[Service Date January 16, 2004]

BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Six-Month Review of Qwest Corporation's Performance Assurance Plan	)	DOCKET NO. UT-033020
	)	ORDER NO. 05
. . . .	)	ORDER ON ISSUES PENDING IN FIRST SIX-MONTH REVIEW PERIOD

I. SYNOPSIS

1 *In this Order, the Commission:*

- *Denies Qwest's request to remove performance indicator definition (PID) PO-2 from Qwest's Performance Assurance Plan, or QPAP, or in the alternative relieve Qwest of its obligation to make payments under PID PO-2B if Qwest meets or exceeds the standards for PIDs OP-3 and OP-8;*
- *Requires Qwest to modify SGAT Exhibit B to include line splitting as a separate product category, to separately report performance results for line splitting, and to address standards and payment opportunities for line sharing, line splitting, and loop splitting in the Long Term PID Administration (LTPA) collaborative; and*
- *Requires Qwest to modify SGAT Exhibits B and K to include standards in certain PIDs for provisioning enhanced extended links (EELs) and payment opportunities in the QPAP for failure to meet these standards.*

II. BACKGROUND AND PROCEDURAL HISTORY

2 **Nature of the Proceeding.** The Washington Utilities and Transportation Commission (Commission) conducts a review every six months following the December 23, 2002, approval by the Federal Communications Commission (FCC) of Qwest Corporation's (Qwest) Section 271 application for the state of Washington of Qwest's Performance Assurance Plan (QPAP). The review

focuses on whether certain performance measures or performance indicator definitions (PIDs) should be added to, removed from, or revised in the set of performance measures, whether standards should be modified, and whether payment classifications in the QPAP should be modified. The first six-month review period began on June 23, 2003, and closed at the end of December 2003.

3 **Procedural History.** The QPAP is attached as Exhibit K to Qwest's Statement of Generally Available Terms and Conditions, or SGAT. The Commission approved the SGAT and the QPAP on July 1, 2002. *See 39th Supplemental Order, Docket Nos. UT-003022 and UT-003040 (July 1, 2002).* Section 16.1 of the QPAP calls for the Commission to conduct a review of performance measures every six months to determine if measures should be added, deleted, or modified; whether benchmark standards should be modified or replaced by parity standards; and whether payment classifications should be modified. *See Second Amended Exhibit K (October 31, 2003) § 16.1.*

4 Exhibit B to the SGAT includes a comprehensive set of all performance measures for which Qwest must track and report its performance. When performance measures are modified, Qwest must first make changes to SGAT Exhibit B. Only some of the performance measures included in SGAT Exhibit B are included in the QPAP for the purpose of making Tier 1 and Tier 2 payments.[1]

5 On May 15, 2003, the Commission issued a notice in Docket No. UT-033020 to all parties in Docket Nos. UT-003022 and UT-003040, as well as to all competitive local exchange carriers (CLECs) registered in the state and attorneys included on the Commission's telecommunications mailing lists, requesting comments on how the Commission should structure its QPAP six-month review proceeding.

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[1] Tier 1 payments are made to individual competitive local exchange carriers (CLECs) when Qwest fails to meet performance standards when providing service to a particular CLEC. *30th Supplemental Order, Docket Nos. UT-003022 and UT-003040,* ¶ *64.* Tier 2 payments are made to states when Qwest fails to meet performance standards that are critical to a CLEC's ability to compete with Qwest, and for measures that are reported on a regional basis. *Id.*, ¶*80.*

6 On May 30, 2003, the Commission received responses from Eschelon Telecom Inc. (Eschelon), AT&T Communications of the Pacific Northwest, Inc., and AT&T Local Services on behalf of TCG Seattle and TCG Oregon (collectively AT&T), Covad Communications Company (Covad), and Qwest. These companies identified a number of issues to be addressed in a six-month review proceeding, and requested that the Commission address issues first in the Regional Oversight Committee's ad hoc multi-state collaborative, known as the Long-Term PID Administration (LTPA) collaborative.

7 On August 21, 2003, the Commission entered Order No. 01 in this proceeding, directing Commission Staff to participate in the LTPA collaborative, and noting that it would be more efficient to address common issues first in a regional forum.

8 On October 2, 2003, the Commission convened a prehearing conference in this docket in Olympia, Washington, before Administrative Law Judge Ann E. Rendahl. During the conference, some parties requested that the Commission forego the first six-month review period, and begin a proceeding in the second six-month review period in January 2004, following a report from the LTPA collaborative. Others, however, requested that the Commission address certain issues in the first six-month review period, and defer the remaining issues to the LTPA or the next six-month review period.

9 Covad, Eschelon, WorldCom, Inc. on behalf of its regulated subsidiaries in Washington, now known as MCI, Inc. (MCI), and Qwest filed additional comments with the Commission on October 17, 2003, identifying issues that the Commission should consider in the first six-month review period, and issues that could be addressed by the LTPA collaborative or deferred to the next review period. MCI, Qwest, and Commission Staff filed responsive comments with the Commission on October 27, 2003.

10 On November 12, 2003, the administrative law judge entered Order No. 04, an order establishing a procedural schedule for the first six-month review period, and determining that the Commission would address all issues on a paper record. The Order required the parties to file initial and responsive comments addressing (1) the propriety of including PID PO-2 in the QPAP, (2) whether to modify performance standards for line sharing and line splitting, and (3) whether to modify the performance standards for enhanced extended links (EELS) and establish payment opportunities for enhanced extended links (EELs) in the QPAP.

11 Covad, Eschelon, MCI, and Qwest filed initial comments with the Commission concerning these issues on December 8, 2003. On December 29, 2003, Commission Staff, Covad, Eschelon, MCI, and Qwest filed responsive comments with the Commission.

III. MEMORANDUM

A. Inclusion of PO-2 in the QPAP.

12 **1. Background.** In April 2002, in an order addressing the QPAP, the Commission directed Qwest to include PID PO-2 in the QPAP with payment opportunities in the Low Tier 1 and High Tier 2 per occurrence payment categories. *30th Supplemental Order, Docket Nos. UT-003022 and UT-003040,* ¶ *129.* The Commission ordered the inclusion of PO-2 because the measure "is important to a CLEC's ability to compete with Qwest," and found that the measure had been included in the performance assurance plan in Colorado. *Id.*

13 PO-2 is intended to measure "the extent Qwest's processing of CLEC Local Service Requests (LSRs) is completely electronic, focusing on the degree that electronically-transmitted LSRs flow directly to the service order processor

without human intervention or without manual retyping." *Second Amended SGAT Exhibit B (November 19, 2003) at 10.* Any order than does not flow through must be handled manually.

