultation with the state commissions and the Attorney General.

7. On December 23, 2002, the FCC approved Qwest's application pursuant to § 271 of the federal Act to provide in-region interLATA services in Colorado, amongst other states. Memorandum Opinion and Order, *In the Matter of the Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, WC Docket No. 02 – 314, FCC 02-332 (FCC December 23, 2002). In granting Qwest's application, the FCC relied, in part, on the Commission's evaluation of Qwest's application and its recommendation that the FCC approve Qwest's application. Evaluation of the Colorado Public Utilities Commission, *In the Matter of the Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, WC Docket No. 02 – 314, (FCC July 2, 2002).

8. Through this Agreement, the Parties propose an Alternative Regulation Plan ("the Plan") that consists of two parts. Hereafter, the first part will be referred to as "Market Regulation" and the second part will be referred to as "Modified Existing Regulation". These terms are defined in more detail in Sections III and V below. The Plan shall be comprised of the following Sections of this Agreement: III. Market Regulation; IV. Services Subject to Market Regulation; V. Modified Existing Regulation; VI. Services Subject to Modified Existing Regulation; VIII. Quality of Service; and XI. Parity of Regulation and the Ability of Competitive Local Exchange Carriers to Opt-Into the Plan. The Parties agree that applying the Plan as described in this Agreement is consistent with and will further the statutes and public policies set forth above. The Parties agree that, based on the foregoing Recitals, the Plan proposed in this Agreement is an appropriate mechanism for Commission regulation of Qwest and any competitive local exchange carrier that desires to opt-into the Plan in its entirety.

WHEREFORE, the Parties agree and stipulate to the following:

II. EFFECTIVE COMPETITION AS REQUIRED BY §§ 40-15-207 AND 305, C.R.S.

In its Application and direct and rebuttal case, Qwest proposed the reclassification and deregulation of certain Part 2 retail services and deregulation of certain current and reclassified Part 3 retail services. In its testimony and exhibits, Qwest asserted that the accommodative competitive entry provisions of the federal Act render the retail local telephone service market "contestable" and, thus, effectively competitive. Staff, OCC and various intervenors disputed that effective competition exists in Colorado, challenged Qwest's "contestability" theory, disputed that Qwest had met the factors and standards required under §§40-15-207 and 305, C.R.S., disputed that Qwest had not demonstrated actual competition as required by the statutes,

and recommended that the Commission take a variety of actions, ranging from denying Qwest's Application in its entirety to, as an alternative to denial of Qwest's Application, granting Qwest a form of relaxed regulation. The positions of the Parties are fully set forth in their respective Direct, Answer, Rebuttal, ~~and~~ Cross-Answer and Substituted Supplemental Testimonies.

Colorado law states that once the Commission deregulates a service, only the Colorado General Assembly may bring that service back under Commission jurisdiction. See §§ 40-15-402 and 403, C.R.S. The Parties' Agreement strikes a balance between Qwest's desire to have its retail services deregulated and the desire of some Parties to retain Commission jurisdiction over the retail services that are the subject of the Application during the transition to a fully competitive marketplace. Coincident with the implementation of the Plan, under the Agreement, Qwest's intraLATA toll will be the only service deregulated in this proceeding. However, as discussed later, the Parties agree that all Colorado intraLATA and interLATA services should be deregulated for all providers who choose to have such services deregulated.

Additionally, under the Agreement, no existing Part 2 retail services will be reclassified as Part 3 retail services and no existing Part 2 retail services or Part 3 retail services other than toll will be deregulated. As explained in greater detail below, all retail services other than intraLATA toll for Qwest will remain subject to Commission jurisdiction; however, the Commission will apply "Market Regulation" to some retail services and "Modified Existing Regulation" to other services.

The Parties cannot reach resolution as to the classification of certain Part 2 and Part 3 retail services. The Parties do not seek Commission resolution of this issue in this docket and reserve the right to assert their respective positions in any future proceeding. Notwithstanding this lack of agreement, the Parties have agreed on a regulatory treatment for these services in this

Agreement and assert that the proposed regulatory treatment has an adequate basis in statute regardless of the classification. The Parties agree that for purposes of this Agreement, if any of the services are Part 2 services then, under §§ 40-15-203(6) through (8), C.R.S., the Commission can forbear from the regulation of such services for competitive need. The Parties also agree that for purposes of this Agreement, if any of the services are Part 3 services then, under §§ 40-15-~~501-~~ 503 and 40-15-302, C.R.S., the Commission can regulate such telecommunications services by utilizing other marketplace mechanisms and alternative forms of regulation.

The Parties agree that the changed regulatory status of certain local exchange services raises important policy questions about the application of the Colorado High Cost Support Mechanism. These policy questions include which services should be supported and the appropriate level of support. The Parties are unable to reach agreement on these issues in this docket and agree to request that the Commission initiate an investigatory docket concerning these and other issues concerning the Colorado High Cost Support Mechanism.

