Open Product/Process CR PC020409-1EXES Detail

Title: Qwest will implement the USOC to correct the facility assignment for HDSL

CR Number	Current Status Date	Area Impacted	Products Impacted
PC020409-1EXES	Denied 2/17/2009	Provisioning, Ordering	Unbundled Loop, Loop

Originator: Johnson, Bonnie

Originator Company Name: Integra

Owner: Mohr, Bob

Director: Montez, Evelyn

CR PM:

Description Of Change

Integra and its entities ("Integra") submits this change request (CR) to address a single issue – implementation of a Universal Service Ordering Code ("USOC") for HDSL (2 and 4 wire non loaded loops) to correct assignment of facilities. Qwest has indicated that there is a USOC already recognized by Telcordia/industry standards that would help ensure that facilities assigned to CLECs meet the parameters and industry standards applicable to the specific HDSL product ordered by the CLEC. Qwest, however, has not yet implemented its use for CLECs. (Qwest has not yet indicated whether it uses this USOC for

Qwest retail or, if not, how assignment of facilities is physically performed for Qwest retail. Qwest should provide this information.) Qwest should implement the USOC expeditiously.

This CR does not replace in any way Integra's CR PC082808-1IGX (which is broader), and it should not delay the processing of that CR. Implementation of a USOC was not specifically mentioned in the description of change in that CR, whereas here Integra is specifically requesting USOC implementation for HDSL. Integra reserves its rights as to CR PC082808-1IGX. It appears from CMP discussions related to PC082808-1IGX that implementation of the USOC may be bogged down by other issues, so Integra has also submitted this CR to attempt to avoid delay in implementing the USOC. If implementation of the USOC assists in resolving some of the issues raised in CR PC082808-1IGX, as suggested by Qwest, then the companies may address that situation at the time.

CLECs communicate the type of service they intend to provide on 2/4 Wire Non-Loaded Loops by using the appropriate NCI/SECNCI codes on the Local Service Request (LSR). Qwest, however, told Integra personnel that Qwest provisions circuits to voice grade parameters, regardless of the NCI/SECNCI code requested on the LSR (e.g., even if the code indicates a digital capable service, rather than a voice grade service). Qwest has suggested that the resulting problems may be at least partially alleviated if Qwest implements this USOC because, once Qwest assigns the USOC to a service, doing so will allow it to flow through facility assignment to better identify a facility capable of supporting HDSL2 service. Although Qwest had said that work on USOC implementation is currently underway and scheduled to be implemented in mid April of 2009, Qwest has since suggested that it may stop work on the USOC if CLECs do not agree to an unrelated Qwest proposal. Qwest should not tie implementation of the USOC to other issues. Doing so will cause an unnecessary delay and may cause discriminatory conditions to continue.

Qwest's ICA negotiations template Section 9.2.2.3 states:

Qwest will provision digital Loops in a non-discriminatory manner, using the same facilities assignment processes that Qwest uses for itself to provide the requisite service. (emphasis added)

A key problem that exists today, however, is that Qwest is not meeting this commitment. For CLECs, Qwest's facilities assignment process does not select/assign the best (most qualified) loop available for the type of loop ordered by the CLEC (e.g., HDSL). Instead, it is just as likely, or more likely, to assign a voice grade loop to fill a CLEC request for a digital capable loop. In contrast, for Qwest retail, Qwest automatically assigns the best (most qualified) loop available for the

type of loop ordered by Qwest retail. Every day that this situation continues is another day of discrimination, and so every effort should be made to accelerate resolution of this problem. As Qwest has suggested that implementation of this USOC will assist with this issue for HDSL, Qwest should promptly implement the USOC.

Expected Deliverables/Proposed Implementation Date (if applicable):

Qwest will implement the USOC no later than mid April of 2009.

Date	Action	Description
2/4/2009	CR Submitted	CR Submitted
2/5/2009	CR Acknowledged	CR Acknowledged
2/17/2009	General Meeting Held	Exception Vote Meeting Held
2/2/2009	Communicator Issued	CMPR.02.09.09.F.06038.CMP_Vote_Req_CORR
2/17/2009	Status Changed	Status changed to Denied
2/27/2009	Discussed at Monthly CMP Meeting	Discussed at the February Monthly CMP Meeting - See Attachment C in the Distribution Package
3/5/2009	Escalation Initiated	Escalation initiated
3/5/2009	Additional Information	ES suffix added to CR#

Project Meetings

2/18/09 Prod/Proc CMP Meeting

Mark Coyne-Qwest said that this exception CR was submitted by Integra. He said that a vote was conducted on 2/17/09 and the CR was denied. He said that a copy of the denial can be found on the Wholesale Calendar. Bonnie Johnson-Integra said Qwest traditionally sends a formal denial and asked when it would be sent. Lynn Stecklein-Qwest said that the denial was posted in the Qwest response section of the CR but that a formal denial letter would be sent. Bonnie Johnson-Integra said that she had additional questions on PC082808-1IGX. (Captured above)

Exception CR Vote Required Meeting Minutes – PC020409-1EX February 17, 2009 Attendees: Bonnie Johnson-Integra, Loriann Burke-XO, Julia Redman-Carter-McLeod, Mindy Chapman-Neustar, Bob Mohr-Qwest, Mark Nickell-Qwest, Jamal Boudhaouia, Mark Coyne-Qwest, Susan Lorence-Qwest Lynn Stecklein-Qwest stated that the purpose of this meeting is to review and conduct a vote on the Exception Request submitted by Integra to implement a USOC to correct the facility assignment for HDSL. She said that Integra and its entities (Integra) have submitted this change request to address a single issue - implementation of a Universal Service Ordering Code (USOC) for HDSL (2 and 4 wire non loaded loops) to correct assignment of facilities. Integra is seeking the following exceptions: • Implement the USOC no later than mid April of 2009 • This exception CR will not replace Integra s CR PC082808-1IGX and should not delay the processing of the CR. Lynn said that Quorum is eight and has been achieved. She reviewed the yes and no vote as follows: A vote of - Yes will indicate a preference to allow the implementation of the USOC to correct the facility assignment for HDSL no later than mid April 2009 and not delay the processing of PC082808-1IGX. A vote of - No will indicate a preference to NOT allow the implementation of the USOC to correct the facility assignment for HDSL and not delay the processing of PC082808-1IGX.

Bonnie Johnson-Integra said that she wanted to make sure that we were voting on whether this CR would be treated as an exception.

Lynn said that we were.

She said that Section 16.4 of the CMP Document states that - If the Exception Request is for a general change to the established CMP timelines for Product/Process changes, a two-thirds majority vote will be required unless Qwest or a CLEC demonstrates, with substantiating

information, that one of the criteria for denial set forth in Section 5.3 is applicable. If one of the criteria for denial is applicable, the request will not be treated as an exception. E-mail votes with a vote of yes have been received from: Covad, Comcast Cable, Jaguar Communication, Live Wire Networks, Quantum Communications, Verizon Business During the call Integra, McLeod and XO voted yes. Lynn said that Qwest voted no. She said as stated earlier in section 16.4, this section allows for the CR to not be granted as an exception if one of the criteria for denial is applicable. She said that Bob Mohr (Qwest) will provide information on why the request will not be granted as an exception CR based on the standards set forth in Section 5.3. Bob Mohr-Qwest said this Exception Change Request requires a business discussion regarding the obligation to provide the HDSL Capable Loop USOC and the cost to do so. Absent the obligation to provide an HDSL Capable Loop, the decision to implement this Exception CR becomes a financial decision. Absent the CLEC community agreement to perform cooperative testing, this HDSL Capable Loop USOC implementation becomes a financial liability to Qwest. Qwest therefore respectfully denies this Exception CR to implement an HDSL Capable Loop USOC without including the cooperative test requirement as it is economically not feasible.

Bonnie Johnson-Integra said that Qwest is willing to do this for themselves but not for Wholesale.

Lynn Stecklein-Qwest said that this CR will be closed and the formal denial response will be sent to Integra and posted to the Wholesale Calendar.

QWEST Response

February 17, 2009

Qwest Response Exception Vote Required Meeting

Bonnie Johnson Integra

SUBJECT: CLEC Change Request Response - CR #PC020409-1EX

This CR submitted by Integra and its entities (“Integra”) is requesting to address a single issue – implementation of a Universal Service Ordering Code (“USOC”) for HDSL (2 and 4 wire non loaded loops) to correct assignment of facilities. Qwest has indicated that there is a USOC already recognized by Telcordia/industry standards that would

help ensure that facilities assigned to CLECs meet the parameters and industry standards applicable to the specific HDSL product ordered by the CLEC. Qwest, however, has not yet implemented its use for CLECs. (Qwest has not yet indicated whether it uses this USOC for Qwest retail or, if not, how assignment of facilities is physically performed for Qwest retail. Qwest should provide this information.) Qwest should implement the USOC expeditiously.

This Exception Change Request requires a business discussion regarding the obligation to provide the HDSL Capable Loop USOC and the cost to do so. Absent the obligation to provide an HDSL Capable Loop, the decision to implement this Exception CR becomes a financial decision. Absent the CLEC community agreement to perform cooperative testing, this HDSL Capable Loop USOC implementation becomes a financial liability to Qwest. Qwest therefore respectfully denies this Exception CR to implement an HDSL Capable Loop USOC without including the cooperative test requirement as it is economically not feasible.

Sincerely,

Qwest Corporation

ESCALATION #44 - PC020409-1EX Denied

From: Johnson, Bonnie J. [mailto:bjjohnson@integratelecom.com]
Sent: Thursday, March 05, 2009 11:51 AM
To: 'cmpesc@qwest.com'
Cc: Johnson, Bonnie J.; Isaacs, Kimberly D.
Subject: Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

- Description of item being escalated

Integra and its affiliated entities (“Integra”) escalate Qwest’s denial of Integra’s Change Request (CR) PC020409-1EX. In addition, Integra escalates its request to proceed on an exception basis, as the exception request gained more than the requisite two-thirds majority vote needed under CMP Document 16.4, but Qwest did not proceed on an exception basis and instead denied the CR.

