

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

QWEST CORPORATION
Petition for Commission Approval of
Stipulation Regarding Certain
Performance Indicator Definitions and
Qwest Performance Assurance Plan
Provisions

DOCKET NO. UT-073034

NARRATIVE IN SUPPORT OF
2008 PARTIAL SETTLEMENT
AGREEMENT

I. INTRODUCTION

- 1 On June 26, 2007, Qwest Corporation (“Qwest”), on behalf of itself, Eschelon Telecom, Inc. (“Eschelon”), Covad Communications Company (“Covad”) and McLeodUSA Telecommunications Services, Inc. (“McLeodUSA”), filed a Petition with the Washington Utilities and Transportation Commission (“Commission”), asking it to consider and approve a Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions (“2007 Stipulation”).
- 2 On August 15, 2007 the following companies filed petitions to intervene, which were granted on August 23, 2007: Integra Telecom of Washington, Inc. (“Integra”), Time Warner Telecom of Washington, LLC. (“TWTC”), and XO Communications Services, Inc. (“XO”). In addition, Commission Staff (“Staff”) is a party to this proceeding.

- 3 September 12, 2007, the parties listed in paragraph 1 above filed a “Narrative in Support of Settlement Agreement” (“2007 Narrative”) as required by Commission rule.
- 4 Subsequently, on October 25, 2007, the Commission entered Order 04, converting the docket to a six-month review proceeding as contemplated by Section 16.1 of the QPAP and vacating the previously established procedural schedule in this docket. In accordance with the procedural schedule established in Order 04, additional interventions were permitted, though no petitions to intervene were filed. The parties identified in paragraphs 1 and 2 then agreed on a Final Issues List, and proceeded to engage in settlement negotiations in furtherance of a resolution of those issues. Those negotiations resulted in a partial settlement agreement (“2008 Partial Settlement”) which is filed contemporaneously herewith.
- 5 Qwest, on behalf of the parties to the 2008 Partial Settlement, hereby submits the following Narrative as required by rule. The Narrative is not intended to modify any terms of the 2008 Partial Settlement and, if there are any inconsistencies between this Narrative and the 2008 Partial Settlement, the 2008 Partial Settlement controls.
- 6 The 2007 Stipulation remains in existence as between the parties to that agreement, except as expressly modified in the 2008 Partial Settlement. The parties to the 2007 Stipulation believe that the Narrative in support of the 2007 Stipulation continues to support Commission approval of that Stipulation in its entirety, except as expressly modified in the 2008 Partial Settlement. Furthermore, that Narrative supports this 2008 Partial Settlement on the issues that all parties have agreed upon.

II. SCOPE OF THE UNDERLYING DISPUTE AND SCOPE OF THE SETTLEMENT

7 This submission results from negotiations among certain Competitive Local Exchange Carriers (“CLECs”), Staff, and Qwest. A summary of the provisions of the proposed Stipulation applicable to Washington, including the scope of the dispute and settlements, is provided below. The issues are listed in the order shown on the Final Issues List dated December 21, 2007.

Changes to the Performance Assurance Plan

8 Issue: AFOR Compliance - Whether - and if so, how - the PAP should be modified to reflect the requirements of the Commission’s orders in UT-061625.

Resolution: The parties agreed to modify various PAP provisions to link them to the AFOR orders as set forth in the 2008 Partial Settlement. Qwest further agrees to allow CLECs with existing QPP and QLSP commercial agreements (under which Qwest provides services that substitute for the now de-listed unbundled network element platform, or “UNE-P”) to adopt, prior to the expiration of their current commercial agreements, a QLSP agreement to which the PAP terms apply. Qwest’s current QLSP is available at <http://www.qwest.com/wholesale/downloads/2007/071127/Commercial-QLSP-MSA-v4-11-16-07.doc>.

9 Issue: SGAT Availability and LTPA Status - Whether – and if so, how – the PAP should be modified to reflect current SGAT availability and current LTPA status.

