

# Open Product/Process CR Detail

Report Line Number 1

CR #	Title	Date Current Status	Organization	Area Impacted	Products Impacted
PC102704-1ES	U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance: Certain Unbundled Network Elements (UNE) Product Discontinuance	Development 12/15/04	Wholesale ProdProc	Provisioning, Ordering	See Description of Change

**Director:** Campbell, Bill  
**Originator:** Whitt, Michael      **Originator Company Name:** Qwest Communications  
**Owner:** Buckmaster, Cindy  
**CR PM:** Macy, Cindy

## Description Of Change

Description of Change:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

Description of Change:

This CR details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the U.S. Court of Appeals for the DC Circuit decision 00-1012 (USTA II) which vacated some of the FCC's unbundling rules, and the subsequent FCC Interim Rules which preserved some of the unbundling rules vacated in USTA II.

In accordance with these orders and findings, the following UNE products are no longer available to CLECs unless the most current, effective version of the CLEC's Interconnection Agreement (ICA) or Amendment includes terms, conditions, and pricing for the products before 6/15/04:

- All Enterprise and Mass Market Unbundled Network Elements Switching (UBS) products, detailed in the following Product Catalog (PCAT): <http://www.qwest.com/wholesale/pcat/unswitch.html>
- All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unep.html>
- DS1 Unbundled Loop detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unloopds1caploop.html>
- DS3 Unbundled Loop detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unloopds3caploop.html>
- Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/darkfiber.html>
- DS1 and DS3 Unbundled Dedicated Interoffice Transport (UDIT), including E-UDIT and M-UDIT, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/udit.html>
- DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>
- Unbundled Customer Controlled Rearrangement Element (UCCRE) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/uccre.html>
- DS1 and DS3 Loop Mux Combo detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/lmc.html>

As always, any future changes of law may impact this notification and will be supported by the applicable notification.

Expected Deliverables/Proposed Implementation Date (if applicable):  
Retroactive to 6/15/04 pursuant to FCC Interim Rules, subject to CMP Guidelines.  
Implement PCAT changes retroactive to 6-15-04 subject to CMP Guidelines

## Status History

- 10/27/04: CR Received
- 10/29/04: CR Acknowledged
- 10/29/04: Customer contacted / clarification held
- 10/29/04 - CMPR.10.29.04.F.02250.Regulatory\_CR\_FCC\_Interim
- 11/02/04 - CMPR.11.02.04.F.02261.Regulatory\_CR\_FCC\_Interim
- 11/04/04 - Revised the CR to remove regulatory classification
- 11/04/04 - CMPR.11.04.04.F.02273.Regulatory\_CR\_FCC\_Interim
- 11/09/04 - CMPR.11.09.04.F.02287.Escalation Notification
- 11/10/04 - Revised the CR title, description, scope in the database
- 11/17/04 - November CMP Meeting minutes will be posted to the database
- 12/15/04 - December CMP Meeting minutes will be posted to the database

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Information Current as of: **Wednesday, January 05, 2005**

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## *Project Meetings*

### December CMP Meeting Minutes

Cindy Buckmaster – Qwest advised that we have suggested an Oversight Committee meeting be held. Qwest has scheduled the meeting for December 20 at 1:00 p.m. MT. Liz Balvin – Covad advised that Qwest continues to site law without issuing the CR as Regulatory. Covad believes system edits are in place to not allow CLECs to order products not available. If Qwest sites legal interpretation of law the page and paragraph must be included. Covad is not saying that CMP is or isn't the right forum, but Qwest is trying to make a unilateral decision and we do not know what law Qwest is citing. Qwest doesn't believe the CLECs need to know what page and paragraph are referenced, as the CMP document states. It was agreed more discussion would take place at the Oversight meeting. This CR will move to Development Status.

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### 11/17/04 November meeting minutes

Cindy Buckmaster – Qwest stated that this CR has drawn quite a bit of attention. Qwest would like to clarify the intent of the CR. Cindy advised that we are having an ad hoc meeting on Friday, November 19 to review the documentation and take issues. Qwest apologizes for the confusion as we issued the CR two times. The CR was modified to clarify the scope to include USTA II and FCC Interim Rules. Cindy Buckmaster advised that CLECs who have language in their ICA can continue to order these products and CLEC who do not have language in their ICA can not order the products nor amend their ICA to include such language. Cindy listed the products affected. Josh Theriot – TelWest asked what if a CLEC opts into an existing contract? Cindy Buckmaster – Qwest advised that you are permitted with the exception of the elements cited. David Mittle – TelWest questioned without signing a TRO USTA II agreement a CLEC can opt into a contract?

David advised that Qwest Regulatory has said CLECs can not do this. Cindy Buckmaster – Qwest said that the contract would be modified as it has to be TRO and USTA II compliant. Liz Balvin – Covad advised that we continue to object that Qwest bring (insert comment from Covad / Eschelon) to CMP its legal interpretation. Liz advised that Qwest is using ad hoc meetings to gain insight into the CLECs view of the law and it is inappropriate (end comment). Cindy Buckmaster – Qwest advised this has nothing to do with Qwest telling our interpretation of the law. This is in CMP to advise about a product that is being limited. Liz Balvin – Covad stated that this is more than a product being discontinued. In addition, Qwest can not cite the law and then not call it a Regulatory CR. There are legal means to negotiate agreements. Cindy Buckmaster advised this CR was initially a Regulatory CR and it was opposed. That is why we changed it to a Product Process CR. We are only telling you that you can't have the product if you don't have it in your contract. Liz Balvin – Covad advised the reason they objected to the Regulatory classification is that Qwest didn't cite the page and paragraph. Qwest is still citing the law, (insert comment from Covad/Eschelon) not calling it a regulated changed and that is still out of scope for CMP. Liz advised that Qwest should have followed CMP governing document and not simply converted the systems CR to product and process, that the objections should have been addressed and if agreed to by the community, the CR would have 'crossed over' to product and process. Qwest is trying to manipulate the CMP process to fit their needs. Liz advised that it is inappropriate for Qwest to host an ad hoc meeting. Without following the CMP governing documentation, Qwest is asserting its legal interpretation, and that is the problem (end comment) This should be handled through arbitration of contracts. Cindy Buckmaster restated that if you do not have the products in your contract you can not order them. Qwest does not have an obligation to offer this. David Mittle – TelWest said it is not important to me what Qwest's interpretation is. It should be arbitrated and not unilaterally implemented by Qwest. Cindy Buckmaster – summarized and clarified the discussion - if Qwest sites the page and paragraph, and why it is the law, and if we come to agreement on the language in the CR, than we can move it forward in CMP. Bonnie Johnson – Eschelon said whether or not we agree on the language, this should not be discussed in CMP. We do not discuss legal interpretation in CMP. This should be done in a different forum. Liz Balvin –Covad stated that this is an ICA negotiation discussion. David Mittle – TelWest stated that he still has a concern with how we are treating CLECs without an existing ICA and that they can not opt into existing ICAs. I think the interpretation is wrong and CLECs should be able to do this. Qwest agreed to cancel the November 19 ad hoc meeting and review the CR and provide additional information at a later date.

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