- History of item

On February 4, 2009, Integra submitted CR PC020409-1EX, entitled “Qwest will implement the USOC to correct the facility assignment for HDSL,” to request implementation of a Universal Service Ordering Code (“USOC”) for HDSL (2 and 4 wire non loaded loops) to correct assignment of facilities (“Integra’s Facilities Assignment USOC CR”). Qwest has an obligation to provide digital Loops in a non-discriminatory manner, using the same facilities assignment processes that Qwest uses for itself to provide the requisite service. Qwest, however, is not meeting this obligation, to the detriment of CLECs, competition, and end user customers. Integra indicated in its CR that Qwest had said that there is a USOC already recognized by Telcordia/industry standards that would help ensure that facilities assigned to CLECs meet the parameters and industry standards applicable to the specific HDSL product ordered by the CLEC but

Qwest has not yet implemented its use for CLECs, and Integra requested that Qwest implement the USOC expeditiously. Integra's request and the basis for its request are further described below. On February 17, 2009, during a CMP ad hoc call, a vote was held on Integra's request for an exception to the CMP processes to recognize that some CMP process steps were not necessary due to Qwest work already done on USOC implementation. All participating CLECs (9 CLECs) voted in favor of the exception request, and only Qwest voted against the exception, so the CMP criteria were met to proceed with the CR on an exception basis. Qwest, however, said on the ad hoc call that it was denying the CR, which Qwest indicated rendered the exception vote moot. On February 18, 2009, during the monthly CMP meeting, Integra asked whether, separate from the exception request, Qwest would provide its written response to the substance of the CR per the established CMP procedures which provide for a written Qwest response to the CR. Qwest agreed to provide a written response, which it sent by email to Integra on February 18, 2009 (though the enclosed Qwest Response is erroneously dated February 17, 2009).

- Reason for Escalation

A key reason for this escalation is the importance of this issue and its impact on CLECs, competition, and end user customers. Qwest's denial of Integra's Facilities Assignment USOC CR (#PC020409-1EX) violates Qwest's obligations under the Act, including Qwest's nondiscrimination obligations, as well as its obligations under CLEC ICAs and the SGATs. As a result, CLECs, competition, and end user customers are harmed. Qwest needs to reverse its denial and promptly implement this CR.
As discussed below, "Loops" include xDSL capable services, including HDSL capable loops. Regarding Loops (and, specifically, "digital Loops,"), Qwest's Statements of Generally Available Terms (SGATs), as well as certain CLEC ICAs and Qwest's own ICA negotiations template proposal, in Section 9.2.2.3 state:

> Qwest will provision digital Loops in a non-discriminatory manner, ***using the same facilities assignment processes that Qwest uses for itself to provide the requisite service***. (emphasis added)

A key problem that exists today, however, is that Qwest is not meeting this long-standing obligation. For CLECs, Qwest's facilities assignment process does not select/assign the best (most qualified) loop available ***for the type of loop ordered*** by the CLEC. Instead, it is just as likely, or more likely, to assign a voice grade loop to fill a CLEC request for a digital capable loop. In contrast, for Qwest retail, Qwest automatically assigns the best (most qualified) loop available for the type of loop ordered by Qwest retail. (See, e.g., minutes from 12/17/08 & 1/21/09 CMP meetings.) Every day that this situation continues is another day of discrimination, and so Qwest should make every effort to accelerate resolution of this problem. Given that Qwest had already indicated that it could implement the requested USOC by mid-April 2009, there is no reason to delay this step toward helping to remedy this discriminatory situation. It is no answer to a discriminatory situation to say that Qwest will resolve all aspects of the problem or none at all. Moreover, implementing the USOC for HDSL now will providing additional information, experience, and learning that can be applied when addressing the issues as to other products. Implementing the requested USOC will help address the issue for HDSL, and any delay in implementing the USOC constitutes intentional violation of the Act, as Qwest is choosing to continue a discriminatory situation instead of trying to remedy it expeditiously.

Erroneous, discriminatory assignment of facilities causes harm. For example:

> When a CLEC orders a HDSL capable loop and Qwest instead assigns a voice grade loop, Qwest does not tell the CLEC that it is assigning a loop different from the one ordered by the CLEC. The CLEC does not discover that, even though it ordered a digital capable loop, the loop Qwest assigned is not capable of carrying data until after the CLEC accepts the loop. When CLEC attempts to turn-up service for its customer, CLEC then learns that the loop assigned and delivered by Qwest is not the one ordered by the CLEC. The CLEC is then forced to expend time

and resources to open a repair ticket and work through resolution of the repair, if Qwest will even work with the CLEC to resolve the issue. More often, Qwest refuses to fix the problem, claiming that it the HDSL capable loop need only meet voice transmission parameters. The FCC rules, however, provide that Qwest "shall test and report troubles for all the features, functions and capabilities of conditioned copper lines, and ***may not restrict its testing to voice transmission only***." [47 CFR §51.319(a)(1)(iii)(C); emphasis added.] Qwest's refusal forces the CLEC into a situation in which it must place another order, either for the same product (gambling that, this time, chance might assign an appropriate loop) or, more likely due to the need to limit delay, for a more expensive product – to Qwest's financial benefit and CLECs' detriment. In the meantime, the entire process causes delay to the end user customer, which either does not get cutover until the type of loop actually ordered by CLEC is assigned and provisioned or the new more expensive service is ordered and delivered. This situation creates a competitive advantage for Qwest, as its own customers do not experience the same delay, to the detriment of competition and consumers.

Despite Integra's having explained these problems in CMP, Qwest provides very little information in its written Response denying the CR. Integra will reply to each of Qwest's brief assertions in the order in which they appear in Qwest's one-paragraph response:

First, Qwest states that Integra's Facilities Assignment USOC CR "requires a business discussion." Integra remains willing to engage in business discussions with Qwest and other CLECs. Qwest, however, has precluded discussion with its denial of this CR.

Second, Qwest suggests that it has no "obligation to provide an HDSL Capable Loop." Qwest cites no authority and provides no basis for its assertion that it has no obligation to provide an HDSL Capable Loop. Qwest also provided no citations or basis for that position in CMP communications regarding this issue; in fact, Qwest appeared to recognize in CMP its obligation to provide HDSL capable loops to CLECs. If Qwest's response was unclear and, in fact, Qwest agrees with CLECs on this point, then Qwest needs to clarify its response and expressly state that it recognizes that Qwest has an obligation to provide HDSL Capable Loops to CLECs. If, however, Qwest maintains that it has no obligation to provide HDSL Capable Loops to CLECs, Qwest needs to both provide specific citations to authority for its position and respond to the authority cited by Integra. Authority and documentation that Qwest has an obligation to provide HDSL Capable Loops to CLECs include the following:

- The FCC specifically found that ILECs, such as Qwest, must unbundle xDSL capable loops. (TRO ¶23; see also 47 CFR §51.319.) The term "xDSL" refers to digital subscriber line (DSL) "as a general technology" that is not limited to, but includes, specific types of DSL such as High Speed Digital Subscriber Line (HDSL). (TRO fn 661 to ¶215; see also UNE Remand Order fn 299 to ¶166.) Note that "xDSL" is *not* limited to particular Qwest products (*e.g.*, xDSL-I) and, if Qwest's products or processes are inconsistent with the law, the law controls and any flaws in Qwest's products or processes need to be brought into compliance with the law. ILECs must "condition loops for the provision of digital subscriber line (xDSL) services." (TRO, p. 14, 2nd bullet; see also TRRO ¶12.) The local loop element that Qwest is required to unbundle includes "two and four-wire loops conditioned to transmit the digital signals needed to provide xDSL service." (TRO ¶249; see also UNE Remand Order ¶ 166; First Report and Order, ¶380.) The First Report and Order was released on August 8, 1996, the UNE Remand Order was released on November 5, 1999, and the TRO was released on August 21, 2003. As indicated in the examples below, in the meantime, SGATs and ICAs also have reflected Qwest's obligation to provide xDSL service to CLECs. Qwest cannot reasonably argue that it is not required to assign and provision, when requested, two and four-wire loops conditioned to transmit the digital signals needed to provide xDSL service (including HDSL) to CLECs. Qwest also cannot assert – after all of these years of having this obligation – any legitimate basis for its current facilities assignment,

processes and procedures not taking into account this long-standing obligation, if that is Qwest's claim.

- The SGATs (including CLEC ICAs based on the SGATs, such as that of Qwest's affiliate Qwest Communications Corporation in AZ), like the recent Qwest-Eschelon Arizona, Minnesota, Oregon and Utah interconnection agreements ("ICAs") (§9.2.2.3), define 2/4 wire non-loaded loops as "digital capable" loops. The SGATs and the recent Qwest-Eschelon ICAs (§9.2.2.1.1 & 9.2.2.1.2) provide that use of the words "capable" and "compatible" to describe Loops means that Qwest assures that the Loop meets the technical standards associated with the specified Network Channel/**Network Channel Interface** codes, as contained in the relevant technical publications and industry standards. Qwest's position that its current facilities assignment process for CLECs recognizes only the "Network Channel" code but not the "Network Channel Interface" is inconsistent with this long-established principle.

- The Qwest-Integra Oregon ICA has been in place since 2000 (for Integra as well as other CLECs, as it is based on the Qwest-AT&T ICA). That ICA (Att. 3, §2.1 and subparts) defines an unbundled loop to include loops that transmit digital signals and provides that CLEC may order special copper loops unfettered by any intervening equipment and which do not contain any bridged taps, so that CLEC may use the loops for a variety of services by attaching appropriate equipment. For example, when a CLEC orders an HDSL2 capable loop (identified on the LSR by using the NC code of LX-N with the NCI code of 02QB9.00H and a SEC code of NCI 02DU9.00H), Qwest should assign and provision a loop unfettered by intervening equipment so that CLEC may provide working HDSL2 service over the HDSL2 capable loop by attaching appropriate equipment.

- The SGATs and recent Qwest-Eschelon ICAs (§9.1.9) provide that network maintenance and modernization activities will result in UNE transmission parameters that are within transmission limits of the UNE **ordered by CLEC**. This confirms that Qwest must initially assign xDSL capable loops based on the transmission parameters for the type of loop ordered by the CLEC. This means, among other things, that Qwest's assignment process needs to recognize and assign the type of loop ordered by CLEC (e.g., the NC and NCI codes).