14 PO-2 is disaggregated into four sub-measures, PO-2A-1 and PO-2A-2, which are diagnostic measures, and PO-2B-1 and PO-2B-2, which measure Qwest's performance against a percentage benchmark. PO-2A measures all electronic LSRs that flow through from the CLEC interface (both IMA GUI and IMA EDI)[2] to Qwest's Service Order Processor (SOP) without manual intervention, whereas PO-2B measures the same action for all flow-though eligible electronic LSRs that flow through IMA-GUI and IMA EDI interfaces to Qwest's SOP. Under the requirement to make payments in the high Tier 2 category, Qwest must make a $500 payment to the state each time it fails to meet the benchmark standards established for PID PO-2B-1 and PO-2B-2.

15 Electronic flow-through and manual processing of orders were key issues in dispute during the Commission's review of Qwest's compliance with the requirements of Section 271 of the 1996 Telecommunications Act. The Commission was particularly concerned with Qwest's performance in processing orders electronically, specifically the high number of orders that required manual processing, and the number of errors that occurred when Qwest employees handled orders manually. *See 39th Supplemental Order, Docket Nos. UT-003022 and UT-003040, ¶¶ 54-58, 87.* The Commission recommended that the FCC give less

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[2] "Qwest provides several uniform interfaces to CLECs for their use in pre-ordering, ordering, and maintaining and repairing wholesale services. The Interconnect Mediated Access – Electronic Data Interchange, or IMA-EDI, is an electronic, or computer-to-computer, interface that allows CLECs to perform pre-order inquiries, place orders and obtain order status. The EDI interface extends from the CLEC's OSS application to the Qwest IMA-EDI gateway. *[Citation omitted]* By contrast, Qwest's Interconnect Mediated Access – Graphical User Interface, or IMA-GUI, is a human-to-computer interface used by CLECs to perform pre-order inquiries, place orders, report troubles and obtain order status through a computer workstation connected to Qwest's gateway via a website. *[Citation omitted]" 39th Supplemental Order, Docket Nos. UT-003022 and UT-003040, n.32.*

weight to Qwest's performance data for a certain PID based upon these problems, but recognized that Qwest and CLECs were continuing their efforts to develop a performance standard to measure order accuracy. *Id.*, ¶¶ *57, 59, 87.*

16 In order to address the issue of errors created by the manual processing of orders, Qwest developed a new performance measure—PO-20. On September 26, 2002, the Commission approved Qwest's request to include the new performance measure and payment opportunities in SGAT Exhibit B1 and the QPAP. *See 43rd Supplemental Order, Docket Nos. UT-003022 and UT-003040.* PO-20 measures the accuracy of Qwest's performance in processing certain CLEC LSRs submitted electronically and manually processed by Qwest, regardless of whether the LSRs are flow-though eligible. *See SGAT Exhibit B1 (November 6, 2002).*

17 The Commission approved the measure for inclusion in the QPAP, but required PO-20 to be subject to intensive review and possible modification during the LTPA collaborative review of performance measures, and during the six-month review process, as Qwest had developed the measure without CLEC involvement. *43rd Supplemental Order, Docket Nos. UT-003022 and UT-003040,* ¶¶ *8-10.* PO-20 is subject to a "per measurement payment" under Section 7.4 of the QPAP. *Second Amended Exhibit K (October 31, 2003) § 7.4.* Under this payment scheme, Qwest is required to make a payment to the state, as well as a regional payment to all 14 states in Qwest's region, if its overall performance for the month falls below the percentage benchmark. *Id., Table 5.* Qwest's payments under PO-20 will increase as its performance becomes incrementally worse. *Id.*

18 The QPAP became effective on December 23, 2002. In March 2003, Qwest began reporting its performance results and making necessary payments for failure to meet performance standards for the month of January 2003. Qwest did not meet the benchmark standards for certain products under PID PO-2B, in particular

UNE-P POTS[3] and local number portability (LNP), in January, February, and March 2003, and paid significant amounts in Tier 2 payments. *Qwest Performance Results, Washington, December 2002-November 2003 (December 18, 2003) at 42-43.* Beginning in April 2003, Qwest's performance under PO-2B significantly improved and the Tier 2 payment amounts have fallen dramatically. *Id.* However, since January 2003, Qwest has consistently failed to meet the benchmark standards under PO-2B-1 and PO-2B-2 for LNP orders submitted via IMA GUI and IMA EDI. *Id.*

19 **2. Parties' Positions.** Qwest seeks to remove PO-2 from the QPAP, or in the alternative, stop making payments under PO-2B if it meets performance standards for other measures. Eschelon, MCI, and Commission Staff all object to Qwest's proposal.

20 **Qwest.** In its initial comments, Qwest requests that the Commission remove the payment requirement for PO-2B from the QPAP. In the alternative, Qwest requests that the Commission direct Qwest to refrain from making payments under PO-2B unless Qwest makes payments for missing standards under certain other PIDs "that directly measure the impact of Qwest's performance on CLECs' ability to compete," *i.e.*, OP-3, and OP-8.[4] *Qwest Corporation's Third Comments at 2-3.*

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[3] UNE-P, also known as the unbundled network element (UNE) platform, "consists of a leased combination of the loop, local switching and shared transport UNEs." Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, and 98-147, FCC 03-36 (rel. August 21, 2003) [hereinafter Triennial Review Order], *n.130.* POTS stands for "plain old telephone service," and refers to "basic service supplying standard single line telephones." *Newton's Telecom Dictionary, 15th Edition, at 617.*

[4] OP-3 measures the extent to which Qwest installs services by the scheduled due date, while OP-8 measures timeliness of cutovers of local number portability. *See Second Amended SGAT Exhibit B (November 19, 2003) at 31-33, 48.*

21 Qwest contests the Commission's finding in the Section 271 proceeding that the measure is "important to a CLEC's ability to compete," and asserts that there is no direct harm to CLECs when an LSR fails to flow through electronically. *Id. at 3-4.* Qwest argues that the Colorado Commission included PO-2 in its performance assurance plan before the FCC determined that flow-through rates are only an indicator of OSS performance necessary to CLECs to compete. *Id. at 4, 9.* Qwest asserts that assigning a high Tier 2 payment category to PO-2 is unfair, as flow-through is not a core competitive issue such as other measures in the high Tier 2 category. *Id. at 10.* Qwest notes that it has paid "staggering payments" under PO-2B, without any indication that CLECs have suffered a lack of ability to compete with Qwest due to any failure to flow through orders under the measure. *Id.*

22 Qwest argues that the following "potential impacts" may occur when an order fails to flow through electronically: (1) timeliness of service installation, (2) CLEC expense or use of resources to address LSRs that drop out, and (3) introduction of errors during the manual processing of orders. *Id. at 3.* Qwest asserts that timeliness of service installation is measured by PIDs PO-5, OP-3 and OP-8, which measure timeliness of Firm Order Confirmations (FOCs), installation commitments met, and number portability, respectively. *Id. at 5-7.* Qwest asserts that its performance under PO-5 indicates that Qwest's ability to return timely FOCs is not compromised when LSRs fail to flow through. *Id. at 5.*