Resolution: The parties agreed to add the footnotes shown on the redlined PAP as footnote 1 and footnote 6, and that no other modification to the PAP should be made at this time.

10 Issue: Reinstatement/Removal - Whether to establish a Reinstatement/Removal process for the following PIDs: GA-3, GA-4, GA-7, PO-2B, PO-3, PO-5D, PO-7, PO-8, PO-16, OP-7, OP-17, MR-11, BI-4, NI-1, NP-1 and CP-3. [PAP §3, 2007 Stipulation¹]

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

11 Issue: One Allowable Miss - Whether to add one allowable miss provision to the PAP for individual CLEC results when the CLEC aggregate results have met the standard. [PAP §3, 2007 Stipulation]

Resolution: All Parties except Staff, XO, and TWTC agree that this issue should be resolved in accordance with the 2007 Stipulation. Qwest and Staff will be filing comments addressing this issue, and other parties may file as well.

12 Issue: Tier 1 Payment Cap - Whether the six-month cap on Tier 1 escalation payment amounts should be eliminated so that payments will continue to increase in the event the payment level indicator increases beyond payment level 6. [PAP §6.2, 2007 Stipulation]

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

13 Issue: Minimum Payments - Whether the flat minimum payment amount of \$2000 should be changed to a tiered minimum payment approach that establishes a relationship between the

¹ Issues from stipulation between Qwest Corporation, Eschelon Telecom, Inc., DIECA Communications, Inc. d/b/a Covad Communications Company, and McLeodUSA Telecommunications Services, Inc. Qwest believes the Stipulation issues should be considered as a whole but does not object to their categorization for purposes of this issues list.

monthly PAP payment and the required minimum payment amount. **[PAP §6.4, 2007**

Stipulation]

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

- 14 Issue: Tier 2 Payments - Whether to change the monthly payment trigger in Sections 7.3 and 9 of the PAP such that Tier 2 payments will be based on the number of performance measurements exceeding critical z-value for three consecutive months unless there have been two misses in any three consecutive months during the past 12 months. If there have been two misses in any three consecutive months during the last 12 months, Tier 2 payments will be triggered by either two additional consecutive months' misses (for PIDs that are classified as both Tier 1 and Tier 2) or the current month's miss (for PIDs that are Tier 2 only). **[PAP §7.3, PAP §9, 2007 Stipulation]**

Resolution: All Parties except Staff, XO, and TWTC agree that this issue should be resolved in accordance with the 2007 Stipulation. Qwest and Staff will be filing comments addressing this issue, and other parties may as well.

- 15 Issue: Root Cause Analysis - Whether to add a root cause analysis provision for retaining or removing PIDs as part of Reinstatement/Removal. **[PAP §16, 2007 Stipulation]**

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

Whether Measurements Should Be Added, Deleted, or Modified

- 16 Issue: ISDN BRI - Whether PID references to unbundled 2-wire non-loaded loop and unbundled ISDN capable loop disaggregations should be updated to reflect the retail analogue of “ISDN BRI (designed).” **[2007 Stipulation]**

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

- 17 Issue: Resale DSL - Whether to eliminate resale DSL from PIDs, modifying multiple PID references to Qwest DSL and removing Section 10 PAP references to megabit resale. **[2007 Stipulation]**

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

- 18 Issue: EDI to XML - Whether PIDs GA-2, GA-7, PO-1, PO-2, PO-3, PO-5, PO-6, PO-7, PO-8, PO-16, and PO-20 should be modified as a result of the change from EDI to XML. **[Eschelon comments 12/10/07]**

Resolution: All Parties agree that this issue should be resolved in accordance with the language in Section 7.4 of the redlined PAP, and Attachment 1, note “h”. In addition, the redlined PIDs to implement this resolution are shown in Exhibit 3 to the 2008 Partial Settlement.