- Qwest's ICA negotiations template proposal in Section 9.2.2.2 addresses "Analog (Voice Grade) Unbundled Loops" and in Section 9.2.23 addresses "Digital Capable Loops – DS1 and DS3 Capable Loops, Basic Rate (BRI) ISDN Capable Loops, 2/4 Wire Non-Loaded Loops and xDSL-I Capable Loops." Section 9.2.2.3 provides that ***digital capable*** loops, including "2/4 Wire Non-Loaded Loops," are "capable of carrying specifically formatted and line coded digital signals." That means that, when Qwest provides this loop, it must assign and deliver a loop capable of providing data to the CLEC to have met its obligation to provide the digital capable loop ordered by the CLEC. ***There is no exception in 9.2.2.3 (in Qwest's template offering or in the SGATs and ICAs) for providing a loop that is not digital capable and then later, after imposing extra work and delays upon CLEC and its customer, providing a different loop that is digital capable***.

Integra reserves its rights under its ICAs and the law. At the same time, in an effort to resolve this issue and at the request of Qwest to bring issues to CMP, Integra requests that Qwest reverse its denial and implement this CR.

Third, Qwest indicates that "the decision to implement this . . . CR becomes a financial decision." Qwest considers only its own alleged costs, however, without recognizing the very real costs to CLECs of Qwest's denial of this CR. Costs that Qwest incurs only because it has implemented a discriminatory process that it now needs to correct should not be considered, as Qwest should have implemented nondiscriminatory facilities assignment to begin with. Being discriminated against, as well as not

receiving the HDSL product ordered in violation of ICAs and the law, imposes a financial burden on CLECs. The FCC has found that CLECs are "impaired" without access to unbundled "xDSL-capable stand-alone copper loops." (TRO ¶642.) In other words, the FCC has already found that lack of access to unbundled xDSL capable loops "***poses a barrier or barriers to entry*** . . . that are likely to make entry into a market uneconomic" for a reasonably efficient competitor. (TRRO ¶22; emphasis added.) Integra believes that Qwest is the cost-causer in this situation. If Qwest disagrees and believes that it has unrecovered costs for which it should be compensated, then the solution is ***not*** to deny CLECs their rights under the law and the ICAs. Rather, Qwest must request cost recovery from the state commissions and establish its right to receive such compensation.

Fourth, Qwest withholds any potential willingness to proceed with implementation of the USOC to improve facilities assignment as a means to force CLECs into an unnecessary "agreement to perform cooperative testing." Testing comes later (at installation), however, and is separate from assignment of facilities (e.g., a loop) ***before*** the loop is installed and tested. Improving the appropriateness of the loop assigned, so that it is of the type ordered by the CLEC, will help ensure fewer problems when the testing stage is reached. Failed testing due to the assignment of a voice grade loop when a digital capable loop was ordered will be eliminated once the assignment process is improved to ensure assignment of a digital capable loop. Thus, those testing issues will never be reached to the extent implementation of the USOC results in assignment of the best (most qualified) loop available for the type of loop ordered by the CLEC. There is simply no reason to tie implementation of the USOC at the facilities assignment stage to capitulation to Qwest's position regarding later testing. This is particularly true because Qwest admitted that, for comparable types of service, Qwest does not perform or require its staff to perform the work it seeks to require CLECs to perform. Qwest said:

> Jamal Boudhaouia - He said that we will check to see if the bridge tap is interfering with it. ***He said that Qwest does not do HDLS [sic] test in the CO because we are not equipped to do that and the equipment is very expensive.*** (12/30/08 Comments to minutes received from Integra) When we hook to the HDSL mux we test remotely ***- it works or doesn't work*** - we don't have the ability to test the raw loop, ***we look for open shorts, bridge tap, or Load Coils that we missed***. (minutes from 12/17/08 CMP meeting; emphasis added)

In other words, Qwest "does not do HDSL2 tests in the CO" for every installation for itself, but Qwest is attempting to force HDSL2 tests in the CO upon CLECs by requiring joint cooperative testing in the case of every loop installation. This is inefficient and creates unnecessary work, delay, and expense for CLECs. For example, if a CLEC that has 50 collocations throughout a city has ordered loops with the same due date for 3 installations in 3 unmanned collocations spread far apart in that city, Qwest would require CLEC to dispatch technicians all over town that day to jointly test for problems, even though the loops may in fact work when delivered (***and should work, if proper facilities are assigned, as is more likely if the USOC is implemented as requested***). For CLECs, Qwest proposes to require joint testing 100% of the time.

In contrast, Integra's position is much more efficient, because it isolates joint testing to those limited circumstances when joint testing is truly required. Per Integra's position, when Qwest assigns a loop capable of carrying data consistent with the law and industry guidelines, in most cases the loop should work as intended. Therefore, no joint testing is required. Even assuming the loop does not work upon delivery, CLEC will be able to perform tests once it hooks up its equipment. Qwest's existing processes require CLEC to perform trouble isolation before reporting trouble to Qwest and to submit its test results with its trouble report. (See Qwest's ICA negotiations template Sections 12.3.3.5 & 12.3.4.) As with any other basic loop installation after which the loop does not work, the companies may agree on the cause of the problem and the solution. If the CLEC reports that its tests indicate, for example, that excessive bridged taps are interfering with its HDSL2 service and Qwest agrees, no joint meet is required. (This assumes that Qwest is not enforcing a policy of testing only to voice grade parameters even when the CLEC informs Qwest that its service is supposed to be capable of carrying data.) Only in the sub-set of installations for which the loop does not work and the companies do not agree on trouble isolation may

joint testing be required. This is a far more efficient than Qwest's proposal to require joint testing for 100% of installations.

As discussed above, a key problem that Integra's CR is attempting to address is that, when Qwest provides a digital loop with a basic installation to CLECs, the facilities assignment process should take care of as many problems in advance of loop delivery as the facilities assignment process for Qwest retail. For example, if a Qwest retail customer that orders a digital service is unlikely to be assigned an analog facility with excessive bridged taps, a CLEC that orders a digital service should also be just as unlikely to be assigned an analog facility with excessive bridged taps. Once Qwest's facilities assignment process is nondiscriminatory, the need for CLECs to request repairs after a basic installation should be reduced accordingly. In other words, repairs following installations that are caused by Qwest delivering a voice grade loop when in fact a digital loop was ordered should be substantially reduced, if not eliminated.

Qwest needs to bring its facilities assignment process into compliance and make it nondiscriminatory. If implementing the USOC for CLECs is a means by which Qwest may start to do that, Qwest should have done it by now given its obligations but certainly should not delay it any longer by attaching inappropriate pre-conditions to implementing the USOC. Integra has a right to the installation option provisions in its ICAs, including basic installation. Qwest needs to ensure that, before delivering a loop, Qwest is first assigning a loop that meets the industry standards for that type of loop. Qwest cannot cure its failure to appropriately assign a loop on a nondiscriminatory basis by shifting the burden to CLECs to perform work that would not be necessary if the assignment process worked as it should. Once it works as it should, there may be little or no need for cooperative/joint testing or repair, because the delivered loop will work as intended for the service ordered.

Finally, Qwest states that without tying implementation of the USOC to its additional demand for cooperative testing in every case, the USOC implementation "becomes a financial liability to Qwest" and is "economically not feasible." Requiring cooperative testing for every HDSL Capable Loop installation, however, becomes a financial liability to CLECs and is not economically feasible (for the reasons discussed above regarding Qwest's fourth point). Also, Qwest's proposal to require cooperative testing would deny CLECs the installation option currently available to them under their ICAs to request, for HDSL capable loops, a basic installation (which in most, if not all, Qwest states is available to CLECs at a commission-approved rate). Instead, Qwest would require CLECs to order the more expensive cooperative testing installation option in every case. Even more importantly, Qwest's proposal would impose expenses and resource burdens on CLECs (such as those described in the example provided above involving unmanned collocations) that Qwest itself does not incur because it does not perform this type of testing itself, as discussed above. Integra asked Qwest about this aspect of Qwest's response in CMP, as reflected in the February 18, 2009 meeting minutes:

> "Doug Denney-Integra said that Qwest's denial on the exception CR states that there is a financial risk and asked what Qwest was referring to.
>
> Bob Mohr-Qwest said that the financial liability is associated with the cost of equipping and training the technicians to perform the test at this level.
>
> Doug Denney-Integra said that the other CR doesn't ask Qwest to do this and that they only want the USOC implemented. He said he was not sure how that fits into the rejection of the CR.
>
> Bob Mohr-Qwest said that the CR would be a half solution without testing and would shift additional liability to the repair process and Qwest is not willing to implement a partial solution."

Qwest, however, is not shifting liability to repair by implementing the USOC to allow Qwest's facility assignment system to assign a HDSL qualified facility capable of supporting the service (instead of erroneously assigning a voice grade loop when a digital loop was requested). Repairs caused at installation by Qwest's erroneous facilities assignment would be minimized or eliminated. Qwest's response is incongruous particularly given that, by assigning the wrong loop type, Qwest is currently

creating liability *for CLECs* by forcing them into the repair process at the time of installation instead of properly assigning the correct loop type. When the wrong loop type is assigned, CLECs have to go through the repair process and then, if Qwest wrongly restricts testing to voice transmission only, also have to endure additional ordering and installation processes, including the added expense and delay associated with ordering a more expensive product. As discussed above, the liability that Qwest's faulty facilities assignment process imposes upon CLECs is the result of discrimination and violation of Qwest's obligation to assign and provision xDSL capable loops. The consequences of that conduct belong with Qwest, not CLECs. Regarding a partial solution, as discussed above, a partial solution to a discriminatory and unlawful situation is at least a start and better than no solution at all, and the learning gained from implementation of the USOC for this product may shed light on how to proceed for other products.

- Business need and impact

Qwest said that the implementation of a new USOC will allow Qwest's facility assignment system (known as LFACS) to assign a HDSL qualified facility capable of supporting the service when a CLEC orders a HDSL capable non loaded loop from Qwest. (See 12/17/08 CMP meeting minutes.) During the January 21, 2009 monthly CMP call, Qwest said it could implement the USOC in mid-April 2009. Qwest admits its processes/systems currently do not assign a facility capable of supporting the service a CLEC orders when a CLEC requests an HDSL qualified non loaded loop from Qwest. Assigning a facility capable of supporting the requested service, however, would reduce problems at installation and reduce the number of needed repairs to make the service work as intended.