23 Qwest proposes that it should be relieved of the requirement to make payments under PO-2B if it meets or exceeds the standards in "corresponding, aggregated sub-parts to OP-3 or OP-8, as applicable." *Id. at 7.* OP-3 measures results for more than ten separate product categories in five different sub-measures. Qwest notes in a footnote that it will provide details for implementing this proposal, such as "weighting methods and flow-through eligible product inclusions . . . upon implementation and first reporting." *Id., n.5.*

24 Qwest argues that CLECs do not become involved when an order drops out, so there is no expense or use of resources by a CLEC. *Id. at 3.* Finally, Qwest argues that two measures, PO-20 and OP-5, directly measure whether errors are introduced during the processing of manual orders. *Id. at 3, 8-9.* PO-20 measures the accuracy of manual service orders, while OP-5, recently modified, evaluates the quality of ordering, provisioning, and installing new services, in particular whether newly installed orders are trouble free after 30 days. *Id.* Qwest notes that participants in the LTPA collaborative are revising PO-20 to improve the measurement of Qwest's ability to process manually handled orders without error. *Id. at 9.*

25 In its responsive comments, Qwest urges the Commission to reject Eschelon's arguments against removing PO-2 from the QPAP. Specifically, Qwest asserts that Eschelon fails to show that any CLEC has been deprived of its ability to compete due to Qwest's performance under measure PO-2B, and that Eschelon mischaracterizes Qwest's performance under PO-2B-1 and PO-2B-2. *Qwest Corporation's Fourth Comments at 5-6.* Qwest asserts that out of 14 states in Qwest's region, the performance assurance plans in only three states, Washington, Colorado, and Minnesota, include measure PO-2B. *Id. at 6-7.* Although Eschelon states that Qwest's request for relief is counter to what other states are requiring, Qwest notes that Eschelon cites action by only one state – Minnesota, which has ordered Qwest to consider adding additional products to PO-2 standards through the LTPA collaborative. *Id. at 7.*

26 **Commission Staff.** Staff recommends that the Commission deny Qwest's request. Staff notes that Qwest has not presented any evidence that CLECs are improperly affecting performance results for PO-2B, an issue of Staff concern. *Commission Staff's Responsive Comments at 5.* Staff asserts that PID PO-2B is a necessary measure of the efficacy of Qwest's OSS system, an important aspect of a CLEC's meaningful opportunity to compete with Qwest in the local market. *Id. at 6.* When orders fail to flow through and drop out, Staff asserts that there is a deficiency in Qwest's OSS systems, and that the performance measure creates an incentive for Qwest to avoid making payments by improving the processing of orders. *Id.* Staff argues that before the Commission considers Qwest's proposal to link PO-2B misses with harm to CLECs, Qwest must provide more data demonstrating the effects of its proposal upon QPAP payments for other measures. *Id. at 7.*

27 **Eschelon.** Eschelon objects to Qwest's request to remove measure PO-2 from the QPAP. Eschelon asserts that it is premature to remove measures at the first six-month review when Qwest's performance under the QPAP after receiving Section 271 authority is still unknown. *Eschelon Initial Comments at 3.* Eschelon asserts that Qwest has failed to meet the performance standards for PO-2B "in 3 out of 4 products in at least one month on an aggregate basis in 2003." *Id. at 3-4.* Eschelon argues that including PO-2B in the QPAP has provided an incentive for Qwest to improve its performance and that the measure should not be removed. *Id. at 4.* Finally, citing to an order recently entered by the Minnesota Public Utilities Commission, Eschelon asserts that "Qwest's proposal goes against the grain of what other states are doing with regard to flow through." *Id.*

28 In response to Qwest's assertion that there is no direct impact to CLECs from the failure of an LSR to flow through electronically, Eschelon discusses Qwest errors that have caused harm to Eschelon in Minnesota. *Eschelon Responsive Comments at 4-5.* Eschelon argues that OP-3 and OP-8 only measure the timeliness of Qwest's efforts to install services and provide LNP, not the accuracy of Qwest's efforts. *Id. at 6.*

29 Eschelon also states that PO-20 is under discussion in the LTPA, and asserts that the measure does not exist and that no payments will be made under the Washington QPAP.[5] *Id.* Even if PO-20 were in place in Washington, Eschelon

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[5] PO-20 is, in fact, included in the Washington QPAP, and Qwest has reported performance under the measure and made per performance payments as provided in Section 7.4 of the QPAP

argues that PO-20 only captures manual errors on inward activity, and that errors in both inward and non-inward activity affect CLECs when Qwest makes an error when manually entering a service order. *Id.* Eschelon asserts that PO-2 is the only PID that measures the flow-through of inward and non-inward orders and addresses the subsequent costs born by CLECs and their end-users. *Id. at 6-7.*

30 **MCI.** In its initial comments, MCI urges the Commission to retain PO-2B in the QPAP, as well as the requirement for Tier 1 and Tier 2 payments, as flow-through is important for CLECs due to the errors that can occur when orders are handled manually. *WorldCom Comments in Response to Order No. 04 at 6.*

31 In its responsive comments, MCI notes that the Commission provided in paragraph 39 of the 33rd Supplemental Order in Docket Nos. UT-003022 and UT-003040 that parties could request that refinements be made to PID PO-2B during the six-month review process, not revisit the Commission's determination to include PO-2B in the QPAP. *MCI's Response Comments at 2.* MCI asserts "Qwest controls whether CLECs are subject to the error prone manual process since it defines what is 'flow-through eligible'." *Id.* MCI also denies that CLEC behavior can affect PO-2B results. *Id.*

32 Finally, MCI contests Qwest's assertion that PO-20 is a more direct means of ensuring accuracy of the manual processing of orders, as PO-20 is under discussion in the LTPA collaborative and not yet included in the PIDs or Washington QPAP.[6] *Id. at 3.* MCI also asserts that PIDs OP-3 and OP-8 measure different aspects of performance than the accuracy of Qwest's manual processing of orders. *Id.*

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for only one month in 2003. *See Second Amended SGAT Exhibit K (October 31, 2003); see also Qwest Performance Results, Washington, December 2002-November 2003 (December 18, 2003) at 63.*

[6] *See, supra, note 5.*

33 **3. Discussion and Decision.** The Commission denies Qwest's request to remove measure PO-2 from the QPAP, as well as Qwest's request for relief from making payments under PO-2B if Qwest meets or exceeds the corresponding aggregate measures in OP-3 and OP-8. It is premature to remove the performance measure from the QPAP, as Qwest continues to make changes to its systems to improve flow-through capability, and other measures that capture similar performance have not been sufficiently developed or tested.