III. MARKET REGULATION

Set forth below, are the parameters of Market Regulation, as agreed to by the Parties:

A. Minimal Commission Oversight of Services Subject to Market Regulation

Under "Market Regulation", no tariffs will be filed for services, although these services will remain in their current statutory classifications. General tariff provisions shall not apply to services subject to Market Regulation. Subject to Section III.F. below, Qwest may geographically de-average prices. Market Regulation shall apply to the services specifically set forth in Section IV below.

For the purpose of this Agreement, "withdraw" means to cease offering a product or

service to new customers and "discontinue" means to cease offering a product or service to all customers including both existing and future customers. Under Market Regulation, Qwest may introduce or withdraw products, services, packages, and bundles of services without initial Commission review or approval. Qwest may discontinue a service subject to Market Regulation pursuant to existing law and Commission rules.

Qwest will post on its website the rates, terms and conditions associated with the services to which Market Regulation applies in a timely and easily accessible manner and update such information regularly. Changes in rates, terms and conditions for services subject to Market Regulation will also go into effect without any initial Commission review or approval.

B. Commission Notice

Qwest, as a matter of information only, will provide Staff with one-day notice on changes to rates, terms and conditions for services subject to Market Regulation. Qwest shall not imply to a customer that the Commission has reviewed or approved a rate, term, or condition for a service subject to Market Regulation. Qwest, the Staff and the OCC commit to work together to determine the details of how Staff and the OCC shall receive such information. Initially, designated person(s) shall receive e-mail notification of changes to rates, terms and conditions. The OCC's initial designee to receive courtesy copies of the notice is occ@dora.state.co. Qwest will maintain an archive of the website posting of the rates, terms and conditions associated with services subject to Market Regulation for a period of not less than two years from the time the rates, terms and conditions for that service are rescinded. This archival data will be made available to Staff and the OCC upon reasonable request, without requiring the Staff or the OCC to conduct discovery in a proceeding. The Parties will continue to work together to finalize the details of how this archival information will be maintained. Pursuant to § 40-3-104(2), C.R.S.,

the Commission, for good cause shown, may allow changes with less notice than is required by § 40-~~153~~-104(1), C.R.S. The Parties agree that, for purposes of this Agreement, in addition to any other authority it possesses, the Commission should make a finding that, for competitive need, good cause has been shown to permit Qwest to provide notice to the Commission in the matter set forth above.

C. Customer Specific Notice

Qwest will provide 14 days notice to customers of price increases and price-affecting changes in terms and conditions using customer-specific mechanisms such as direct letter contact, postcards, bill inserts and/or bill messages. If Qwest gives customers at least 14 days notice of the price increase, or price-affecting changes in terms or conditions, the notice will be deemed to be sufficient to have given customers the opportunity to avoid the increased charges or modified price-affecting terms and conditions by cancellation before the new rate or price-affecting term or conditions takes effect. Qwest is neither required to, nor prohibited from, noticing retail customers of price decreases. All such notices shall be in sufficiently large type-set, prominently displayed, and sufficiently clear to allow customers to reasonably read and understand the proposed change. Nothing in this Agreement shall be deemed to eliminate or change Qwest's requirement to notice providers under contractual or other requirements.

Pursuant to § 40-3-104(2), C.R.S., the Commission, for good cause shown, may allow changes with less notice than is required by § 40-~~153~~-104(1), C.R.S. The Parties agree that, for purposes of this Agreement, in addition to any other authority it possesses, the Commission should make a finding that, for competitive need, good cause has been shown to permit Qwest to provide notice to the customer in the matter set forth above.

D. Promotions

Promotions may be conducted with no notice to the Commission, including promotions similar to those described in the excerpts of its recent "customer incentive" tariff filing under Advice Letter No. 3009 dated April 1, 2005, attached as Attachment 4 to this Agreement and incorporated herein. Qwest will post on its website terms and conditions associated with promotions and will maintain an archive of website promotions for a period of two years from the date of the ending of such promotions. The website postings will be made in a timely and easily accessible manner and will be updated regularly with the rates, terms and conditions for such promotions. Qwest will also archive and provide access to the information to Staff and the OCC in the same manner provided above in Subsection III.B.

E. Customer-Specific Contracts

Customer-specific contracts may be negotiated and entered into with terms and conditions tailored to the specific customer's needs. Qwest must maintain a log of such contracts and give the OCC and Staff members that sign non-disclosure agreements reasonable access to the contracts upon request; no filing or notice of customer-specific contracts needs to be made with the Commission.

Pursuant to § 40-~~1~~53-104(2), C.R.S., the Commission, for good cause shown, may allow changes with less notice than is required by § 40-~~1~~53-104(1), C.R.S. The Parties agree that, for purposes of this Agreement, in addition to any other authority it possesses, the Commission should make a finding that, for competitive need, good cause has been shown to permit Qwest to provide notice to the Commission in the matter set forth above.