For Qwest retail, in the December 17, 2008 CMP meeting, Qwest (Jamal) told CLECs that "Qwest HDSL2 goes through the CSA guidelines." In other words, Qwest admits that Qwest assigns the appropriate facility for its own retail services. In contrast, for CLECs, Qwest said that its policy is that Qwest will only test and repair the loop to voice transmission parameters, because Qwest cannot differentiate a HDSL qualified non loaded loop from a voice grade loop using its current processes (notwithstanding its long-established legal obligations to make that distinction and to not restrict testing to voice transmission only). Qwest indicated that, for HDSL, implementing the requested USOC would allow Qwest to finally make that distinction for CLECs. Therefore, a key CLEC business need is for Qwest to implement the USOC without delay to correct this problem. Once Qwest's processes/systems can differentiate a HDSL qualified non loaded loop from a voice grade loop, Qwest will then assign a HDSL qualified non loaded loop when CLEC orders a HDSL qualified non loaded loop, eliminating the existing problems associated with Qwest erroneously assigning a voice grade loop in these circumstances.

Regarding the significant impact upon CLECs, see the discussion above.

- Desired CLEC resolution

Qwest will reverse the denied status of Integra's CR and implement the USOC in mid-April 2009. Qwest will implement the exception request to expeditiously implement the USOC. If Qwest's refusal to recognize the work already done and its own projected completion date by voting against the exception request, combined with Qwest's denial of the CR, results in a delay in the implementation date, then Qwest should implement the USOC at the earliest possible date after mid-April 2009.

In addition, Qwest will promptly provide the requested additional information about Qwest retail facility assignment to CLECs. In its CR, Integra said: "Qwest has not yet indicated whether it uses this USOC for Qwest retail or, if not, how assignment of facilities is physically performed for Qwest retail. Qwest should provide this information."

Also, if Qwest's response was unclear and, in fact, Qwest agrees with CLECs, then Qwest will clarify its response and expressly state that it recognizes that Qwest has an obligation to provide HDSL Capable Loops to CLECs. If, however, Qwest maintains that it has no obligation to provide HDSL Capable Loops to CLECs, Qwest will both provide specific citations to authority for its position and respond to the authority cited by Integra.

Bonnie

Bonnie J. Johnson | Director Carrier Relations
| direct 763.745.8464 | fax 763.745.8459 |
6160 Golden Hills Drive
Golden Valley, MN 55416-1020
bjjohnson@integratelecom.com

Announcement Date:	**March 6, 2009**
Effective Date:	**Immediately**
Notification Number:	**CMPR.03.06.09.F.06131.CMP_Escalation_44**
Notification Category:	**Change Management Notification**
Target Audience:	**CLECs, Resellers**
Subject:	**CMP Escalation Notification #44-Integra Telecom and affiliates (Integra) Escalation PC020409-1EX Denied**
Associated CR # or System Name and Number:	**Integra CR # PC020409-1EX**

This notification is to inform the customer community that an escalation has been received on the following issue:
Integra Telecom and affiliates (Integra) Escalation PC020409-1EX Denied.

The full content of the Escalation #44 has been posted to the Qwest CMP web site at: http://www.qwest.com/wholesale/cmp/escalations.html.

Pursuant to Section 14.2 of the Qwest Wholesale Change Management Process Document, http://www.qwest.com/wholesale/cmp/whatiscmp.html:

> Any other CLEC wishing to participate in the escalation may do so by selecting the participate button adjacent to the escalation on the CMP Escalation Web site, *http://www.qwest.com/wholesale/cmp/escalations.html*, within one (1) business day of the mail out. Alternately, a CLEC may participate by sending an e-mail to *cmpesc@qwest.com* within one business day of the Qwest notification. The subject line of the e-mail must include the title of the escalated issue followed by ESCALATION PARTICIPATION.

If you wish to participate in this escalation, you have until the end of the business day on March 9, 2009. Go to the Qwest CMP Escalations web site at: http://www.qwest.com/wholesale/cmp/escalations.html and click on the participate button adjacent to **Escalation #44 PC020409-1EX Denied** or e-mail your participation to cmpesc@qwest.com.

Questions may be directed to Susan Lorence on 402 422-4999 or email at Susan.Lorence@qwest.com.

Escalation #44 Regarding Integra Telecom – CR #PC020409-1EX

March 13, 2009

Bonnie Johnson
Integra Telecom

Subject: Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

This letter is Qwest's binding response to your March 5, 2009 escalation regarding PC020409-1EX. Qwest has reviewed the formal escalation and Qwest maintains its position that the denial was not inappropriate and also that the CMP guidelines were followed per Section 16.4 of the CMP Document.

Integra and its affiliated entities ("Integra") escalated Qwest's denial of Integra's Change Request (CR) PC020409-1EX. In addition, Integra escalated this request to proceed on an exception basis, as the exception request gained more than the requisite two-thirds majority vote needed under CMP Document 16.4, but Qwest did not proceed on an exception basis and instead denied the CR.

As Qwest stated in the Vote meeting on February 17, 2009, in Section 16.4 of the CMP Document, the standards for determining whether a request will be handled on an exception basis are as follows: If the Exception Request is for a general change to the established CMP timelines for Product/Process changes, a two-thirds majority vote will be required unless Qwest or a CLEC demonstrates, with substantiating information, that one of the criteria for denial set forth in Section 5.3 is applicable. If one of the criteria for denial is applicable, the request will not be treated as an exception.

Qwest disagrees with the claim of discrimination in how it assigns facilities for the Unbundled Loop services vs. its own Retail Services. The process that Qwest utilizes for assignment of facilities for CLEC services that CLECs sell to their end users is more advantageous to the CLECs in that Qwest does not impose distance limitations on the CLEC requests for unbundled loops as it does for its own customers. Further, Qwest maintains the response provided on February 17, 2009. Qwest disagrees with the claim that it has an obligation to provide an HDSL Capable Loop. Qwest provides Non Loaded and xDSL-I Loops in compliance with the First Report and Order, the UNE Remand Order, the TRO and TRRO.

Qwest does not discriminate in the provisioning process. If a CLEC requests a non-loaded loop, Qwest uses the same loop selection process as it uses for its own retail ADSL product. The only difference is that Qwest imposes a loop length requirement on its own retail ADSL product, when selecting the loop, but at CLEC request Qwest does not impose the loop length requirement on a CLEC request for a non-loaded loop. By contrast, the loop assignment process for Qwest's retail DS-1 service is quite different. It is a designed service for which the engineer manually picks the best loop. This product is much more costly than ADSL and has a ten day interval. CLECs may get this same manual design process by ordering Qwest's DS-1 capable UNE loop product, which has a longer interval, and costs more than the xDSL capable loop product. Thus, Qwest provides the CLEC customers with an equivalent product as it does for its own DS-1 provisioning processes. This product is called DS-1 Capable Unbundled Loops. As the CLEC community would attest to, this product has the same NC and NCI/SecNCI Codes that Qwest offers it retail customers. The CLEC community can verify the NC NCI combinations that are available at both Technical Publication 77384 "Interconnection Unbundled Loops" and Technical Publication 77374 "1.544 Mbit/s Channel Interfaces".

Qwest does not have an obligation to guarantee that every xDSL loop can carry HDSL, which is what CLECs seek in this Change Request. The FCC has ordered that ILECs provide loops that are "conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL, and DS1-level signals." First Report and Order, paragraph 380. The FCC did not in the First Report and Order, UNE Remand Order, TRO or TRRO require that ILECs provide xDSL loops that are able to transmit each of those types of digital signals. Thus, some but not all xDSL loops are able to transmit HDSL. Similarly, not every xDSL loop can transmit a DS1-level signal, even though some can. In its ICAs, Qwest does not promise any particular signal, such as HDSL or DS1-level signals, will be supported by every xDSL loop. Rather the ICAs, such as the Oregon ICA Attachment 3, Section 2.1, say that the loops can be used for a variety of services, but do not guarantee that any particular loop can be used for every service listed in that section of the ICA. Qwest has made available to CLECs several tools through IMA that may be helpful in determining the capability of a particular loop. One of these tools is the RAW Loop Data tool which depicts the composition of the loop e.g. gauge, length, etc.

This Exception CR PC020409-1EX is requesting implementation of a partial solution that does not include cooperative testing. Qwest has engaged in discussions with the CLECs for several months on different aspects of Cooperative Testing. Absent agreement by the CLECs to participate in Co-Operative Testing, this partial implementation of the HDSL Capable Loop USOC becomes a financial liability to Qwest for the following reasons:

- Cost of equipping and training the technicians to perform additional testing. Qwest does not perform this function for its own retail DS-1 provisioning processes.
- Cost of repeat dispatches on Repair because of turn-up without testing. Without testing the end-to-end service provided on the loop as it does for its own retail DS-1 customers, Qwest can not guarantee that the loop would support any services.
- Increased headcount to perform additional work related to provisioning and dispatch.

Therefore, this CR is being denied on the basis that absent the obligation to provide an HDSL Capable Loop, and absent the CLEC community agreement to perform cooperative testing, this HDSL Capable Loop USOC implementation becomes a financial liability to Qwest and is economically not feasible. This is one of the criteria for denial, and regardless of whether the Exception request received the required two thirds majority vote, the exception was not granted.

Dildine Lybarger
Qwest Wholesale
Director Program/Project Mgmt

ESCALATION #44 INTEGRA BINDING POSITION 032009

From: Johnson, Bonnie J. [mailto:bjjohnson@integratelecom.com]
Sent: Friday, March 20, 2009 4:50 PM
To: Cmp, Escalation; Redman-Carter, Julia A.; 'ebalvin@covad.com'; Bloemke, Brenda; 'loriann.burke@xo.com'; 'Susan.Franke@twtelecom.com'; Nora Torrez(nora.torrez@twtelecom.com)
Cc: 'Cox, Rod'; 'Mike Wilker'; Isaacs, Kimberly D.; 'cmpesc@qwest.com'; Lybarger, Dildine; Coyne, Mark; Johnson, Bonnie J.
Subject: Integra position response - Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

Integra's position response is below and also attached as a document.

Escalation #44 Re. CR # PC020409-1EX – Position of Integra and its Affiliates

March 20, 2009
To: Qwest CMP
Subject: Position of Integra and its Affiliates

Integra and its affiliated entities ("Integra") provide this response in reply to Qwest's March 13, 2009 denial of Integra's CMP Escalation (Escalation #44) regarding Change Request (CR) PC020409-1EX ("Integra's Facilities Assignment USOC CR"). At least seven CLECs joined Integra's escalation. Qwest indicated on the March 18, 2009 CMP call that an error occurred with the Qwest system used to join the escalation, so there may have been other CLECs who joined as well.