- 19 Issue: One hour tickets - Whether MR-6 PID should allow No Trouble Found (NTF) and Test Okay (TOK) trouble reports to be removed when the ticket’s duration is one hour or less.

[MR-6, 2007 Stipulation]

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

20 Issue: Low-volume Product Disaggregations - Whether to remove the following product disaggregations from all applicable OP and MR PIDs in the WA PAP: Resale Centrex, Resale Centrex 21, Resale DS0, E911/911 Trunks, Resale Frame Relay, Resale Basic ISDN, Resale Primary ISDN, Resale PBX, Sub-loop Unbundling, UNE-P POTS, UNE-P Centrex and UNE-P Centrex 21. (Resulting PAP changes would include removal of UNE-P POTS from Section 10, the addition of footnote “g” to Attachment 1 and removal of sub-loop unbundling from Attachment 3). **[2007 Stipulation]**

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation as modified by the following agreement. The 2007 Stipulation included an agreement to remove 12 product disaggregations of all the applicable OP and MR PIDs from the PAP (though the results of these product disaggregations would continue to be reported in the Sec. 271 performance reports). Among the product disaggregations to be removed because of low volumes is UNE-P POTS.

The parties to this 2008 Partial Settlement agree that, notwithstanding the 2007 Stipulation, the UNE-P POTS product disaggregation in the applicable OP and MR PIDs will not immediately be removed from the Washington PAP, but instead will be applied to services Qwest provides under QLSP commercial agreements for which the terms of the PAP apply.

The UNE-P POTS disaggregation of the applicable OP and MR PIDs will remain in the Washington PAP for 90 days following a 30 day period during which Qwest will allow CLECs with existing QPP and QLSP agreements to enter into QLSP agreements for which the PAP terms and conditions apply.

If, at the end of the 90 day period, the total number of CLEC orders completed for UNE-P POTS in OP-4 is less than or equal to 165 orders, Qwest may implement the removal of the UNE-P POTS product disaggregation in the OP and MR PIDs from the Washington PAP.

If the UNE-P POTS product disaggregation experiences more than 165 orders, the product disaggregation of all applicable OP and MR PIDs will remain in the Washington PAP.

- 21 Issue: LNP title - Whether the MR-11 PID title should be changed to “LNP Trouble Reports Cleared within Specified Timeframes.” **[MR-11, 2007 Stipulation]**

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

- 22 Issue: Manual Service Orders - Whether PO-20 should be updated to reflect it is fully implemented by making PID and PAP revisions specified in the 2007 Stipulation. **[Phases, PO-20, 2007 Stipulation]**

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

- 23 Issue: Standard service interval for splitter collocation - Whether the CP-1, 2 and 4 PIDs

should be modified to define intervals for splitter collocation when no interval is specified in individual ICAs. [CP-1, 2, 4]

Resolution: The Parties agree that no modification is required.

Whether Applicable Benchmark Standards should be Modified or Replaced by Parity Standards

- 24 Issue: UNE billing accuracy - Whether the standard for BI-3A PID should be changed from parity to a 98% benchmark and, if so, add a provision to the PAP for the BI-3A PAP payment calculation, creating a tiered structure of per occurrence amounts and modifying the per measurement cap for the sub-measure. [BI-3A, 2007 Stipulation]

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation.

Other Issues

- 25 The parties have agreed to certain additional changes in the PAP that are not tied to a specific issue but rather are administrative changes, including correction of typographical errors, minor wording changes, spacing changes, changes in reference from “QPAP” to “PAP,” as shown in the redlined PAP.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

- 26 The Parties agree that the 2008 Partial Settlement satisfies their interests and the public interest in resolving the issues as set forth herein. It resolves issues without the time, expense, and uncertainty of litigation.
- 27 Where PIDs were removed from the payment mechanism of the PAP, the PAP provides for

Qwest's continued performance reporting and tracking of avoided payments, and the opportunity for retroactive reinstatement if Qwest's performance on the measures falls below an agreed upon standard.