F. Regulation of Prices, Terms, and Conditions

Under Market Regulation, the Commission will not actively monitor maximum or minimum prices. Under Market Regulation, rates will be allowed to go into effect without initial Commission review or approval. Any person or entity with standing (including a competitor of the same or similar product, service, package or bundle) may file a complaint with the Commission alleging that a provider has violated either § 40-3-101 or § 40-3-102, C.R.S. The provider offering the service that is the subject of the complaint will carry the burden of proof to demonstrate that its rates, terms, or conditions for the service are just, reasonable and not unduly discriminatory.

As authorized by and pursuant to § 40-15-203(6) through (8), C.R.S., and §§ 40-15-501 and 40-15-302, C.R.S. and 4 CCR 723-30-5.2(d), the Parties agree that there is no presumption that the Commission's existing Costing and Pricing rules (4 CCR 723-30) apply to a complaint alleging that a provider has violated either § 40-3-101 or § 102, C.R.S.

The Parties also agree that, in any future complaint case under § 40-3-101 or § 40-3-102, C.R.S., any party may advocate any standard it believes should apply to the particular facts of a complaint proceeding under § 40-3-101 or § 40-3-102, C.R.S.

G. Land Development Agreements

While the above-captioned dockets were pending, Qwest and the CAHB executed an agreement whereby Qwest will continue to offer the terms contained in its current Land Development Agreement ("LDA") tariff for a period of seven years if Qwest's application for deregulation is granted with respect to those services. McDaniel Rebuttal, pp. 35-36. Under the Plan, the LDA tariff will be eliminated and Qwest would post the rates, terms and conditions associated with its Land Development Services on its website.

If the Plan is approved, Qwest will withdraw its current LDA tariffs and Other Construction or Conditions tariff sections 4.4 and 4.6 in its Exchange and Network Services Tariff COLO. P.U.C. No. 20 and will abide by the terms of the Qwest/CAHB agreement ("Qwest/CAHB Agreement"). Should the Commission approve this Stipulation, Qwest will enter into an additional agreement with the CAHB memorializing the fact that notwithstanding the fact that its LDA tariff was not eliminated through the deregulation of its LDA services, it will nonetheless abide by the terms of the existing Qwest/CAHB Agreement. The Qwest/CAHB Agreement is attached as Attachment 5 and incorporated herein. Qwest agrees that it will file a copy of the additional agreement with CAHB as part of this Stipulation upon execution of the additional agreement.

For customers that purchase or request to purchase services that use facilities constructed pursuant to an LDA, the form of regulation that applies to the customer's services shall depend upon the services the customer purchases.

H. Line Extensions

The rates, terms and conditions pursuant to which Qwest provides line extension services will be determined by the type of regulation that applies to the ~~service~~ line the customer requests. For example, if the customer requests a line extension for the provision of a ~~service~~ line to which Market Regulation applies, the line extension will be provided pursuant to the Market Regulation regime set forth in the Plan. On the other hand, if a new residential customer requests a line extension for the provision of a ~~service~~ line subject to Modified Existing Regulation, the line extension will be provided pursuant to Modified Existing Regulation as set forth in the Plan.

IV. SERVICES SUBJECT TO MARKET REGULATION

Set forth below are the services which shall be subject to Market Regulation pursuant to the Plan.

1. Additional residential access lines (defined as any line additional to the primary residential access line) located within the following Qwest exchanges: Denver Metro, Boulder, Longmont, Lafayette and Louisville, Broomfield, Erie, Parker and Colorado Springs except for Black Forest, Manitou, Green Mountain Falls and Woodland Park wire centers in the Colorado Springs exchange. Maps setting forth these exchanges are attached and labeled Attachment 7. These Qwest exchanges shall be referred to hereinafter as the "Zones of Competition"[1];

2. Residential features and services except "Public Interest Features and Services". Public Interest Features and Services are defined as: Per Call and Per Line Blocking; Call Trace; Busy Line Verification; Busy Line Interrupt; Nonlisted service; and Nonpublished service;

3. Four (4) and above flat-rated, message or measured business access lines;

4. Advanced features or services provided on business lines as defined in § 40-15-102(2) including hunting on four (4) and above flat-rated, message or measured business access lines except Public Interest Features and Services provided on or to those lines;

5. All other business services except for one to three (1-3) flat-rated, message or measured business access lines and hunting on those lines;

6. Premium services as defined by § 40-15-102(21), C.R.S. other than Nonlisted and Nonpublished services;

7. All packages and bundles (which include any combination of access lines and/or features or services subject to Commission jurisdiction) are subject to Market Regulation with a price cap. Prices for packages and bundles shall meet the pricing standard set forth in the Plan if at the time of introduction of the package or bundle or at the time of the re-pricing of a package or bundle, the price of the package or bundle is no higher than the sum of the highest prices of the *a la carte* components of the package at that time;

8. For customers that purchase or request to purchase services that use facilities constructed pursuant to an LDA, the form of regulation that applies to the customer's services shall depend upon the services the customer purchases;

9. Line extensions for ~~services~~ lines subject to Market Regulation;

[1] Qwest's agreement to use the term "Zones of Competition" in the Agreement should ~~in~~ not be interpreted as suggesting that it believes that competition does not exist in areas outside of the "Zones of Competition."