Integra's Facilities Assignment USOC CR presented an opportunity for Qwest to implement a potential solution for one product (HDSL 2 and 4 wire non loaded loops) to allow Qwest to deliver to CLECs the product they actually order. Qwest's facilities assignment process does not select/assign the best (most qualified) loop available ***for the type of loop ordered*** by the CLEC. Instead, it can just as easily assign a loop capable of only voice grade service to fill a CLEC request for a particular type of digital capable loop. Qwest should provide a loop that will actually support the service ordered by the CLEC. The CR focuses on assigning the type of loop requested by implementing a Universal Service Ordering Code (USOC) to enable Qwest to distinguish loop type. Unless Qwest assigns the appropriate loop, unnecessary delays and expenses are imposed upon CLECs.

To view the technical subject in another context may help in understanding the problem. Consider a customer who has a terrible allergy to onions. The customer specifically orders a pizza with no onions. The pizza is delivered. The customer believes that the pizza is the type ordered so eats a slice. The customer only learns there is a mistake when the customer with the onion allergy goes into anaphylactic shock. It turns out the pizza delivery person delivered a pizza with onions. When the customer calls to complain, the pizza place says it met its obligation to the customer because "hey, we delivered a pizza." It is a completely unsatisfactory result. The customer did not receive the product ordered and, as a result, the customer is harmed.

Background and Stated Relationship to Integra's Broader CR #PC082808-1IGX

On February 4, 2009, Integra submitted its Facilities Assignment USOC CR (PC020409-1EX), entitled "Qwest will implement the USOC to correct the facility assignment for HDSL," to request implementation of a USOC for HDSL (2 and 4 wire non loaded loops) to correct assignment of facilities. Integra indicated in its CR that Qwest had said that there is a USOC already recognized by Telcordia/industry standards that would help ensure that facilities assigned to CLECs meet the parameters and industry standards applicable to the specific HDSL product ordered by the CLEC but Qwest has not yet implemented its use for CLECs, and Integra requested that Qwest implement the USOC expeditiously. During the January 21, 2009 monthly CMP call, Qwest said it could implement the USOC in mid-April 2009, so Integra requested an

implementation date of mid-April 2009 or soon after. On February 18, 2009, Qwest provided a written Response to Integra in which Qwest denied the CR and therefore denied the request to implement the USOC.

On March 5, 2009, Integra submitted its written Escalation (which is incorporated by reference). On March 13, 2009, Qwest provided its binding response in which Qwest denied the Escalation. Also on March 13, 2009, Qwest provided a written Response denying Integra's CR #PC082808-1IGX, entitled "Design, Provision, Test and Repair Unbundled Loops to the Requirements requested by CLEC, including NCI/SECNCI Code Industry Standards" [Integra's "Provision Loops Per Request CR"]. In Integra's Facilities Assignment USOC CR (PC020409-1EX), Integra said about its Provision Loops Per Request CR (PC082808-1IGX): "This CR does *not* replace in any way Integra's CR PC082808-1IGX (which is broader), and it should not delay the processing of that CR. Implementation of a USOC was not specifically mentioned in the description of change in that CR, whereas here Integra is specifically requesting USOC implementation for HDSL. Integra reserves its rights as to CR PC082808-1IGX. It appears from CMP discussions related to PC082808-1IGX that implementation of the USOC may be bogged down by other issues, so Integra has also submitted this CR to attempt to avoid delay in implementing the USOC. If implementation of the USOC assists in resolving some of the issues raised in CR PC082808-1IGX, as suggested by Qwest, then the companies may address that situation at the time." On March 20, 2009, Integra submitted a written Escalation (which is incorporated by reference) of Qwest's denial of Integra's Provision Loops Per Request CR (PC082808-1IGX). Integra's written Escalation of Qwest's denial of CR PC082808-1IGX contains citations to legal and contractual sources. Provisions of the Statements of Generally Available Terms (SGATs) and interconnection agreements (ICAs) that are cited in this document are quoted more fully in Integra's written Escalation of Qwest's denial of CR PC082808-1IGX.

Reply to Qwest's Binding Response

In its March 13, 2009 Binding Response, Qwest states: "Qwest disagrees with the claim that it has an obligation to provide an HDSL Capable Loop." The long-standing obligation is so clearly set out in the SGATs, ICAs, and the law, however, that it is difficult to understand how Qwest could possibly make such a statement. Please refer to Integra's written Escalation of Qwest's denial of CR PC082808-1IGX, and in particular the section entitled "Qwest's Obligation to Provide xDSL Capable Loops is Clear and Long-Standing," for specific citations.

Contrary to Qwest's claim that Integra is seeking "a guarantee that every xDSL loop can carry HDSL" and asking Qwest to "provide xDSL loops that are able to transmit each of those types of digital signals," Integra is simply asking that Qwest provide a loop that will actually support the service ordered by the CLEC, which can be accomplished by complying with the NC and NCI codes (see CR PC082808-1IGX). Qwest statements in CMP had led Integra to believe that, for HDSL, implementation of the USOC would have helped to accomplish this goal for HDSL. Using those codes appropriately, the loop will not have to support every type of digital signal but only the one requested by the CLEC. Although Qwest's Binding Response ignores the vast majority of citations provided by Integra, Qwest addresses a single provision of a relatively unique ICA in Oregon. Qwest points out that it states that loops can be used for a variety of services. Integra can only use the loop for the desired type of xDSL service, however, if Qwest

assigns a loop capable of carrying that service. Again, please refer to Integra's written Escalation of Qwest's denial of CR PC082808-1IGX, and in particular the section entitled "Qwest's Obligation to Provide xDSL Capable Loops is Clear and Long-Standing," for specific citations supporting Qwest's obligations in this regard.

Qwest states that it has made several tools available to CLECs such as the Raw Loop Data tool which depicts the composition of loop, e.g., gauge, length, etc. The CLECs' responsibilities regarding loop qualification are already addressed in the SGATs and ICAs (see, *e.g.*, SGAT & Eschelon ICAs §9.2.2.8), and Integra's CR does not change those responsibilities. Integra uses the loop qualification tools, so it has already done the work to know which qualified facilities are identified as available when Integra submits its request.

The loop qualification tools only provide information at a certain level for a subsection of the loops at an end user customer's address (indicating that a loop exists that is within the desired length, for example), however, and do not provide detailed specific characteristics of the particular loop being delivered. Moreover, Qwest sent a notice to CLECs stating that Qwest would modify its documentation on March 13, 2009 to provide: "When performing Loop Qualification queries using the Resale (HSI) Loop Qualification and/or ***ADSL Loop Qualification*** tools, the following message may be returned: "*Because of Power Disparity, Interference may be present or may develop in the future, Central Office Based ADSL service may be degraded or may not work at all.* ***Qwest can not guarantee the feasibility CO Based ADSL.***" (See Qwest Notice PROS. 03.13.09.F.06150.LoopQualCLECJobAid_V25, emphasis added.) Through Qwest's Denials of CR PC082808-1IGX and this Escalation – both received on the same day (March 13th, 2009) – Qwest confirmed that if a CLEC wishes to receive HDSL with a signal that tests at 196 kHz, the CLEC needs to request an ADSL service or a DS1 capable loop. The timing of the three notices on the same day in particular suggests that Qwest's objective is to force CLECs into foregoing their right to order HDSL and instead order Qwest's more expensive DS1 Capable Loop product, because per Qwest the only other means of getting the desired HDSL (ADSL) had no certainty of even being a feasible product.

Regarding the particular loop being delivered, Qwest's facilities assignment process does not select/assign the best (most qualified) loop available ***for the type of loop ordered*** by the CLEC. Instead, it can just as easily assign a loop capable of only voice grade service to fill a CLEC request for a particular type of digital capable loop. In contrast, for Qwest retail, Qwest automatically assigns the best (most qualified) loop available for the type of loop ordered by Qwest retail. In the December 17, 2008 CMP meeting, Qwest (Jamal) told CLECs that, for Qwest retail, "Qwest HDSL2 goes through the CSA [Carrier Serving Area] guidelines." In other words, Qwest admits that Qwest assigns the appropriate facility for its own retail services. In contrast, for CLECs, Qwest said that its policy is that Qwest will only test and repair the loop to voice transmission parameters, because Qwest cannot differentiate a HDSL qualified non loaded loop from a voice grade loop using its current processes that ignore the NCI code for CLECs (notwithstanding its long-established legal obligations to make that distinction and to not restrict testing to voice transmission only).

In its Binding Response, Qwest confirms that Qwest does not use CSA guidelines for CLEC xDSL capable loop orders, though it uses them for Qwest retail. The CSA guidelines relate to issues such as distances. Because xDSL capable loops are distance-sensitive products, distances are significant to delivering the appropriate loop. ANSI Standard T1-417 (cited in ICA §9.2.6.1) states, on page 13 in Section 4.3.1.5, that "HDSL systems are designed to transport 784 kbps over Carrier Serving Area (CSA) distances on a single non-loaded twisted pair" and, in Section 4.3.1.6, that "HDSL2 is a second generation HDSL loop transmission system that is standardized. The system is designed to transport a 1.544 Mb/s payload on a single non-loaded twisted pair at CSA distances." Ironically, in its Binding Response, Qwest attempts to portray its failure to comply with the industry standard regarding CSA distances for CLECs as "advantageous to the CLECs" even though these products are distance-sensitive.

Qwest also admits in its Binding Response that, even though the ICAs entitle CLECs to at least seven types of xDSL capable loops, Qwest's facility assignment process for CLECs is based on only one of those types (ADSL). Again, this reflects Qwest's failure to differentiate loop types based on the NCI code, even though Qwest is required to comply with the NCI code per the ICAs. Moreover, Qwest's choice of ADSL is significant, given that Qwest has grandparented ADSL for its own customers. When announcing the grandparenting of ADSL, Qwest pointed CLECs to its non-loaded loop product, even though Qwest will not comply with the HDSL NCI code to provide a non-loaded loop capable of carrying HDSL. (http://www.qwest.com/wholesale/cmp/ archive/CR_PC121106-1.html.) Worse yet, since then, Qwest notified CLECs that its loop qualification tool is unreliable for ADSL, which may not even be feasible at all (as discussed above).