34 Qwest argues that PO-2B does not measure a CLEC's ability to compete with Qwest. The FCC decision Qwest cites does not support Qwest's position. The FCC determined that flow-through rates are "a tool used to indicate a wide range of possible deficiencies in a BOC's OSS that may deny an efficient competitor a meaningful opportunity to compete in the local market."[7] The issue, as Staff aptly points out, is the error-free operation of Qwest's OSS system, for which CLECs pay Qwest every time CLECs submit an order. *See Commission Staff's Responsive Comments at 6.* Performance measures tracking flow-through rates provide an effective tool for state commissions, CLECs, and BOCs to measure the proper operation of the BOC's OSS system. Until other performance measures are shown to provide a substitute for PO-2, the measure should remain in the QPAP, and Qwest should continue to make payments for any failures to perform under the measure.

35 The performance measure appears to have served the purpose of providing an incentive to perform. The QPAP is "a self-executing remedy plan to ensure Qwest's continued compliance with the requirements of Section 271" upon FCC approval of Qwest's Section 271 application for Washington State. *See 30th Supplemental Order, Docket Nos. UT-003022 and UT-003040, ¶ 3.* Although the

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[7] *See Third Comments of Qwest Corporation at 9, n.7, citing* Memorandum Opinion and Order, *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, 16 FCC Rcd 8988 ¶ 77 (2001).

payments Qwest made under PO-2B in the early months of the QPAP were quite large, they provided Qwest with an incentive to correct the problems causing the failure to meet the performance measure. Qwest asserts that PID PO-2B should not be assigned a High level of Tier 2 payments, although the High Tier 2 designation also appears to create incentive for Qwest to make necessary corrections. Qwest reports that it has recently implemented a fix to correct the problem causing its failure to meet PO-2B standards for LNP. After Qwest implements this correction, its payments under the measure may decrease further.

36 Qwest's proposal to be excused from making payments under PO-2B is not sufficiently developed. Qwest offers to provide the details of its proposal upon implementation and first reporting. It would be inappropriate for this Commission to approve such a proposal carte blanche without the opportunity to review and allow comments from other parties concerning the implementation details. In addition, as noted by Eschelon, OP-3 and OP-8 measure only timeliness of performance, not accuracy of order completion. Qwest should continue to explore this proposal, and a proposal for altering the High Tier 2 payment level for PO-2B, with CLECs participating in the LTPA collaborative, and may present the proposal, with all necessary implementation details, to the Commission in the third six-month review period, scheduled to begin in July 2004.

37 Measures PO-20 and OP-5 have not been sufficiently developed or tested to stand as a substitute for PO-2B. Qwest argues that PO-20 and the recent modifications to OP-5 measure the extent to which Qwest accurately processes manual orders and orders generally. However, PO-20 only monitors performance for certain products, i.e., resale POTS, UNE-P POTS, and unbundled loops. In addition, payments under PO-20 are calculated on a per measurement rather than a per occurrence basis, and the PID is under discussion in the LTPA collaborative. Further, Qwest has yet to begin reporting under the new sub-measures for OP-5 that will measure new service provisioning and installation quality. Qwest will begin reporting performance data for these new sub-measures in January 2004 for its performance in November 2003.

38 Qwest may renew its argument for relief from making Tier 2 payments for PO-2B, or seek to modify the level of Tier 2 payments for the PID, in the six-month review period beginning in July 2004. In the meantime, Qwest must seek Commission approval of any modifications to PO-20 developed in the LTPA collaborative, and record at least six months of performance data under the sub-measures recently approved for OP-5.

B. New and Modified Standards for Line Sharing, Line Splitting, and Loop Splitting.

39 **1. Background.** In the recently released Triennial Review Order, the FCC determined that when a CLEC requests a stand-alone UNE loop, an incumbent LEC must provide the CLEC with the ability to engage in line splitting arrangements. *Triennial Review Order, ¶ 251.* The FCC determined that incumbent LECs are not required to make line sharing arrangements available to CLECs, but that CLECs that provide xDSL service through existing line sharing arrangements may continue to do so on a grandfathered basis. *Id., ¶ 255.* Incumbent LECs must modify their OSS systems to facilitate line splitting, and provide access to physical loop test access points on a nondiscriminatory basis for loop testing, maintenance, and repair activities. *Id., ¶ 252.* The FCC encourages incumbent LECs and CLECs "to use existing state commission collaborative and change management processes to address OSS modifications that are necessary to support line splitting." *Id.*

40 Line sharing occurs "when a competing carrier provides xDSL service over the same line that the incumbent LEC uses to provide voice service to a particular end user, with the incumbent LEC using the low frequency portion of the loop and the competing carrier using the HPFL [high frequency portion of the loop]." *Id., ¶ 255.* The FCC defines line splitting to mean "the scenario where one competitive LEC provides narrowband voice service over the low frequency of a loop and a second competitive LEC provides xDSL service over the high frequency portion of that same loop." *Id., ¶ 251.*

41 Qwest's SGAT further distinguishes between line splitting and loop splitting: Line splitting is provided over UNE-P loops, whereas loop splitting is provided over UNE-L loops, which are stand-alone unbundled loops. *See Washington SGAT Eighth Revision (June 25, 2002) §§ 9.21.1 and 9.24.1.* In the Triennial Review Order, the FCC found that CLEC access to local mass-market switching, one of the elements of UNE-P, is impaired, and required the continued availability of UNE-P. *Triennial Review Order, ¶ 459.* The FCC, however, allowed states to review that determination using more detailed and granular information, essentially delegating to state commissions the determination of whether UNE-P will remain an unbundled network element in all or part of each state. *Id., ¶¶ 459-61*.

42 SGAT Exhibit B, Qwest's current set of working PIDs, includes shared-loop/line sharing in the product reporting categories of eleven PIDs: PO-5, OP-3, OP-4, OP-5, OP-6, OP-15, MR-3, MR-4, MR-6, MR-7, and MR-8.[8] *See Second Amended SGAT Exhibit B (November 19, 2003).* PIDs OP-6, OP-15, and MR-7 are reported by Qwest as diagnostic measures, meaning that Qwest is not required to make QPAP payments for failure to meet performance standards. *Id., at 45, 52, 67.* The

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[8] PID PO-5 measures whether Qwest provides firm order confirmations on time, OP-3 measures installation commitments met, OP-4 measures whether Qwest installs products in a certain interval, OP-5 measures new service quality, and OP-6 measures the number of delayed days in provisioning requested products and services. *See Second Amended SGAT Exhibit B (November 19, 2003).* OP-15 measures the extent to which Qwest's pending orders are delayed, and MR-3 and MR-4 measure the timeliness of repairs for specific services, and whether repairs were cleared within 24 or 48 hours, respectively. *Id.* MR-6 measures the mean time for Qwest to restore service, and MR-7 measures the accuracy of repairs and the number of repeated trouble reports, while MR-8 measures the overall rate of trouble reports. *Id.*

remaining eight PIDs discussed above include either percentage benchmark or parity standards for line sharing. *Id., at 15, 32, 36, 41, 58, 60, 64, and 70.* PID MR-4 is not included in the QPAP, and is not subject to payment under the QPAP. *See Second Amended SGAT Exhibit K (October 31, 2003) Attachment 1.* Qwest is required to make Tier 1 and Tier 2 payments under the QPAP for its failure to meet the standards for shared-loop and line sharing products under PIDs PO-5, OP-3, OP-4, OP-5, MR-3, MR-6, and MR-8. *Id.*

43 In July and August, 2003, the Colorado Public Utilities Commission entered orders requiring Qwest to begin reporting line splitting as a separate product for PIDs OP-3, OP-4, OP-5, OP-6, MR-3, MR-4, MR-6, MR-7, and MR-8, excluding PIDs PO-5 and OP-15.[9] The Colorado Commission deferred the issue of establishing performance standards for line splitting until a later date.