10. Non-optional operator services except Busy Line Verify and Busy Line Interrupt. The Commission approved statewide benchmark rate applies to all non-optional operator these services, as required by § 40-15-302(5) C.R.S., unless the Commission approves a different rate; and

11. Private line services with a capacity of less than 24 voice-grade circuits.

V. MODIFIED EXISTING REGULATION

Under "Modified Existing Regulation", tariffs will be filed for services and these services will remain in their current statutory classifications. The Parties agree that this Agreement terminates the Qwest pricing and service quality regulation plan approved by the Commission in Docket No. 97A-540T, as amended. As a result, services subject to Modified Existing Regulation will be provided in compliance with existing law, as modified by the specific terms set forth below.

VI. SERVICES SUBJECT TO MODIFIED EXISTING REGULATION

1. Residential primary access lines. The statutory rate cap continues to apply pursuant to § 40-15-502(3) C.R.S.;

2. Additional residential access lines in areas other than the Zones of Competition identified in Section IV above;

3. Public Interest Features and Services on residential and business access lines;

4. One to three (1-3) flat-rated, message or measured business access lines and hunting on those lines. The price ceiling will initially be set at the current rate plus the Consumer Price Index for Urban Areas for Denver/Boulder ("CPI-U") minus 1%.[2] The price ceiling will be adjusted upwards annually by the following rate: CPI-U minus 1%. If the CPI-U index is less than 1%, Qwest need not reduce prices nor will the ceiling be reduced. The index is cumulative, *e.g.*, if the price for a service stays below the ceiling in one year, the difference will be rolled-over and added to the following year's ceiling. Qwest is permitted to raise the rates for these services above the price cap in response to reductions in intrastate switched access charges (not including those provided for under Section VII of the Agreement), Colorado High Cost Fund support, or additions to the definition of basic local exchange service;

[2]The CPI is described and data on the CPI-U can currently be found at: http\\www.bls\cpi\home.htm. The Parties will work together to determine how to administer the CPI-U calculation.

5. Payphone Service Offerings will remain under standard regulation and continue to be within the Commission's jurisdiction. "Payphone Service Offerings" includes PAL, SmartPAL, and Outgoing Fraud Protection, which services are currently contained in Qwest's Colorado Exchange and Network Services Tariff, COLO. P.U.C. NO. 20, at § 5.5.7. and any other payphone related services that may in the future be determined by the FCC to be subject to the pricing standards of the New Services Test as articulated by the FCC in the Wisconsin Order, FCC 02-25.

   In any Qwest initiated tariff proceeding, Qwest shall have the burden of proving that its Payphone Service Offerings comply with the New Services Test;

6. For customers that purchase or request to purchase services that use facilities constructed pursuant to an LDA, the form of regulation that applies to the customer's services shall depend upon the services the customer purchases;

7. Line extensions for ~~services~~ lines subject to Modified Existing Regulation; and

8. 911, E-911, N11, which are not the subject of this Application, shall remain subject to their existing regulatory mechanisms. The parties agree that for the purpose of collecting and remitting the 911 surcharge assessment, "exchange accesslines" will include all access lines from a specific customer's premises to the telecommunications network including access line services identified in a tariff as well as those subject to Market Regulation.

VII. INTRASTATE SWITCHED ACCESS

The existing credits for the Colorado High Cost Fund Surcharge, including the existing $.46 per month credit on residential access lines and $1.08 credit on business access lines, will be eliminated. These credits currently total approximately $13 million per year. The Parties agree that $1,841,544 of the revenues generated from the elimination of the credits will be used to offset the impact of the Northern Colorado Local Calling Area Expansion ordered in Commission Docket No. 03A-496T, Decision No. R05-0143. The remainder of the revenues generated from the elimination of the credits will be used to reduce intrastate switched access rates. The total value of the intrastate switched access rate reduction shall be $11,249,164. In

addition, any increase in Qwest's Colorado High Cost Fund Support Mechanism beginning in April 1, 2006 will be used to further reduce switched access.

The switched access reduction shall first be used to reduce the existing terminating Carrier Common Line Charge of $0.020819 to $0.009020, which will equalize the originating and terminating rate. The balance will be used to reduce the current local switching rate of $.001764.