In its Binding Response, Qwest withholds any potential willingness to proceed with implementation of the CR as a means to force CLECs into an unnecessary agreement to perform "cooperative testing." Integra addressed this issue in its Escalation, but Qwest does not specifically respond to the bulk of Integra's points. Please also refer to Integra's Escalation re. CR PC082808-1IGX for a more detailed discussion of this issue. In its Binding Response, Qwest states: "Without testing the end-to-end service provided on the loop as it does for its own retail DS-1 customers, Qwest can not guarantee the loop would support any services." Qwest's insistence on cooperative testing in every case ignores a key distinction between the two distinct products available to CLECs: (1) DS1 Capable Loops, for which Qwest provides the equipment; and (2) xDSL Capable Loops, for which CLECs provide the equipment at both ends. The entire ICA and industry regime of defining different types of xDSL (*e.g.*, HDSL2 at 1.544 Mbps) and assigning the types of loops unique NC/NCI codes (*e.g.*, NC code of LX-N with NCI code of 02QB9.00H and SEC code of NCI 02DU9.00H for HDSL) is designed to address this concern and ensure that Qwest can provide the type of loop requested by CLEC. (See CR PC082808-1IGX & Integra's Escalation of its denial.) The problem is that Qwest has not implemented it, even though these terms have been in the SGATs and ICAs for many years and Qwest's own technical publication 77384 recognizes that the industry NCI codes are designed "to communicate to QWEST the character of the signals the customer is connecting to the network at each end-point of the metallic circuit" and to tell "a Qwest engineer and the circuit design system, of specific technical, customer requirements." Qwest can provide the type of loop needed to meet those specific technical customer requirements, if it complies with the ICAs and

the NC/NCI code requirements. If implementation of a USOC does not address the problems with Qwest's facilities assignment process and its ability to deliver the type of loop requested, then another solution needs to be implemented.

In addition to its contractual obligations to unbundle xDSL capable loops and comply with the NC/NCI codes, Section 9.2.2.3 of the ICAs (as well as Qwest's own negotiations template proposal) requires Qwest to provision digital loops in a nondiscriminatory manner. Qwest has admitted the processes are different. In addition, Qwest has not provided the information regarding Qwest's retail facilities assignment process that Integra requested in its CR and in its Escalation. Qwest needs to be forthcoming about its retail process.

Qwest statements in CMP discussions of these CRs led CLECs to believe that Qwest's retail facilities assignment process used an existing USOC that, if used for CLEC HDSL orders, would allow Qwest to finally differentiate a HDSL qualified non loaded loop from another loop for CLECs. Qwest's Denials since then have called Qwest's statements about the USOC into doubt. Therefore, Integra went to Qwest's Resale Product Database (RPD) to attempt to obtain additional information. About this database, Qwest has said: "InfoBuddy is a system that contains all of Qwest's Methods, Practices and policies regarding ordering processes. In addition to that Qwest also has information within the system that is proprietary. In order to comply with the Telecommunications act of 1996 Qwest developed a redaction process which allows CLEC's access to the retail product methods and procedures contained in InfoBuddy that are available for Resale. That information is formatted into a WEB based application known as RPD. The redaction process removes only the proprietary information found in InfoBuddy that Qwest is not mandated via the Act to provide to CLEC's." (Qwest email, Ex. BJJ-44 in UT-063061.)

Qwest's ***retail*** ordering processes in RPD state that the "PTW FID [Field Identifier] is an internal process that is used to provision a 4-wire loop facility as 2-wire using HDSL2 technology. This is transparent to the customer base because the facility is handed off as a 4-wire interface at the customer premises. In an effort to ensure all DSS facility orders carry the PTW FID, it will be added to the T-1 based products service orders via the MAGIC system (OR or WA only). For all other states, the process is manual." In contrast to this Qwest retail documentation, in a Qwest (SVP Ken Beck) June 5, 2008 email to Integra, Qwest had said: "HDSL2 is not a service or product offering for Qwest customers." Qwest failed to mention the FID in CMP discussions.

Regardless of whether the mechanism for complying with the full NC/NCI codes is implementation of a USOC, a FID, or some other process (manual or electronic), ample evidence exists that Qwest can and has assigned and provided HDSL2 technology over a 2-wire facility for itself and its customers. Integra will continue to pursue a resolution of the problem, including through its Provision Loops Per Request CR (PC082808-1IGX).

Bonnie J. Johnson | Director Carrier Relations
| direct 763.745.8464 | fax 763.745.8459 |

6160 Golden Hills Drive
Golden Valley, MN 55416-1020
bjjohnson@integratelecom.com

From: Cmp, Escalation [mailto:cmpesc2@qwest.com]
Sent: Tuesday, March 17, 2009 10:42 AM
To: Redman-Carter, Julia A.; 'ebalvin@covad.com'; Bloemke, Brenda; 'loriann.burke@xo.com'; 'Susan.Franke@twtelecom.com'
Cc: Cmp, Escalation; Johnson, Bonnie J.; 'Cox, Rod'; 'Mike Wilker'; Isaacs, Kimberly D.; 'cmpesc@qwest.com'; Lybarger, Dildine; Coyne, Mark
Subject: FW: Escalation Acknowledgement RE:Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

When Qwest sent our binding response to this escalation of CR PC020409-1EX on March 13, 2009, Bonnie Johnson (Integra) identified that she was aware that there were several CLECs that had also chosen to participate in the escalation. Bonnie specifically named Mcleod, Covad, Comcast, XO and twtelecom.

We are still working with our Web team to determine the problem with the "participate" button however we are copying all of you on this binding response. The response has also been posted to the Escalations web site at http://www.qwest.com/wholesale/cmp/escalations.html.

We will relay this information in the monthly meeting on Wednesday.

Thank you,
Susan Lorence
Qwest CMP Manager
402 422-4999

From: Cmp, Escalation
Sent: Friday, March 13, 2009 2:29 PM
To: Cmp, Escalation; 'Johnson, Bonnie J.'; 'Cox, Rod'; 'Mike Wilker'
Cc: Isaacs, Kimberly D.; 'cmpesc@qwest.com'; Lybarger, Dildine; Coyne, Mark
Subject: RE: Escalation Acknowledgement RE:Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

Bonnie,

Attached is the binding Qwest response to your escalation of CR PC020409-1EX which was submitted March 5, 2009 and acknowledged by Qwest on March 6, 2009.

Please contact me with any questions.

Thank you,
Lynn Stecklein
Qwest Wholesale CMP
303 672-2723

From: Cmp, Escalation [mailto:cmpesc2@qwest.com]
Sent: Friday, March 06, 2009 1:28 PM
To: 'Johnson, Bonnie J.'
Cc: Isaacs, Kimberly D.; 'cmpesc@qwest.com'; Lybarger, Dildine; Coyne, Mark
Subject: Escalation Acknowledgement RE:Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

Bonnie,

This is to acknowledge receipt of your escalation associated with CR PC020409-1EX.

The escalation was received in our CMP Escalation mailbox on Thursday, March 5, 2009 11:51 AM Central Time.

This acknowledgement is being sent at approximately 2:30 PM Central Time, Friday, March 6, 2009.

Dildine Lybarger, Director Program/Project Management, is assigned to this escalation. She can be reached at 303 672-2712 or by e-mail at Dildine.Lybarger@qwest.com.

Qwest will respond with a binding position e-mail no later than COB March 13, 2009.

Please contact me with any questions.

Thank you,
Susan Lorence
Qwest CMP Manager
402 422-4999

From: Johnson, Bonnie J. [mailto:bjjohnson@integratelecom.com]
Sent: Thursday, March 05, 2009 11:51 AM
To: 'cmpesc@qwest.com'
Cc: Johnson, Bonnie J.; Isaacs, Kimberly D.
Subject: Integra and affiliates ("Integra") Escalation PC020409-1EX Denied

- Description of item being escalated

Integra and its affiliated entities (“Integra”) escalate Qwest’s denial of Integra’s Change Request (CR) PC020409-1EX. In addition, Integra escalates its request to proceed on an exception basis, as the exception request gained more than the requisite two-thirds majority vote needed under CMP Document 16.4, but Qwest did not proceed on an exception basis and instead denied the CR.

- History of item

On February 4, 2009, Integra submitted CR PC020409-1EX, entitled “Qwest will implement the USOC to correct the facility assignment for HDSL,” to request implementation of a Universal Service Ordering Code (“USOC”) for HDSL (2 and 4 wire non loaded loops) to correct assignment of facilities (“Integra’s Facilities Assignment USOC CR”). Qwest has an obligation to provide digital Loops in a non-discriminatory manner, using the same facilities assignment processes that Qwest uses for itself to provide the requisite

service. Qwest, however, is not meeting this obligation, to the detriment of CLECs, competition, and end user customers. Integra indicated in its CR that Qwest had said that there is a USOC already recognized by Telcordia/industry standards that would help ensure that facilities assigned to CLECs meet the parameters and industry standards applicable to the specific HDSL product ordered by the CLEC but Qwest has not yet implemented its use for CLECs, and Integra requested that Qwest implement the USOC expeditiously. Integra's request and the basis for its request are further described below. On February 17, 2009, during a CMP ad hoc call, a vote was held on Integra's request for an exception to the CMP processes to recognize that some CMP process steps were not necessary due to Qwest work already done on USOC implementation. All participating CLECs (9 CLECs) voted in favor of the exception request, and only Qwest voted against the exception, so the CMP criteria were met to proceed with the CR on an exception basis. Qwest, however, said on the ad hoc call that it was denying the CR, which Qwest indicated rendered the exception vote moot. On February 18, 2009, during the monthly CMP meeting, Integra asked whether, separate from the exception request, Qwest would provide its written response to the substance of the CR per the established CMP procedures which provide for a written Qwest response to the CR. Qwest agreed to provide a written response, which it sent by email to Integra on February 18, 2009 (though the enclosed Qwest Response is erroneously dated February 17, 2009).

