

EXHIBIT D

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA**

IN RE: ACCESS CHARGE CASES CONSOLIDATED FOR DISCOVERY MATTERS	CIV. 08-1003-KES CIV. 07-1016-KES/07-4106-KES CIV. 07-4107-LLP CIV. 08-4172-LLP CIV. 08-4211-LLP CIV. 09-1003-CBK CIV. 09-1004-CBK CIV. 09-4075-LLP JOINT SUBMISSION REGARDING ELECTRONICALLY-STORED INFORMATION
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Consistent with the parties' agreement, electronically stored information (ESI) in the above-captioned Access Charge Cases Consolidated for Discovery Matters this case will be handled as follows:

(a) **Prospective Application.** The parties understand and agree that several parties to these consolidated cases are involved in lawsuits related to similar subject matter, and as a result have already produced documents. The parties agree that they can produce the documents already produced in other proceedings in this case using the exact same format used for producing the documents in the prior case(s). This provision shall not be interpreted to excuse any party from searching for additional documents responsive to the discovery requests propounded in these cases and/or supplementing their production with documents created since productions were made in other lawsuits.

(b) **ESI in general.** The parties have agreed to engage in a reasonable process of producing ESI relevant to the claims and defenses in this action by making a good faith and reasonable inquiry of their ESI systems to identify, collect and process non-

objectionable and relevant ESI from relevant custodians in such a manner that the metadata and original path are preserved. The parties will then conduct a human review of their resulting ESI for responsiveness, privilege and confidentiality. Subject to their objections, the parties will produce responsive electronic documents identified in this process in the form agreed to by the parties.

(b) **E-mail information.** The parties have agreed to take reasonable steps to preserve and collect email from active and archived email repositories of relevant custodians.

(c) **Deleted Information.** Counsel have agreed that they will not undertake forensic recoveries or restoration of deleted information, and will focus discovery on active and archived non-deleted data, having undertaken a reasonable process to preserve active and archived non-deleted data.

(d) **Back-up and archival data.** Counsel agree that data contained only on backup media is not needed and that the parties need not disrupt their routine protocol for recycling of backup media.

(e) **Format and media.** Counsel agree that the format and media to be used in the production of ESI shall be: Electronic Documents (other than electronic spreadsheets) and Hard Copy Paper Documents should be produced in a searchable electronic format. The requesting party may designate in its Requests for Production of Documents whether it prefers to receive documents either searchable PDFs or TIFF images, provided however, that Qwest Communications Company will produce its documents as searchable PDFs and waives its right to designate a desired form of production. If produced as TIFF images, the TIFF images should be produced as a single-page Group IV TIFF format and accompanied by an IPRO LFP load file (or other generally

acceptable load file format). The full extracted or OCR text should be included and produced at a document level and located either in the same folder as their respective document image or in a separate document text folder with an appropriate document text link in the DAT file Metadata information. For all produced documents, metadata should be produced in the Concordance DAT file format, or other mutually acceptable format. The DAT file or other mutually agreeable format should provide the following meta-data fields to the extent reasonably available: custodian name, filename or subject line, original path, author, To, From, CC, BCC, create date, modify or sent date, beginning and ending bates numbers, page count, and attachment range. If a party wants any additional metadata for a particular document, it can request it. If there is a dispute about whether additional metadata need be provided for a particular document, the Court shall resolve the dispute as it would any other discovery dispute.

Electronic spreadsheets should be produced in native format. If any electronic document contains material that is not subject to production, because it contains material protected by the attorney-client privilege, the work product doctrine, or any other reason, but the document also contains material that is subject to production, the document shall not be produced in native format, but rather in the same format described above for documents other than spreadsheets. There should be appropriate redactions. The document shall be noted on a privilege log identifying author, recipients, date, subject matter, and nature of the privilege or other reason to avoid discovery claimed. The native version of the document, including redacted material should be retained.

If the response to any discovery request would require production of CPNI, the parties will meet and confer to decide how to proceed.

(f) **Organization of Production.** Images shall be placed on suitable and appropriate electronic storage media and transmitted to counsel. Each image shall be assigned a production number.

(g) **Reasonably accessible information and costs.** Counsel agree that the parties' discovery needs can be satisfied from reasonably available sources and that restoration of backup media and information in the slack space of computer memory, and recoverable only by forensic means, are not reasonably accessible. Counsel further agree that each party will bear the costs of making its ESI production, including collection, extraction, processing and exporting for production.

(h) **Privileged or trial preparation materials.** Counsel agree that the "claw-back" of inadvertently produced privileged or trial preparation materials shall be governed by the applicable provisions of Rule 26 of the Federal Rules of Civil Procedure, and that such inadvertent production and "clawback" shall not constitute any waiver of such privileges.

(i) **Duty to meet and confer when requesting ESI from nonparties (Fed. R. Civ. P. 45).** Counsel agree to attempt to meet and confer informally with counsel for nonparties when requesting ESI from such parties.

(j) **Production from Databases.** For responsive information stored in databases, including proprietary databases, the form of production will depend upon the type of database and the form(s) which its contents can be produced. The parties shall confer in good faith in an attempt to agree upon a reasonable form of production for such data.