44 **2. Parties' Positions.** Covad and MCI filed comments requesting inclusion of line splitting and loop splitting products in existing PIDs and the modification of existing standards for line sharing and shared loop products. Commission Staff recommends that Qwest include line splitting for performance reporting purposes in certain PIDs as required by the Colorado Commission, but recommends the Commission reject the CLECs' proposals to establish performance standards for line splitting and modify standards for line sharing. Qwest generally opposes the modification or inclusion of new products into existing PIDs, but states that it will begin reporting performance for line splitting. Qwest recommends that other line sharing, line splitting, and loop splitting issues be addressed first in the LTPA collaborative.

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[9] *See* Order Addressing the Six-Month Review of the Colorado Performance Assurance Plan, *In the Matter of Qwest Corporation's Colorado Performance Assurance Plan*, Docket No. 02M-259T, Decision No. C03-0733 (July 2, 2003) at 6; *see also* Order Denying Rehearing, Reargument or Reconsideration, *In the Matter of Qwest Corporation's Colorado Performance Assurance Plan*, Docket No. 02M-259T, Decision No. C03-0961 (August 13, 2003) at 6, 12.

45 **Covad.** Covad asserts that UNE-P line splitting and unbundled loop splitting "will continue to grow in volume and importance as competitive alternatives to BOC unbundled offerings as a result of the Triennial Review [Order]." *Covad Communications Company's Comments Pursuant to the Commission Order 04 dated November 12, 2003 (Covad's Comments) at 1-6.* Covad argues that Qwest must add these product categories to the PIDS that currently include shared-loop and line sharing products to ensure that companies and state commissions can monitor Qwest's performance in provisioning these products. *Id.* Without performance standards in the QPAP for line splitting and loop splitting, Covad fears that Qwest will not fulfill its obligations to provide line splitting and loop splitting as the FCC has required in the Triennial Review Order. *Id.*

46 Covad also requests that the Commission establish performance standards for line splitting and loop splitting products if they are included in the PIDs that currently include line sharing and shared loop products. Covad states that performance standards for line splitting and loop splitting under PO-5, OP-3, OP-4, OP-5, MR-3, MR-4, MR-6, MR-7, and MR-8 should be the same as those for line sharing. *Id. at 7-13.* Covad notes that Qwest reached an agreement in Colorado to include line splitting and loop splitting standards in the Colorado PAP for PIDs OP-3 and OP-4, and requests that OP-3 and OP-4 be set at a benchmark standard of 95 percent of line split loops delivered within 3.15 days. *Id. at 8-9; see also Covad Communications Company's Response to Comments Submitted by Qwest Corporation (Covad's Response) at 2.*

47 Covad requests that the Commission modify the standard for PIDs OP-6 and OP-15 for the line sharing/shared-loop products from diagnostic to parity with Qwest DSL. *Covad's Comments at 7.* Covad asserts that the diagnostic standards were established due to low volumes and lack of experience with the product, but that circumstances have since changed. *Id.* Covad also requests that, if line splitting and loop splitting products are included in OP-6 and OP-15, performance standards should be set at parity with Qwest DSL. *Id. at 10-11.*

48 In its responsive comments, Covad requests that the Commission give little credence to Qwest's assertions that there are low volumes of line splitting activity and a continued lack of experience with the product. *Covad's Response at 1.* Covad asserts that Qwest has agreed to include line splitting in PIDs in the LTPA collaborative due to the increasing volumes of line splitting. *Id.* Covad further asserts that line sharing and line splitting are "virtually identical" and that the technical issues involved are very similar. *Id. at 1-2.* Covad notes that Qwest's DSL product is similar and that Qwest has had ample experience in provisioning its own retail DSL service as well as CLEC line shared lines. *Id. at 2.*

49 **MCI.** MCI requests that the Commission address line splitting in this six-month review proceeding rather than wait for review by the LTPA collaborative. *WorldCom Comments in Response to Order No. 04 at 1.* MCI requests that the Commission act now given the requirement in the Triennial Review Order for ILECs to provide CLECs with the ability to engage in line splitting, and because MCI, like other CLECs, currently orders line splitting from Qwest in Washington state. *Id.*

50 MCI also asserts that the Colorado and Minnesota Commissions have incorporated line splitting as a product for performance reporting and payment opportunities in PIDs OP-3, OP-4, OP-5, OP-6, MR-3, MR-6, MR-7, and MR-8 in their respective performance assurance plans. *Id. at 2.* MCI requests that the Commission order Qwest to incorporate the same performance reporting for line splitting in the Washington QPAP. *Id.*

51 MCI notes that it has uncovered several problems with Qwest's reporting of line splitting results in Colorado. *Id. at 2-4.* As a result, MCI requests that the Commission order Qwest to add line splitting as a separate product category to all PIDs where line sharing is included, and that all payments for missed measures should be made separately for line sharing and line splitting. *Id. at 4.*

MCI also requests that the Commission order Qwest to report line splitting performance measurement results and QPAP payment results separately from line sharing results. *Id.*

52 MCI requests that the standard for line splitting under OP-5A, which is currently diagnostic, should be changed to the standard for line sharing, *i.e.*, parity with retail residential and business POTS. *Id.* MCI also requests that the standard for line sharing and line splitting under PID OP-6 be modified from diagnostic to parity with retail residential and business POTS. *Id.*

53 Like Covad, MCI argues that Qwest's assertions of low volumes of line splitting and lack of historical data for any retail comparative service are unfounded. *MCI's Response Comments at 3-4.* Qwest has apparently stated in the LTPA collaborative that line splitting volumes have reached a sufficient threshold to allow reporting for the product. *Id. at 4.*

54 **Commission Staff.** Commission Staff requests that the Commission order Qwest to begin performance reporting for line splitting on the same basis that Qwest currently reports performance for the product in Colorado. *Commission Staff's Responsive Comments at 3.* Staff also requests that the Commission order Qwest to include line splitting as a product separate from line sharing in Exhibit B to the SGAT. *Id.*

55 Staff expresses concerns about Covad's and MCI's proposals to extend requirements for line splitting beyond those ordered in Colorado. *Id.* Staff notes that the LTPA collaborative will address standards for line splitting within the next three to five months, as well as the issue of separate reporting for line splitting and loop splitting. *Id. at 3-4.* Staff recommends that the Commission address these issues, as well as the issues of payment levels and additional PID reporting, in the next six-month review. *Id. at 4.*