- Reason for Escalation

A key reason for this escalation is the importance of this issue and its impact on CLECs, competition, and end user customers. Qwest's denial of Integra's Facilities Assignment USOC CR (#PC020409-1EX) violates Qwest's obligations under the Act, including Qwest's nondiscrimination obligations, as well as its obligations under CLEC ICAs and the SGATs. As a result, CLECs, competition, and end user customers are harmed. Qwest needs to reverse its denial and promptly implement this CR.
As discussed below, "Loops" include xDSL capable services, including HDSL capable loops. Regarding Loops (and, specifically, "digital Loops,"), Qwest's Statements of Generally Available Terms (SGATs), as well as certain CLEC ICAs and Qwest's own ICA negotiations template proposal, in Section 9.2.2.3 state:

> Qwest will provision digital Loops in a non-discriminatory manner, ***using the same facilities assignment processes that Qwest uses for itself to provide the requisite service***. (emphasis added)

A key problem that exists today, however, is that Qwest is not meeting this long-standing obligation. For CLECs, Qwest's facilities assignment process does not select/assign the best (most qualified) loop available ***for the type of loop ordered*** by the CLEC. Instead, it is just as likely, or more likely, to assign a voice grade loop to fill a CLEC request for a digital capable loop. In contrast, for Qwest retail, Qwest automatically assigns the best (most qualified) loop available for the type of loop ordered by Qwest retail. (See, e.g., minutes from 12/17/08 & 1/21/09 CMP meetings.) Every day that this situation continues is another day of discrimination, and so Qwest should make every effort to accelerate resolution of this problem. Given that Qwest had already indicated that it could implement the requested USOC by mid-April 2009, there is no reason to delay this step toward helping to remedy this discriminatory situation. It is no answer to a discriminatory situation to say that Qwest will resolve all aspects of the problem or none at all. Moreover, implementing the USOC for HDSL now will providing additional information, experience, and learning that can be applied when addressing the issues as to other products. Implementing the requested USOC will help address the issue for HDSL, and any delay in implementing the USOC constitutes intentional violation of the Act, as Qwest is choosing to continue a discriminatory situation instead of trying to remedy it expeditiously.

Erroneous, discriminatory assignment of facilities causes harm. For example:

> When a CLEC orders a HDSL capable loop and Qwest instead assigns a voice grade loop, Qwest does not tell the CLEC that it is assigning a loop different from the one ordered by the

CLEC. The CLEC does not discover that, even though it ordered a digital capable loop, the loop Qwest assigned is not capable of carrying data until after the CLEC accepts the loop. When CLEC attempts to turn-up service for its customer, CLEC then learns that the loop assigned and delivered by Qwest is not the one ordered by the CLEC. The CLEC is then forced to expend time and resources to open a repair ticket and work through resolution of the repair, if Qwest will even work with the CLEC to resolve the issue. More often, Qwest refuses to fix the problem, claiming that it the HDSL capable loop need only meet voice transmission parameters. The FCC rules, however, provide that Qwest "shall test and report troubles for all the features, functions and capabilities of conditioned copper lines, and ***may not restrict its testing to voice transmission only***." [47 CFR §51.319(a)(1)(iii)(C); emphasis added.] Qwest's refusal forces the CLEC into a situation in which it must place another order, either for the same product (gambling that, this time, chance might assign an appropriate loop) or, more likely due to the need to limit delay, for a more expensive product – to Qwest's financial benefit and CLECs' detriment. In the meantime, the entire process causes delay to the end user customer, which either does not get cutover until the type of loop actually ordered by CLEC is assigned and provisioned or the new more expensive service is ordered and delivered. This situation creates a competitive advantage for Qwest, as its own customers do not experience the same delay, to the detriment of competition and consumers.

Despite Integra's having explained these problems in CMP, Qwest provides very little information in its written Response denying the CR. Integra will reply to each of Qwest's brief assertions in the order in which they appear in Qwest's one-paragraph response:

First, Qwest states that Integra's Facilities Assignment USOC CR "requires a business discussion." Integra remains willing to engage in business discussions with Qwest and other CLECs. Qwest, however, has precluded discussion with its denial of this CR.

Second, Qwest suggests that it has no "obligation to provide an HDSL Capable Loop." Qwest cites no authority and provides no basis for its assertion that it has no obligation to provide an HDSL Capable Loop. Qwest also provided no citations or basis for that position in CMP communications regarding this issue; in fact, Qwest appeared to recognize in CMP its obligation to provide HDSL capable loops to CLECs. If Qwest's response was unclear and, in fact, Qwest agrees with CLECs on this point, then Qwest needs to clarify its response and expressly state that it recognizes that Qwest has an obligation to provide HDSL Capable Loops to CLECs. If, however, Qwest maintains that it has no obligation to provide HDSL Capable Loops to CLECs, Qwest needs to both provide specific citations to authority for its position and respond to the authority cited by Integra. Authority and documentation that Qwest has an obligation to provide HDSL Capable Loops to CLECs include the following:

- The FCC specifically found that ILECs, such as Qwest, must unbundle xDSL capable loops. (TRO ¶23; see also 47 CFR §51.319.) The term "xDSL" refers to digital subscriber line (DSL) "as a general technology" that is not limited to, but includes, specific types of DSL such as High Speed Digital Subscriber Line (HDSL). (TRO fn 661 to ¶215; see also UNE Remand Order fn 299 to ¶166.) Note that "xDSL" is *not* limited to particular Qwest products (*e.g.*, xDSL-I) and, if Qwest's products or processes are inconsistent with the law, the law controls and any flaws in Qwest's products or processes need to be brought into compliance with the law. ILECs must "condition loops for the provision of digital subscriber line (xDSL) services." (TRO, p. 14, 2nd bullet; see also TRRO ¶12.) The local loop element that Qwest is required to unbundle includes "two and four-wire loops conditioned to transmit the digital signals needed to provide xDSL service." (TRO ¶249; see also UNE Remand Order ¶ 166; First Report and Order, ¶380.) The First Report and Order was released on August 8, 1996, the UNE Remand Order was released on November 5, 1999, and the TRO was released on August 21, 2003. As indicated in the examples below, in the meantime, SGATs and ICAs also have reflected Qwest's obligation to provide xDSL service to CLECs. Qwest cannot reasonably argue that it is not required to assign

and provision, when requested, two and four-wire loops conditioned to transmit the digital signals needed to provide xDSL service (including HDSL) to CLECs. Qwest also cannot assert – after all of these years of having this obligation – any legitimate basis for its current facilities assignment, processes and procedures not taking into account this long-standing obligation, if that is Qwest's claim.

- The SGATs (including CLEC ICAs based on the SGATs, such as that of Qwest's affiliate Qwest Communications Corporation in AZ), like the recent Qwest-Eschelon Arizona, Minnesota, Oregon and Utah interconnection agreements ("ICAs") (§9.2.2.3), define 2/4 wire non-loaded loops as "digital capable" loops. The SGATs and the recent Qwest-Eschelon ICAs (§9.2.2.1.1 & 9.2.2.1.2) provide that use of the words "capable" and "compatible" to describe Loops means that Qwest assures that the Loop meets the technical standards associated with the specified Network Channel/**Network Channel Interface** codes, as contained in the relevant technical publications and industry standards. Qwest's position that its current facilities assignment process for CLECs recognizes only the "Network Channel" code but not the "Network Channel Interface" is inconsistent with this long-established principle.

- The Qwest-Integra Oregon ICA has been in place since 2000 (for Integra as well as other CLECs, as it is based on the Qwest-AT&T ICA). That ICA (Att. 3, §2.1 and subparts) defines an unbundled loop to include loops that transmit digital signals and provides that CLEC may order special copper loops unfettered by any intervening equipment and which do not contain any bridged taps, so that CLEC may use the loops for a variety of services by attaching appropriate equipment. For example, when a CLEC orders an HDSL2 capable loop (identified on the LSR by using the NC code of LX-N with the NCI code of 02QB9.00H and a SEC code of NCI 02DU9.00H), Qwest should assign and provision a loop unfettered by intervening equipment so that CLEC may provide working HDSL2 service over the HDSL2 capable loop by attaching appropriate equipment.

- The SGATs and recent Qwest-Eschelon ICAs (§9.1.9) provide that network maintenance and modernization activities will result in UNE transmission parameters that are within transmission limits of the UNE **ordered by CLEC**. This confirms that Qwest must initially assign xDSL capable loops based on the transmission parameters for the type of loop ordered by the CLEC. This means, among other things, that Qwest's assignment process needs to recognize and assign the type of loop ordered by CLEC (e.g., the NC and NCI codes).

- Qwest's ICA negotiations template proposal in Section 9.2.2.2 addresses "Analog (Voice Grade) Unbundled Loops" and in Section 9.2.23 addresses "Digital Capable Loops – DS1 and DS3 Capable Loops, Basic Rate (BRI) ISDN Capable Loops, 2/4 Wire Non-Loaded Loops and xDSL-I Capable Loops." Section 9.2.2.3 provides that ***digital capable*** loops, including "2/4 Wire Non-Loaded Loops," are "capable of carrying specifically formatted and line coded digital signals." That means that, when Qwest provides this loop, it must assign and deliver a loop capable of providing data to the CLEC to have met its obligation to provide the digital capable loop ordered by the CLEC. ***There is no exception in 9.2.2.3 (in Qwest's template offering or in the SGATs and ICAs) for providing a loop that is not digital capable and then later, after imposing extra work and delays upon CLEC and its customer, providing a different loop that is digital capable***.

Integra reserves its rights under its ICAs and the law. At the same time, in an effort to resolve this issue and at the request of Qwest to bring issues to CMP, Integra requests that Qwest reverse its denial and implement this CR.

Third, Qwest indicates that "the decision to implement this . . . CR becomes a financial decision." Qwest considers only its own alleged costs, however, without recognizing the very real costs to CLECs of

Qwest's denial of this CR. Costs that Qwest incurs only because it has implemented a discriminatory process that it now needs to correct should not be considered, as Qwest should have implemented nondiscriminatory facilities assignment to begin with. Being discriminated against, as well as not receiving the HDSL product ordered in violation of ICAs and the law, imposes a financial burden on CLECs. The FCC has found that CLECs are "impaired" without access to unbundled "xDSL-capable stand-alone copper loops." (TRO ¶642.) In other words, the FCC has already found that lack of access to unbundled xDSL capable loops "***poses a barrier or barriers to entry*** . . . that are likely to make entry into a market uneconomic" for a reasonably efficient competitor. (TRRO ¶22; emphasis added.) Integra believes that Qwest is the cost-causer in this situation. If Qwest disagrees and believes that it has unrecovered costs for which it should be compensated, then the solution is ***not*** to deny CLECs their rights under the law and the ICAs. Rather, Qwest must request cost recovery from the state commissions and establish its right to receive such compensation.

