



**ESCALATION #PC102704-1E32**

November 16, 2004

Liz Balvin  
Covad Communications

Dear Ms. Balvin,

This letter is in response to your November 8, 2004 escalation regarding Qwest's submitted CR PC102704-1 and Covad's request that Qwest withdraw the change request.

Qwest would like to note the scope of the change request was revised on November 10, 2004 to incorporate only those products specifically addressed by the USTA II Decision and the FCC Interim rules. These changes were communicated via notification CMPR.11.10.04.F.02294.Revision\_CR\_PC102704-1ES.

In response to Covad's objections which are provided in detail in Escalation #32, Qwest emphasizes that the CR is not superceding the language in the CLEC ICA. If the language in the current ICA allows the CLEC to order the products, the CLEC will be permitted to continue to order at this time. This change request is instead advising CLECs who don't have this language in their ICA or who don't currently have an ICA that they cannot seek an amendment or ICA with language for these products on a prospective basis. Further, there are no related system changes to impact a CLEC ordering what is available to them in their ICA. As this is a change to limit the availability of certain products only, Qwest believes this is a Level 4 change and belongs in CMP.

As stated in notification CMPR11.04.04.F.02273.Regulatory\_CR\_FCC\_Interim, and cited by Covad in their escalation, Qwest maintains and does not waive its position that the regulatory classification of the CR is appropriate. Qwest revised the CR to remove the regulatory classification. Further, TRO and Non-USTA II items were included in the original CR prematurely. As USTA II is law Qwest intends to exercise the rights afforded to it by the USTA II decision regarding the elimination of the items impacted by that decision.

Qwest believes that because the classification of the CR is no longer regulatory, the issues associated with specific page and paragraph reference required for a Regulatory CR no longer apply.

Hopefully these clarifications will resolve all of Covad's issues. If not, Qwest is committed to continue to work with Covad to resolve these issues.

Sincerely,

Bill Campbell  
Director – Product Management