VIII. QUALITY OF SERVICE

The Parties agree to continue certain current automatic remedies and reporting requirements from the price and service quality regulation plan implemented as a result of Docket No. 97A-540T, as amended.

In particular, the automatic remedies for the failure to comply with the % Out-of-Service ("OSS") Reports Cleared in 24 Hours and the Access to Qwest Repair Center metrics will continue to apply for primary residence and 1-3 flat-rated, message and measured business access lines. For the remaining metrics, with the exception of Ancillary Services Completion and Network Reliability, Toll Network Call Completion, reporting requirements will continue. *See* Attachment 6 to the Stipulation and incorporated herein. The reporting requirements related to Ancillary Services Completion and Network Reliability, Toll Network Call Completion metrics will discontinue co-incident with the deregulation of Qwest's intraLATA toll services.

Performance results for the measures set forth in Attachment 6 and will be reported thirty (30) days after the end of each month and provided to Staff and OCC for review. Qwest may request waivers to exclude from calculations of its performance for Access to the Qwest Repair Center events or situations as provided in Commission rules. In its request for waiver, Qwest must document and report the time frame and impact of each event and the rationale for

excluding it. Qwest must make requests for waivers throughout the performance year and file such waiver requests within 30 days after the end of the month in which the report was filed.

The standards within these service quality measurements establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during the periods of emergency, catastrophe, natural disaster, severe storm or other events affecting large numbers of customers. Nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events for which a provider is not expected to accommodate. To the extent such conditions affect the measurement records required under this Agreement and/or the ability of the Qwest to meet any standard contained within this Agreement, it shall be Qwest's responsibility to separately document the duration and magnitude or effect of any such occurrences in its records.

Further, the Staff, OCC, and Qwest agree to review and modify the administrative and reporting requirements under the existing metrics to streamline reporting and administrative requirements and to ensure that reporting requirements are timely and direct in the event additional remedial action by either the Staff or the OCC is necessary to ensure adequate and reliable service. Until such review and modification is completed, the existing administrative and reporting requirements will continue, except as modified below. Nothing in this Agreement shall limit the Staff's audit authority to investigate any complaint or to request additional service results for other regulated services.

The current administration of automatic remedies for failure to comply with the % Out-of-Service Reports Cleared in 24 Hours and the Access to Qwest Repair Center metrics will continue.

As identified on Attachment 6, the maximum monthly customer-specific credit for failure to restore service within 24 hours for residence customers will be equivalent to the monthly rate for residential primary flat-rate service. Similarly, the maximum monthly customer-specific credit for failure to restore service within 24 hours for business customers will be equivalent to the monthly rate for business flat-rate service.

In particular, for the Access to the Qwest Repair Center metric, the annual fixed maximum bill credit incentive adjustment shall remain at $250,000 per year. Additionally, non-compliant performance in the metric for two consecutive months, or three months throughout the year, will cause the accumulation of a pro-rated bill credit for any and all months during the year in which non-compliant performance in the metric is observed. A pro-rated adjustment will be calculated for each month of non-compliance in the measure.

Bill credits for this measure will continue to be accumulated and tabulated throughout the year, with Qwest making a compliance filing on or before April 1st of the following year setting forth its bill credit calculations. Qwest shall implement the bill credit, as calculated and filed in its April report, beginning June 1st of the year in which the report is filed.

Parties may challenge Qwest's bill credit calculation. Any challenge to Qwest's bill credit calculation must be made within 90 days after the filing of the report. In the event there is a dispute related to the calculation of the appropriate bill credit, the amount that is not in dispute, if any, shall be implemented beginning June 1st. A true-up, with interest at 10.11% annually will be applied, if necessary, after the dispute has been resolved.

Qwest can voluntarily offer customer credits that meet or exceed the credits for the OOS > 24 hours measure. Qwest will be deemed to have met the customer credit requirement if the credit Qwest gives the customer meets or exceeds the credit set forth in Attachment 6. In the

calculation of the mandated annual payment for access to the Qwest repair center, Qwest will be given a credit for the amount of any credits or payments it has voluntarily issued to customers, which shall be subtracted from the payments Qwest is required to make under this Section.

The Parties are not opposed to Qwest developing a customer-specific remedy for impaired access to the repair center similar to the customer-specific remedy recently implemented for customers that are out-of-service for greater than 24 hours.

IX. DEREGULATION OF INTRALATA TOLL AND INTERLATA TOLL FOR ALL PROVIDERS

Concurrent with this filing, the Staff is submitting additional market-share information that supports the deregulation of toll services in Colorado. The Parties agree that there is sufficient evidence in this proceeding to demonstrate that there is effective competition for intraLATA and interLATA toll services pursuant to § 40-15-305, C.R.S. The Parties agree that Qwest's intraLATA toll services should be reclassified as a Part 4 service and deregulated in this proceeding. The Parties also believe that intraLATA toll service and interLATA toll service should be deregulated for all providers in the state of Colorado. Pursuant to § 40-15-306, C.R.S, intraLATA toll services may only be deregulated by application of the provider of such services.