56 **Qwest.** Qwest initially asserts that line splitting is a new service, and that it has no proposal for PID standards for line splitting, as the volume of services is low and Qwest has no "historical data for any retail comparative service." *Third Comments of Qwest Corporation at 11.*

57 In its responsive comments, Qwest's states that Covad's and MCI's proposals on line splitting are moot, as Qwest will begin reporting its performance in February 2004 for January 2004 results for line splitting as a separate product under the PIDs identified by Covad and MCI in their comments, consistent with a proposal made to the LTPA in December 2003. *Fourth Comments of Qwest Corporation at 3.* Qwest argues that the LTPA is the appropriate forum to develop performance standards for line splitting and modify standards for line sharing, and that the data reporting should assist in this effort. *Id. at 3-5.*

58 Qwest requests that the Commission reject Covad's proposal to add loop splitting to the QPAP and establish standards for the product, arguing that the issue was not within the scope of the issues to be raised in this six-month review period. *Id. at 2*. Qwest further asserts that it is premature to address loop splitting, as the product does not meet Qwest's proposed reporting threshold. *Id. at 2, 4.*

59 **3. Discussion and Decision.** It is clear from reviewing the Triennial Review Order and the party's comments that line splitting is a product that CLECs will begin to order in larger quantities. Qwest must modify certain performance measures to include line splitting as a separate product category for reporting, as Qwest has agreed to report its performance separately for line splitting for these measures. In order to ensure that Qwest has every incentive to provide CLECs an opportunity to compete in the local market for this product, it will soon be necessary for Qwest to establish performance standards for line splitting within these measures, and set payment levels in the QPAP for performance failures.

60 Based on the information provided by the parties, the Commission orders Qwest to modify SGAT Exhibit B within 30 days of the service date of this Order to include separate product categories for line splitting under PIDs PO-5, OP-3, OP-4, OP-5, OP-6, MR-3, MR-4, MR-6, MR-7, and MR-8 under a diagnostic standard, and to begin reporting performance data for the month of February 2004.

61 Qwest has agreed to begin reporting its performance for line splitting as a separate product under these ten PIDs beginning in February 2004 for its January 2004 performance. Consistent with Qwest's proposal and the Colorado Commission's determinations, Qwest must report its performance in Washington for line splitting separately from line sharing and other shared-loop products.

62 The Commission declines to order Qwest to include performance standards for line splitting in these PIDs or to modify existing standards for line sharing under these PIDs as requested by Covad and MCI. Qwest and Commission Staff demonstrate persuasively that the issues of performance standards for line splitting and modified standards for line sharing are not yet ripe for decision in this six-month review proceeding. The issues are currently slated for discussion in the LTPA in the near future, and reporting data that Qwest collects over the next six-month review period will assist all parties in determining appropriate standards. The Commission continues to find, as we stated in paragraph 17 of Order No. 01 in this proceeding, that all parties and the Commission will benefit from the efficiency and time-savings of addressing common issues first in the LTPA collaborative.

63 The Commission also declines at this time to establish either a separate product category or performance standards for loop splitting. As Qwest notes, the issue was not identified for consideration for the first six-month review in Order No. 04 in this proceeding. It appears premature to address the issue in this six-month

review period. The parties should first address this issue collaboratively in the LTPA process.

C. Standards and Payment Opportunities for EELs.

64 **1. Background.** During the Commission's review of Qwest's compliance with Section 271 requirements and the development of Qwest's QPAP, the Commission considered whether performance measures for enhanced extended links, or EELs,[10] should be included in the QPAP for payment opportunities. The Commission made the following findings and decisions concerning EELs standards:

> We are concerned that Qwest opposes any further additions of measures to the QPAP until the six-month review. We believe that the QPAP must have sufficient measures in place that reflect a broad range of carrier-to-carrier performance at the time Qwest enters the long distance market, including EELs, sub-loops, and line sharing. The Regional Oversight Committee Technical Advisory Group (ROC-TAG) *[Footnote omitted]* recently established a set of performance measures applicable to EELs that includes OP-3, OP-4, OP-5, OP-6, OP-15, MR-5, MR-6, MR-7 and MR-8. Qwest must provide payment opportunities in the QPAP for these measures as the standards are determined and not wait until a six-month review to do so.

30th Supplemental Order, Docket Nos. UT-003022 and UT-003040, ¶ 124.

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[10] Enhanced extended links are a combination of loops and dedicated interoffice transport that may also include multiplexing or concentration capabilities. *See Washington SGAT Eighth Revision (June 25, 2002) § 9.23.3.7.*

65 SGAT Exhibit B includes EELs as a product category in the nine PIDs required by the Commission: OP-3, OP-4, OP-5, OP-6, OP-15, MR-5, MR-6, MR-7, and MR-8. *See Second Amended SGAT Exhibit B (November 19, 2003).* Except for PID OP-3, which includes a 90 percent benchmark standard for EELs, and PID OP-5A, the remaining PIDs include EELs under a diagnostic performance standard. *Id.*

66 In July 2003, Qwest, AT&T, MCI, and Eschelon filed a stipulation with the Colorado Public Utilities Commission agreeing to modify the Colorado performance assurance plan (CPAP) by adding sub-measurements for EELs and establishing standards and payment levels for performance failures. *See Commission Staff's Responsive Comments, Attachment 4.* The stipulation provides for DS1 level EELs to be included in PIDs PO-5, OP-3, OP-4, OP-5, OP-6A, MR-5, MR-6, MR-7, and MR-8 with percentage benchmark and parity standards. *Id.* In an August 2003 order, the Colorado Commission approved the stipulation and required Qwest to modify the CPAP to include the changes agreed to in the stipulation. *Order Denying Rehearing, Reargument or Reconsideration, In the Matter of Qwest Corporation's Colorado Performance Assurance Plan, Docket No. 02M-259T, Decision No. C03-0961 (August 13, 2003) at 2-3.*

67 **2. Parties' Positions.** Eschelon, MCI, Commission Staff, and Qwest filed comments concerning this issue.

