

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

Docket No. UT-033020

IN THE MATTER OF THE SIX-MONTH REVIEW OF QWEST CORPORATION'S
PERFORMANCE ASSURANCE PLAN

Introduction

On January 16, 2004, this Commission ruled that:

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.¹

On January 26, 2004, Qwest Corporation (Qwest) filed with the Commission a Petition for Clarification of certain requirements in that Order. Qwest proposes that it be "required to process payments to CLECs in May, 2004, for service rendered and reported beginning April 1, 2004..."²

On January 27, 2004, Qwest filed its Second Erratum to the Petition. Qwest proposes that payments commence, instead, with May 2004 performance.

Also on January 27, 2004, the Commission requested responses from the parties concerning Qwest's petition. Specifically, the Commission sought a response to Qwest's statement that "Changes in PIDs [Performance Indicator Definitions] are effective sixty days after filing," as well as Qwest's proposed dates for reporting and making payments for new standards for enhanced extended links (EELs).

¹ ORDER ON ISSUES PENDING IN FIRST SIX-MONTH REVIEW PERIOD, In the Matter of the Six-Month Review of Qwest Corporation's Performance Assurance Plan, DOCKET NO. UT-033020, ORDER NO. 05, January 16, 2004 at 33.

² Qwest Petition at 2.

Eschelon opposes Qwest's request to further delay the establishment of standards under the PAP for EELs. Eschelon requests that the Commission confirm that Qwest is required to make EEL PAP payments to any CLEC operating under a PAP beginning on February 17, 2004. Any CLEC opting into the PAP after February 17, 2004 should receive payments based on that opt-in date.

Comments

In April, 2002, this Commission ordered 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."³ The Commission determined that "Qwest must provide payment opportunities in the QPAP for these measures as standards are determined and not wait until a six-month review to do so."⁴

In ordering Qwest to comply with the agreed upon EEL standards from Colorado, this Commission ruled that:

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.⁵

Instead of simply implementing the standards under the QPAP within 30 days of the order, Qwest now requests that it should only have to meet EEL standards beginning in May 2004. Qwest's reasons for this further delay are not compelling for the following reasons.

I. Qwest's statement that EELs represent "new product disaggregations for Washington" is incorrect.⁶

Qwest has disaggregated EEL performance under the affected PIDs for more than a year.⁷

³ Thirtieth Supplemental Order in the Matter of the Investigation into U S WEST Communications Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. UT-003022 and In the Matter of U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996, Docket No. UT-003040, April 5, 2002 at 33.

⁴ See Id.

⁵ ORDER NO. 5 at 26.

⁶ Petition at 1.

⁷ See, for example, Qwest's aggregate Washington PID report for OP-4D, http://www.qwest.com/wholesale/downloads/2003/031219/WA_271_Dec02-Nov03_Exhibit_PID-Final.pdf at 99.

II. Qwest's statement that it has "no process to disaggregate new products for payment and reporting on other than a calendar month basis" is incorrect.⁸

Qwest frequently must prorate PAP payments based on partial month performance. For example, Eschelon's opt-in date for the PAP was in the middle of month. Qwest calculated the PAP payment for the entire month and multiplied the payment by the percentage of the month the PAP amendment was in force to calculate Eschelon's bill credit.

In this case, Qwest can calculate the EEL remedies for a CLEC for the month of February and multiply by 0.414 to implement the Commission's directive. If Qwest believes the cost of implementing a "process" to perform this arithmetic is too high, it can choose to credit the entire amount.

Qwest's PAP reports to Eschelon demonstrate that Qwest has the ability to implement the payment regime in Washington already. In Eschelon's October PAP report, Qwest calculated payments for EELs under MR-5 and MR-8 as if standards were in place. While Qwest corrected this error on its November report (and removed the bill credit), this episode illustrates the ease of implementing EEL standards.

Finally, it should be noted that even if Qwest's assertions regarding partial months were true, it would at most justify beginning payments on March 1, 2004 (not May 1, 2004).

III. Qwest's statement that "[c]hanges in PIDs are effective sixty days after filing" has no basis and is irrelevant.

Qwest has been required to file revised Exhibits B and K to its SGAT by February 17, 2004. Qwest has not explained why "[c]hanges in PIDs are effective sixty days after filing." There is no reference to this provision in the PAP. Perhaps Qwest is referring to Section 252(f)(3)(B) of the Act, which allows an SGAT to go into effect if the Commission does not reject the filing within 60 days. Even so, the outcome of the Commission's decision on the SGAT should have no impact on CLECs like Eschelon that already operate under a PAP that is being modified pursuant to Section 16.

⁸ Petition at 1. Qwest's Second Errata retains this statement and adds that "Qwest currently does not have the capability by individual product to prorate or apply payments based on less than one month's reported data." Emphasis in original.

Conclusion

Eschelon requests that the Commission confirm that Qwest is required to make any required EEL PAP payments to CLECs operating under a PAP effective February 17, 2004. Qwest has demonstrated the ability to calculate PAP payments for EELs in Colorado and Washington and thus has no basis for delaying EEL standards by an additional three months.

Dated: January 29, 2004

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