The Parties request that the Commission open a docket for the acceptance and adjudication of applications from intrastate toll providers to deregulate their intraLATA and interLATA toll services. The Parties request that once the docket is open, the Commission take administrative notice of the evidence in this proceeding concerning intraLATA and interLATA toll services and agree that this evidence supports a finding of effective competition for intraLATA and interLATA toll as required by § 40-15-305, C.R.S. The Staff will prepare a short form application that intraLATA and interLATA toll providers may use to seek a Commission order deregulating their toll services. The Parties agree that providers seeking deregulation of

these toll services do not need to "opt-in" to this Agreement and agree not to object to the granting of any such applications. The Parties also request that the Commission direct all toll providers to continue to provide the information required under § 40-15-302.5, C.R.S. to facilitate continued Commission oversight under §§ 40-15-112 and 40-15-113, C.R.S.

X. MOVEMENT OF OPEN NETWORK ARCHITECTURE, RADIO COMMON CARRIER, PAYPHONE SERVICE OFFERINGS, SHARED TENANT SERVICE AND INTRASTATE SWITCHED ACCESS TARIFFS TO A SEPARATE SECTION OF QWEST'S TARIFFS

The Parties agree to work together to move Qwest's Open Network Architecture, Radio Common Carrier, Payphone Service Offerings, Shared Tenant Service And Intrastate Switched Access Tariffs to a newly-created ~~non-Wholesale~~ section of its tariffs.

XI. PARITY OF REGULATION AND THE ABILITY OF COMPETITIVE LOCAL EXCHANGE CARRIERS TO OPT-INTO THE PLAN

The Parties agree that accurate and timely information will assist customers in making informed choices concerning which products, services, packages, and bundles to purchase as well as concerning their provider of choice. As a result, the Parties agree that the information disclosures and actions identified below are appropriate in today's telecommunications market.

Consistent with the Parties' agreement that any competitive local exchange carrier that desires to be regulated pursuant to the terms and conditions of the Plan may do so, but only if the carrier agrees to adopt the Plan in its entirety, the Parties agree that Qwest and any carrier regulated under the Plan will follow the information disclosures and actions identified below with respect to their regulated services. These information disclosures and actions shall not apply to: business customers of either Qwest or any carrier regulated under the Plan or consumers who are solicited by either Qwest or by any carrier regulated under the Plan to purchase goods or services offered to business customers. Incorporation of the information

disclosures and actions in the carrier's training and/or code of conduct materials shall be *prima facie* evidence of compliance with this section:

1. To the extent reasonably practicable, all consumer inquiries (both prior and subsequent to the solicitation of the sale of any product or service,) shall be responded to in a direct and unambiguous manner.

2. The company shall reasonably honor a customer's request that a product, service, feature, package, or bundle of services be removed or disconnected, without undue call transfers to "save-the-sale centers" or other unnecessary call transfers.

3. To the extent reasonably practicable, consumer inquiries and requests should be resolved on the first call and the company shall timely resolve a customer problem if it represents it has or will resolve the problem.

4. The company shall not knowingly engage in inappropriate transferring of customer calls.

5. The company shall, to the extent reasonably practical, timely and accurately record consumer contacts in its customer service and customer tracking systems.

6. "Basic telephone service," is defined as a service which provides a local dial tone, access lines and local usage necessary to place or receive a call within an exchange area and any other services or features that may be added by the Public Utilities Commission under § 40-15-502(2), C.R.S. The characteristics, qualities, and price of basic telephone service shall be disclosed accurately and timely to Colorado customers, including identifying that basic telephone service is, or may be, the least expensive option and identifying that it is not necessary to purchase features or bundles in order to obtain basic telephone service. Disclosure through the company's Voice Response Unit as the customer contacts the company is one of the acceptable methods of complying with this disclosure requirement.

7. The cost and availability of line features and line feature packages shall be disclosed accurately and timely to Colorado customers, including identifying that features may be purchased individually, as well as part of a package or bundle and disclosing that features can be purchased on a "per call" basis, rather than on a "per line" basis, as applicable. Disclosure through the company's Voice Response Unit as the customer contacts the company is one of the acceptable methods of complying with these disclosure requirements.

8. The company shall provide consumers who use "free-for-a-limited-trial-period" products or services with an effective and timely means to cancel the service prior to the end of the limited trial period. This provision does not apply to offers that include a free period(s) conditioned upon a commitment to purchase the product or service for a longer period.

9. Within thirty (30) days of the time a consumer requests new service or adds a new product or service, the company shall send written communication with information that includes an 800 or other toll-free number for questions and changes, the order date of the initiated service, a list of features ordered or added, the application fee and taxes or surcharges, if applicable, and a description of how the feature(s) work, if applicable. If this confirmation is associated with a line feature package that includes features that can also be purchased on a per use basis, it shall include disclosure that a pay per use features are available as another alternative.