68 **Eschelon.** Referring to the Commission's decision concerning EELs standards and payment opportunities, Eschelon requests that the Commission establish the same standards for EELs that Qwest and certain CLECs agreed to and the Colorado Commission adopted in August 2003. *Initial Comments of Eschelon at 2.*

69 Eschelon objects to Qwest's efforts to delay inclusion of EELs into the QPAP. *Responsive Comments of Eschelon at 1-2.* Eschelon asserts that establishing performance standards for EELs fits the requirement for topics eligible for consideration in a six-month review, as establishing such standards will address "an omission or failure to capture intended performance." *Id. at 2, quoting SGAT Exhibit K, § 16.1.* Eschelon objects to Qwest's suggestion that the issue be addressed first in the LTPA, noting that the issue is the 31st of 40 issues pending before the LTPA, and that Qwest has already agreed to the standards in Colorado. *Id. at 2.* Eschelon also objects to Qwest's characterization of the level of EELs competition in Washington, asserting that Qwest's performance reports indicate a total of 974 EELs in place in Washington. *Id. at 2-3.*

70 **MCI.** Like Eschelon, MCI cites to the Commission's decision in the Section 271 proceeding to argue that Qwest is long overdue in modifying the PIDs and the QPAP in Washington to include performance standards and payment opportunities for EELs. *WorldCom Comments in Response to Order No. 04 at 5.* MCI requests that the Commission order Qwest to incorporate the same standards and payment opportunities for EELs into the QPAP as Qwest and other parties agreed to in Colorado. *Id.*

71 MCI objects to Qwest's argument that any standards and payment opportunities for EELs would need to be developed by the ROC TAG. *MCI Response Comments at 5.* MCI argues that the Commission's Order required Qwest to include standards as the standards are determined. *Id.* MCI also asserts that Qwest has failed to discuss EELs standards in the LTPA process, in violation of the Commission's Order. *Id.*

72 **Commission Staff.** Staff notes that the issue of performance standards and payment opportunities for EELs is included the Master Issue Matrix for the LTPA collaborative, but asserts that the Commission should act now by requiring Qwest to incorporate the standards agreed to in Colorado. *Commission Staff's Responsive Comments at 8, Attachment 3.* Commission Staff asserts that the Commission ordered Qwest to establish standards and payment opportunities for EELs in the QPAP without waiting for a six-month review, as the Commission understood the importance of EELs to CLECs. *Id.* Staff proposes

that Qwest file further modifications to SGAT Exhibit B with the Commission if the LTPA collaborative develops regional standards that are different from those agreed to in Colorado. *Id.*

73 **Qwest.** Qwest asserts that the Commission's 30th Supplemental Order in Docket Nos. UT-003022 and UT-003040 required Qwest to establish standards developed by the ROC-TAG. *Third Comments of Qwest Corporation at 11-12; Fourth Comments of Qwest Corporation at 5.* Qwest further asserts that neither the ROC-TAG, nor any other comparable multi-state group, has developed such standards. *Id.* Qwest notes that it has filed with the Commission to include one EEL standard in OP-5A that was developed through the LTPA collaborative. *Third Comments of Qwest Corporation at 12.* Qwest asserts that the LTPA collaborative is the appropriate forum to develop regional standards for EELs and that it is premature to address the issue in this six-month review. *Id. at 12-13; Fourth Comments of Qwest Corporation at 5.*

74 Qwest asserts that it provides payment opportunities for EELs under PIDs PO-5A, and OP-3, and that further development of payment opportunities should follow development of regional standards. *Third Comments of Qwest Corporation at 12.* Qwest argues that the standards agreed to in Colorado are not regional standards. *Id. at 13.* Qwest also asserts that it is not urgent or necessary to resolve the issue in Washington as there are only 16 EELs in place in the state. *Id. at 12.*

75 **3. Discussion and Decision.** The Commission did not intend in the 30th Supplemental Order in the Section 271 proceeding that Qwest only incorporate changes in SGAT Exhibit B and the QPAP agreed to by the ROC-TAG, as Qwest asserts. While Qwest must bring to the Commission for review any changes to the SGAT or QPAP agreed to by the LTPA collaborative or any other regional collaborative group, Qwest is not limited to submitting only regional standards to the Commission.

76 Qwest must also recognize the importance the Commission placed on developing performance standards and payment opportunities for EELs in its 30th Supplemental Order. Eighteen months have passed since the Commission entered that order. Although Qwest has addressed EELs standards and payments in Colorado and entered into an agreement in that state with other CLECs, Qwest has not yet addressed the issue in this state or at a regional level.

77 The Commission finds Staff's proposal to be an equitable one. Qwest must, within 30 days of the service date of this order, incorporate the standards and payment opportunities in SGAT Exhibits B and K to which Qwest stipulated in Colorado, and which the Colorado Commission approved for reporting and payment purposes in the CPAP.

IV. FINDINGS OF FACT

78 Having discussed above in detail the documentary evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues at impasse among the parties and the reasons and bases for those findings and conclusions, the Commission now makes and enters the following summary of those facts. Those portions of the preceding detailed findings pertaining to the ultimate findings stated below are incorporated into the ultimate findings by reference.

79 (1) Qwest Corporation is a Bell operating company within the definition of 47 U.S.C. section 153(4), and incumbent local exchange company, or ILEC, providing local exchange telecommunications service to the public for compensation within the state of Washington.

80 (2) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates and conditions of service of telecommunications companies within the state, and to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the Telecommunications Act of 1996, including the review of Qwest's Statement of Generally Available Terms and Conditions (SGAT) under Section 252(f) of the Act.

81 (3) Qwest's Performance Assurance Plan, or QPAP, is attached as Exhibit K to Qwest's Statement of Generally Available Terms and Conditions (SGAT). Section 16 of the QPAP calls for the Commission to review certain performance measures and performance indicator definitions (PIDs) every six months following FCC approval of Qwest's Section 271 application in Washington State.

82 (4) The performance measures, or PIDs, upon which Qwest reports its performance and makes QPAP payments for failure to meet standards are included in Exhibit B to the SGAT.

83 (5) The FCC approved Qwest's Section 271 application for Washington State on December 23, 2002.

84 (6) The first six-month review period began on June 23, 2003, and closed at the end of December 2003.

85 (7) In Order No. 04 in this proceeding, the Commission agreed to review on a paper record the issues of the propriety of including PID PO-2 in the QPAP, whether to include separate performance standards for line splitting and line sharing, and whether to include performance standards and payment opportunities for enhanced extended links (EELs).

86 (8) In April 2002, the Commission directed Qwest to include PID PO-2 in the QPAP with payment opportunities in the Low Tier 1 and High Tier 2 per occurrence payment categories. PO-2 measures the extent that CLEC electronic orders flow through to Qwest's service order processor without manual processing.

87 (9) Qwest made significant Tier 2 payments under PID PO-2B for the months of January, February, and March 2003. Qwest's performance has since improved and payments have fallen dramatically for this measure.

88 (10) Electronic flow-through and manual processing of orders were key issues in dispute during the Commission's review of Qwest's compliance with the requirements of Section 271 of the 1996 Telecommunications Act.

89 (11) Qwest has recently implemented a fix to correct the problem causing its failure to meet PO-2B standards for local number portability.

90 (12) PIDs OP-3 and OP-8, the measures Qwest seeks to rely on to avoid making payments under PO-2B, measure only timeliness of performance, not the accuracy of order completion.

91 (13) PID PO-20, a measure designed to track the errors created by the manual processing of orders for certain products, is included in SGAT Exhibit B1 in Washington and is subject to payment under the QPAP only on a per measurement basis. PID PO-20 is also subject to further revision in the LTPA collaborative.