Fourth, Qwest withholds any potential willingness to proceed with implementation of the USOC to improve facilities assignment as a means to force CLECs into an unnecessary "agreement to perform cooperative testing." Testing comes later (at installation), however, and is separate from assignment of facilities (e.g., a loop) ***before*** the loop is installed and tested. Improving the appropriateness of the loop assigned, so that it is of the type ordered by the CLEC, will help ensure fewer problems when the testing stage is reached. Failed testing due to the assignment of a voice grade loop when a digital capable loop was ordered will be eliminated once the assignment process is improved to ensure assignment of a digital capable loop. Thus, those testing issues will never be reached to the extent implementation of the USOC results in assignment of the best (most qualified) loop available for the type of loop ordered by the CLEC. There is simply no reason to tie implementation of the USOC at the facilities assignment stage to capitulation to Qwest's position regarding later testing. This is particularly true because Qwest admitted that, for comparable types of service, Qwest does not perform or require its staff to perform the work it seeks to require CLECs to perform. Qwest said:

> Jamal Boudhaouia - He said that we will check to see if the bridge tap is interfering with it. ***He said that Qwest does not do HDLS [sic] test in the CO because we are not equipped to do that and the equipment is very expensive.*** (12/30/08 Comments to minutes received from Integra) When we hook to the HDSL mux we test remotely ***- it works or doesn't work*** - we don't have the ability to test the raw loop, ***we look for open shorts, bridge tap, or Load Coils that we missed***. (minutes from 12/17/08 CMP meeting; emphasis added)

In other words, Qwest "does not do HDSL2 tests in the CO" for every installation for itself, but Qwest is attempting to force HDSL2 tests in the CO upon CLECs by requiring joint cooperative testing in the case of every loop installation. This is inefficient and creates unnecessary work, delay, and expense for CLECs. For example, if a CLEC that has 50 collocations throughout a city has ordered loops with the same due date for 3 installations in 3 unmanned collocations spread far apart in that city, Qwest would require CLEC to dispatch technicians all over town that day to jointly test for problems, even though the loops may in fact work when delivered (***and should work, if proper facilities are assigned, as is more likely if the USOC is implemented as requested***). For CLECs, Qwest proposes to require joint testing 100% of the time.

In contrast, Integra's position is much more efficient, because it isolates joint testing to those limited circumstances when joint testing is truly required. Per Integra's position, when Qwest assigns a loop capable of carrying data consistent with the law and industry guidelines, in most cases the loop should work as intended. Therefore, no joint testing is required. Even assuming the loop does not work upon delivery, CLEC will be able to perform tests once it hooks up its equipment. Qwest's existing processes require CLEC to perform trouble isolation before reporting trouble to Qwest and to submit its test results with its trouble report. (See Qwest's ICA negotiations template Sections 12.3.3.5 & 12.3.4.) As with any other basic loop installation after which the loop does not work, the companies may agree on the cause of the problem and the solution. If the CLEC reports that its tests indicate, for example, that excessive bridged taps are interfering with its HDSL2 service and Qwest agrees, no joint meet is required. (This

assumes that Qwest is not enforcing a policy of testing only to voice grade parameters even when the CLEC informs Qwest that its service is supposed to be capable of carrying data.) Only in the sub-set of installations for which the loop does not work and the companies do not agree on trouble isolation may joint testing be required. This is a far more efficient than Qwest's proposal to require joint testing for 100% of installations.

As discussed above, a key problem that Integra's CR is attempting to address is that, when Qwest provides a digital loop with a basic installation to CLECs, the facilities assignment process should take care of as many problems in advance of loop delivery as the facilities assignment process for Qwest retail. For example, if a Qwest retail customer that orders a digital service is unlikely to be assigned an analog facility with excessive bridged taps, a CLEC that orders a digital service should also be just as unlikely to be assigned an analog facility with excessive bridged taps. Once Qwest's facilities assignment process is nondiscriminatory, the need for CLECs to request repairs after a basic installation should be reduced accordingly. In other words, repairs following installations that are caused by Qwest delivering a voice grade loop when in fact a digital loop was ordered should be substantially reduced, if not eliminated.

Qwest needs to bring its facilities assignment process into compliance and make it nondiscriminatory. If implementing the USOC for CLECs is a means by which Qwest may start to do that, Qwest should have done it by now given its obligations but certainly should not delay it any longer by attaching inappropriate pre-conditions to implementing the USOC. Integra has a right to the installation option provisions in its ICAs, including basic installation. Qwest needs to ensure that, before delivering a loop, Qwest is first assigning a loop that meets the industry standards for that type of loop. Qwest cannot cure its failure to appropriately assign a loop on a nondiscriminatory basis by shifting the burden to CLECs to perform work that would not be necessary if the assignment process worked as it should. Once it works as it should, there may be little or no need for cooperative/joint testing or repair, because the delivered loop will work as intended for the service ordered.

Finally, Qwest states that without tying implementation of the USOC to its additional demand for cooperative testing in every case, the USOC implementation "becomes a financial liability to Qwest" and is "economically not feasible." Requiring cooperative testing for every HDSL Capable Loop installation, however, becomes a financial liability to CLECs and is not economically feasible (for the reasons discussed above regarding Qwest's fourth point). Also, Qwest's proposal to require cooperative testing would deny CLECs the installation option currently available to them under their ICAs to request, for HDSL capable loops, a basic installation (which in most, if not all, Qwest states is available to CLECs at a commission-approved rate). Instead, Qwest would require CLECs to order the more expensive cooperative testing installation option in every case. Even more importantly, Qwest's proposal would impose expenses and resource burdens on CLECs (such as those described in the example provided above involving unmanned collocations) that Qwest itself does not incur because it does not perform this type of testing itself, as discussed above. Integra asked Qwest about this aspect of Qwest's response in CMP, as reflected in the February 18, 2009 meeting minutes:

> "Doug Denney-Integra said that Qwest's denial on the exception CR states that there is a financial risk and asked what Qwest was referring to.
>
> Bob Mohr-Qwest said that the financial liability is associated with the cost of equipping and training the technicians to perform the test at this level.
>
> Doug Denney-Integra said that the other CR doesn't ask Qwest to do this and that they only want the USOC implemented. He said he was not sure how that fits into the rejection of the CR.
>
> Bob Mohr-Qwest said that the CR would be a half solution without testing and would shift additional liability to the repair process and Qwest is not willing to implement a partial solution."

Qwest, however, is not shifting liability to repair by implementing the USOC to allow Qwest's facility assignment system to assign a HDSL qualified facility capable of supporting the service (instead of

erroneously assigning a voice grade loop when a digital loop was requested). Repairs caused at installation by Qwest's erroneous facilities assignment would be minimized or eliminated. Qwest's response is incongruous particularly given that, by assigning the wrong loop type, Qwest is currently creating liability *for CLECs* by forcing them into the repair process at the time of installation instead of properly assigning the correct loop type. When the wrong loop type is assigned, CLECs have to go through the repair process and then, if Qwest wrongly restricts testing to voice transmission only, also have to endure additional ordering and installation processes, including the added expense and delay associated with ordering a more expensive product. As discussed above, the liability that Qwest's faulty facilities assignment process imposes upon CLECs is the result of discrimination and violation of Qwest's obligation to assign and provision xDSL capable loops. The consequences of that conduct belong with Qwest, not CLECs. Regarding a partial solution, as discussed above, a partial solution to a discriminatory and unlawful situation is at least a start and better than no solution at all, and the learning gained from implementation of the USOC for this product may shed light on how to proceed for other products.

- Business need and impact

Qwest said that the implementation of a new USOC will allow Qwest's facility assignment system (known as LFACS) to assign a HDSL qualified facility capable of supporting the service when a CLEC orders a HDSL capable non loaded loop from Qwest. (See 12/17/08 CMP meeting minutes.) During the January 21, 2009 monthly CMP call, Qwest said it could implement the USOC in mid-April 2009. Qwest admits its processes/systems currently do not assign a facility capable of supporting the service a CLEC orders when a CLEC requests an HDSL qualified non loaded loop from Qwest. Assigning a facility capable of supporting the requested service, however, would reduce problems at installation and reduce the number of needed repairs to make the service work as intended.

For Qwest retail, in the December 17, 2008 CMP meeting, Qwest (Jamal) told CLECs that "Qwest HDSL2 goes through the CSA guidelines." In other words, Qwest admits that Qwest assigns the appropriate facility for its own retail services. In contrast, for CLECs, Qwest said that its policy is that Qwest will only test and repair the loop to voice transmission parameters, because Qwest cannot differentiate a HDSL qualified non loaded loop from a voice grade loop using its current processes (notwithstanding its long-established legal obligations to make that distinction and to not restrict testing to voice transmission only). Qwest indicated that, for HDSL, implementing the requested USOC would allow Qwest to finally make that distinction for CLECs. Therefore, a key CLEC business need is for Qwest to implement the USOC without delay to correct this problem. Once Qwest's processes/systems can differentiate a HDSL qualified non loaded loop from a voice grade loop, Qwest will then assign a HDSL qualified non loaded loop when CLEC orders a HDSL qualified non loaded loop, eliminating the existing problems associated with Qwest erroneously assigning a voice grade loop in these circumstances.

Regarding the significant impact upon CLECs, see the discussion above.

- Desired CLEC resolution

Qwest will reverse the denied status of Integra's CR and implement the USOC in mid-April 2009. Qwest will implement the exception request to expeditiously implement the USOC. If Qwest's refusal to recognize the work already done and its own projected completion date by voting against the exception request, combined with Qwest's denial of the CR, results in a delay in the implementation date, then Qwest should implement the USOC at the earliest possible date after mid-April 2009.

In addition, Qwest will promptly provide the requested additional information about Qwest retail facility assignment to CLECs. In its CR, Integra said: "Qwest has not yet indicated whether it uses this USOC

for Qwest retail or, if not, how assignment of facilities is physically performed for Qwest retail. Qwest should provide this information."

Also, if Qwest's response was unclear and, in fact, Qwest agrees with CLECs, then Qwest will clarify its response and expressly state that it recognizes that Qwest has an obligation to provide HDSL Capable Loops to CLECs. If, however, Qwest maintains that it has no obligation to provide HDSL Capable Loops to CLECs, Qwest will both provide specific citations to authority for its position and respond to the authority cited by Integra.

Bonnie

Bonnie J. Johnson | Director Carrier Relations
| direct 763.745.8464 | fax 763.745.8459 |
6160 Golden Hills Drive
Golden Valley, MN 55416-1020
bjjohnson@integratelecom.com