10. Before completing the sale of a second or additional telephone line, the company shall inform the customer that additional time and material charges will apply if they require the installation of additional jacks or inside wiring.

11. When requested by the customer, the Company shall make reasonable efforts to give accurate, timely, and reasonably complete representations of the impact of purchasing additional features or bundles on a customer's monthly bill.

In order to facilitate a competitive local exchange carrier's ability to opt-into the Plan in its entirety, the Parties will ask the Commission to open a docket for the receipt and adjudication of competitive local exchange carrier applications to adopt the Plan in its entirety. The Staff will recommend to the Commission a template application that competitive local exchange carriers may use to seek Commission permission to be regulated pursuant to the Plan.

XII. LEGISLATIVE AND COMMISSION ACTION

No party is precluded from seeking legislative relief that relates to any provision in the Plan. Additionally, all Parties acknowledge that the Commission may reassign any service subject to Market Regulation to traditional regulation pursuant to complaint, show cause, or on its own motion for good cause shown.

XIII. MORATORIUM PROVISION

For a period of two years from the effective date of the Agreement, Qwest agrees not to seek to modify or terminate the Plan without the agreement of the Staff and the OCC.

XIV. IMPLEMENTATION

For its services subject to Modified Existing Regulation, Qwest shall file tariffs implementing the terms of the Plan within 90 days from the effective date of the Agreement, unless otherwise agreed to by Staff and the OCC, with notice to the Commission.

For its services subject to Market Regulation, Qwest shall make a filing withdrawing its existing tariffs and place the rates, terms and conditions for those services on its website within 90 days from the effective date of the Agreement, unless otherwise agreed to by Staff and the OCC, with notice to the Commission.

Qwest shall work with designated Staff and OCC representatives to identify and resolve administrative challenges and other issues associated with implementation of the Plan.

The Parties request that the Commission open a docket as expeditiously as possible to accept and adjudicate other toll providers' applications to deregulate their intraLATA toll services and to simultaneously deregulate interLATA toll services for all providers choosing to do so.

The Parties request that the Commission open a docket as expeditiously as possible to accept and adjudicate carrier applications to opt-into the Plan as described herein.

The Parties agree to request within 60 days after the effective date of this Agreement a Commission investigation into the Colorado High Cost Support Mechanism. The matters to be explored in the investigation shall include, among other things, which services are supported and the appropriate level of support.

Within 90 days of the effective date of the Agreement, Qwest will file an advice letter on not less than 30 days notice to implement the change in switched access rates set forth in Section VII above. As part of that filing, Qwest will provide supporting accounting documentation to identify the actual amount of the existing Colorado High Cost Fund Surcharge credit for calendar

year 2004 as well as supporting documentation for the switched access revenue reductions and the supporting documentation from the Stipulation in the Northern Colorado Local Calling Area proceeding.

XV. GENERAL TERMS AND CONDITIONS

A. For the duration of the Plan, Qwest will be regulated under the Plan and will not be subject to rate of return regulation.

B. This Plan shall be in effect until modified by a subsequent Commission order.

C. All pre-filed testimony and exhibits shall be admitted into evidence in this docket.

D. This Agreement reflects compromise and settlement of all issues raised or that could have been raised in this proceeding. The Parties state that reaching Agreement in the dockets captioned above by means of a negotiated settlement is in the public interest and that the results of the compromises and settlements reflected by this Agreement are just, reasonable, and in the public interest. The Parties agree it is appropriate to waive any Commission rule to the extent necessary to implement or to effectuate this Agreement. This Agreement shall be filed as soon as possible with the Commission for Commission approval.

E. Except as provided herein, the Parties agree to support all aspects of the stipulations and agreements embodied in this Agreement in any hearing or proceeding conducted to determine whether the Commission should approve this Agreement, including, but not limited to, any pleadings, comments filed, or testimony given in such a proceeding, or in any appeal of the decision. Each Party also agrees that it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Agreement. Furthermore, each Party represents that, except as expressly provided in this Agreement, in any proceeding in which this Agreement or its subject

matter may be raised by a non-party, it will support the continued effectiveness of this Agreement. Without prejudice to the foregoing, the Parties and each of them expressly reserve the right to advocate positions different from those stated in this Stipulation in any proceeding other than one necessary to enforce or obtain approval of this Stipulation or a Commission order concerning this Stipulation. Nothing in this Stipulation shall constitute a waiver by the Parties or any of them with respect to any matter not specifically addressed in this Stipulation.

F. No Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Agreement. Furthermore, except as explicitly provided above, this Agreement does not constitute agreement, by any Party, that any principle or methodology contained within this Agreement may be applied to any situation other than the above-captioned cases. No precedential effect or other significance, except as may be necessary to enforce this Agreement or a Commission order concerning the Agreement, shall attach to any principle or methodology contained in the Agreement.