92 (14) Qwest will not begin reporting performance data for the recently approved sub-measures for PID OP-5, which measures new service provisioning and installation quality, until January 2004 for its performance in November 2003.

93 (15) Qwest has not provided sufficient details of its proposal to be excused from making payments under PO-2B, offering to provide the details of its proposal only upon implementation and first reporting.

94 (16) The FCC's Triennial Review Order requires ILECs to provide CLECs with the ability to engage in line-splitting arrangements when a CLEC requests a stand-alone UNE loop. The Triennial Review Order also provides that ILECs are no longer required to make line sharing arrangements available to CLECs, except on a grandfathered basis to those CLECs who provide xDSL service through existing line sharing arrangements.

95 (17) Line sharing occurs when a CLEC provides xDSL service using the high frequency portion of the same line or loop that an ILEC uses to provide voice service to an end-user through the low frequency portion of the loop.

96 (18) Line splitting occurs when one CLEC uses the high frequency portion of a line or loop to provide xDSL service and another CLEC uses the low frequency portion of the same line or loop to provide voice service.

97 (19) Qwest's SGAT Exhibit B includes line sharing in the product reporting categories of eleven PIDs: PO-5, OP-3, OP-4, OP-5, OP-6, OP-15, MR-3, MR-4, MR-6, MR-7 and MR-8. *Second Amended SGAT Exhibit B (November 19, 2003).* With the exception of OP-6, OP-15, and MR-7, which are reported under a diagnostic standard, and MR-4, which is not included in the QPAP, Qwest is obligated to make QPAP payments for line sharing under the remaining seven PIDs. *Second Amended SGAT Exhibit K (October 31, 2003), Attachment 1.*

98 (20) Qwest has agreed to begin reporting its performance for line splitting as a separate product from line sharing under PIDs PO-5, OP-3, OP-4, OP-5, OP-6, OP-15, MR-3, MR-4, MR-6, MR-7, and MR-8 beginning in February 2004 for its January 2004 performance.

99 (21) In orders entered in July and August 2003, the Colorado Public Utilities Commission required Qwest to begin reporting line sharing as a separate product for nine of the PIDs discussed above, excluding PIDs PO-5 and OP-15.

100 (22) In paragraph 124 of the 30th Supplemental Order in Docket Nos. UT-003022 and UT-003040, the Commission ordered Qwest to provide payment opportunities in the QPAP for enhanced extended links (EELs) in PIDs OP-3, OP-4, OP-5, OP-6, OP-15, MR-5, MR-6, MR-7 and MR-8 "as the standards are determined and not wait until a six-month review to do so."

101 (23) SGAT Exhibit B includes EELs as a product category in nine PIDs: OP-3, OP-4, OP-5, OP-6, OP-15, MR-5, MR-6, MR-7, and MR-8. Except for PID OP-3, which includes a 90 percent benchmark standard for EELs, and PID OP-5A, the remaining PIDs include EELs under a diagnostic performance standard. Qwest is only obligated to make QPAP payments for failures to meet standards in OP-3 and OP-5A.

102 (24) In August 2003, the Colorado Public Utilities Commission approved a stipulation between Qwest, AT&T, MCI, and Eschelon that provides for DS1 level EELs to be included in PIDs PO-5, OP-3, OP-4, OP-5, OP-6A, MR-5, MR-6, MR-7, and MR-8 with percentage benchmark and parity standards. The Colorado Commission required Qwest to modify the Colorado Performance Assurance Plan to include the changes agreed to in the stipulation.

103 (25) EELs standards and payment opportunities are included as the 31st of 40 issues pending before the LTPA collaborative.

V. CONCLUSIONS OF LAW

104 Having discussed above in detail all matters material to this decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.

105 (1) The Commission has jurisdiction over the subject matter of this proceeding and the parties to the proceeding.

106 (2) Performance measures that track flow-through rates provide an effective tool for state commissions, CLECS, and BOCs to measure the proper operation of the BOC's OSS system.

107 (3) Performance measure PO-2 has been, and continues to be, effective in creating an incentive for Qwest to improve its performance in the flow-through of electronic orders.

108 (4) It is premature to remove PID PO-2 from the QPAP as Qwest continues to make changes to its systems to improve flow-through capability.

109 (5) It is premature to approve Qwest's alternative proposal for relief from making payments under PO-2B, as the details of its proposal are not yet available and other measures that capture similar performance, PIDs PO-20 and OP-5, have not been sufficiently developed or tested.

110 (6) The issues of establishing performance standards for line splitting and modifying standards for line sharing are not yet ripe for decision in this six-month review proceeding, as the issues are currently slated for discussion in the LTPA in the near future, and reporting data that Qwest collects over the next six-month review period will assist all parties in determining appropriate standards.

111 (7) It is premature to address in this six-month review period the issues of establishing separate product categories and performance standards for loop splitting, as the issue was not identified for consideration in the first six-month review in Order No. 04 in this proceeding.

112 (8) Paragraph 124 of the Commission's 30th Supplemental Order in Docket Nos. UT-003022 and UT-003040 did not limit Qwest to submitting to the Commission changes to SGAT Exhibit B and the QPAP developed only by the ROC-TAG. In addition, Qwest is not limited to submitting only regional standards to the Commission.

113 (9) Staff's proposal that the Commission require Qwest to modify SGAT Exhibits B and K to incorporate the terms of the settlement agreement regarding EELs reached in Colorado is an equitable resolution of the issue.

VI. ORDER

THE COMMISSION ORDERS:

114 (1) Qwest Corporation's request to remove PID PO-2 from its performance assurance plan, the QPAP, is denied. Qwest's alternative request for relief from making QPAP payments under PID PO-2B if it meets or exceeds the corresponding aggregate measures in PIDs OP-3 and OP-8 is also denied.

115 (2) Qwest must seek Commission approval of any modifications to PID PO-20 developed in the Long Term PID Administration collaborative, and record at least six months of performance data under the sub-measures recently approved for PID OP-5 before renewing its argument for relief from making Tier 2 payments for PID PO-2B, or modifying the level of Tier 2 payments under the PID, in the six-month review period beginning in July 2004.

116 (3) Qwest must modify SGAT Exhibit B within 30 days of the service date of this Order to include a product category for line splitting separate from line sharing under PIDs PO-5, OP-3, OP-4, OP-5, OP-6, MR-3, MR-4, MR-6, MR-7, and MR-8, and report performance results under a diagnostic standard.

117 (4) Qwest must address first in the LTPA collaborative the issues of modifying existing line sharing performance standards, and including performance standards and payment opportunities for line splitting and loop splitting.

118 (5) Qwest must, within 30 days of the service date of this Order, incorporate in SGAT Exhibits B and K the standards and payment opportunities for enhanced electronic links to which Qwest stipulated in Colorado, and that the Colorado Commission approved for reporting and payment purposes in the Colorado performance assurance plan.

Dated at Olympia, Washington, and effective this 16th day of January, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: Order No. 05 in Docket No. UT-033020 is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.