G. The Parties represent that entry of a Commission decision accepting, rejecting or modifying the Agreement by June 28, 2005 will fulfill the Commission's obligation to "approve or deny the application for deregulation" within the time frames specified in § 40-15-305(1)(c), C.R.S. The Parties commit that they will not take a contrary position in this case.

1. This Agreement shall become effective five business days after the issuance of a Commission decision ("Commission Decision") approving, partially rejecting or modifying the Agreement unless one or more Parties withdraws from the Agreement in accordance with the procedures and standards set forth below in this section.

2. A Party may withdraw from the Agreement, upon notice to the Commission and other Parties, within five business days after entry of the Commission Decision if the Commission Decision materially modifies the terms or conditions of this Agreement. The withdrawing Party's notice must specify the unacceptable modifications made by the Commission and must detail all ways they are material. If there is a dispute among the Parties as to whether a modification is material, the dispute (if it can not be resolved informally among the Parties) will be raised with the Commission for resolution and the Party attempting to withdraw from the Agreement will bear the burden of proving the materiality of the modifications detailed in the Party's notice.

3. In the event the Commission Decision rejects entirely the Agreement or in the event that any Party withdraws pursuant to this section and such withdrawal (if challenged by another Party) is upheld by the Commission, the Agreement shall be null and void and the case shall continue to full litigation on the merits, unless the Parties subsequently reach another settlement.

4. Whether or not a Party withdraws, any of the Parties may seek Rehearing, Reargument and Reconsideration of the Commission Decision if the Commission modifies the terms of the Agreement. If a Party withdraws and seeks Rehearing, Reargument and Reconsideration, and the Commission ultimately enters an order approving the Agreement as proposed by the Parties herein, the Party's withdrawal will automatically be rescinded and the Agreement will become effective immediately upon entry of that order. If a Party withdraws and the Commission does not ultimately approve the Agreement as proposed by the Parties herein, the Parties will jointly request a pre-

hearing conference be convened for the purposes of establishing a procedural schedule to complete the case on the original Application and the pre-filed testimony.

5. In paragraph I.C.12 of Decision No. C05-0448 (the "Order"), the Commission directed "Qwest to indicate in writing in its motion for approval of any stipulation or settlement agreement in this matter, that the filing of a settlement agreement or stipulation shall substitute for its application and become 'its case in chief,' and a final Commission decision regarding such stipulation and settlement agreement will satisfy the Commission's statutory obligation to render such a decision no later than June 28, 2005." The Parties interpret the first component of this direction to mean that Qwest must represent that the Agreement conditionally substitutes for its case in chief and for the relief requested in the Application. With that understanding, all Parties (including Qwest) agree that the Agreement, and the numerous compromises memorialized herein, conditionally substitute for each Party's case-in-chief. However, the Parties' allegiance to the outcome set forth in the Agreement is dependent entirely on the Agreement being approved without material modification. Should the Commission reject or materially modify any portion of the Agreement, the delicate bargain struck by the Parties will be altered, and one or more Parties may choose to withdraw from the Agreement in accordance with the procedure and standards set forth above in this section. In such event, the case continues to full litigation on the merits.

H. Approval by the Commission of this Agreement shall constitute a determination that the Agreement represents a just, equitable and reasonable resolution of all issues that were or could have been contested among the Parties in this proceeding.

I. In the event this Agreement becomes null and void or in the event the Commission does not approve this Agreement, this Agreement, as well as the negotiations or discussions undertaken in conjunction with the Agreement, shall not be admissible into evidence in these or any other proceedings.

J. This Agreement may be executed in separate counterparts. The counterparts taken together shall constitute the whole Agreement.

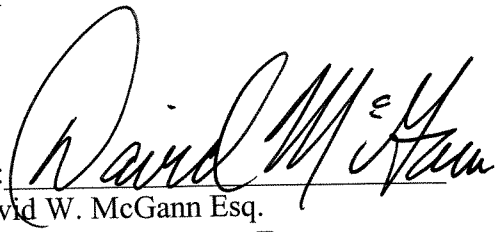
K. This Agreement constitutes the Parties' entire, integrated agreement on all matters set forth herein and supersedes any and all prior oral and written understandings or agreements on such matters that previously existed or occurred in this proceeding, and no such prior understanding or agreement or related representations shall be relied upon by the Parties. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety, without modification.

L. The Parties acknowledge that this Agreement is the product of negotiations and compromise and shall not be construed against any Party on the basis that it was or was not the drafter of any or all portions of this Agreement.

Dated this 17nd day of May, 2005.

Respectfully submitted,

Approved as to form:

By: 
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Dated this 17nd day of May, 2005.

Respectfully submitted,

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