- 28 The Commission required as a condition of AFOR approval that the terms of the PAP apply to all wholesale services provided by Qwest as UNE substitutes, "unless the parties agree otherwise." Qwest asserts that the Commission did not require Qwest to offer PAP terms to CLECs under existing commercial agreements, who had previously agreed that the PAP should not apply to their agreements.
- 29 As a compromise, however, Qwest has agreed that it will allow its wholesale QPP and QLSP customers the ability to terminate their existing QPP or QLSP Agreements early and to execute the current version of the QLSP Agreement that includes the PID/PAP service performance option.
- 30 Another issue that is resolved in the Partial Settlement is the question of whether ordering and provisioning (OP) and maintenance and repair (MR) PIDs should apply to the services provided under those agreements, where applicable PID disaggregations for OP and MR were to be removed from the PAP under the "low volume product disaggregation removal" provision of the 2007 Stipulation. Qwest asserted that, under the Commission's AFOR orders, the PAP need only apply in its current form to the agreements. However, Qwest compromised by agreeing to keep the UNE-P POTS product disaggregation for application to services provided under QPP and QLSP, subject to a test period to determine whether the volume of orders justifies retaining the product disaggregation.

- 31 Staff believes Qwest's agreement to re-open existing agreements, and to make the PAP immediately available to its wholesale customers, with ordering and provisioning and maintenance and repair measures in place, will be beneficial to competition and to the public interest. In order to determine the number of wholesale customers and end-users affected by this issue, Staff reviewed the commercial agreements posted on Qwest's website. The PAP was not available during the negotiation of the 353 commercial agreements currently posted on Qwest's website. After removing agreements to which PAP terms would not apply, Staff was left with a list of about 90 agreements that Staff asserted should have the PAP apply to them. One-third of the current agreements are for the QPP commercial agreement (through which Qwest provides service as a substitute for the now de-listed unbundled network element platform, or UNE-P) and will expire on July 31, 2008. Another one-fourth of the agreements are for the QLSP commercial agreement (which also provides a substitute for UNE-P) and will not expire until 2011.
- 32 Qwest confirms that it provides approximately 80,000 of these commercial platform service lines to over 30 CLECs in the state of Washington. As noted above, the parties disagree as to the potential applicability of the PAP to the services in existing CLEC agreements, to which they are currently bound.
- 33 For purposes of settlement Qwest is willing to offer this opportunity for PAP application. The public interest is served by this provision through broader availability of PAP terms than would otherwise exist.
- 34 In addition, the parties negotiated a resolution to an issue raised in connection with OP-4. The

issue is that Special Access/Private Line DS1s have a different standard interval (9 days) than the standard interval for DS1 UNE Loop (5 days) and DS1 EEL (5 days). The PID benchmarks are based on the shorter UNE intervals. Qwest objected to including those services in the PID because timely provisioning of those services would have been counted as a “miss” for UNE services. Qwest argued that the AFOR does not require the creation of a new product disaggregation for the Special Access/Private Line circuits. Thus, Qwest proposed to exclude them from OP-4 PAP results. The parties compromised by agreeing to include these services and to adjust the benchmark accordingly.

35 Staff believes that resolving the issues in this docket without litigation, through agreement to allow all but the highest financial-based impact changes in the 2007 Stipulation to go into effect, is in the public interest.

36 The above summary of the proposals and compromises reached indicates that the resolution reached in the Stipulation is a considered result, negotiated by Parties who had conflicting interests, thereby ensuring a disciplined result. Consistent with the state’s and the Commission’s stated preference for negotiated results, the parties believe that the 2008 Partial Settlement is a fair result of the negotiation process and benefits all parties, as well as the Commission, by minimizing the costs of litigation and arriving at standards that are consistent with the public interest.

IV. RELIEF REQUESTED

37 Qwest, on behalf of itself and the Stipulating Parties, respectfully requests that the Commission approve the 2008 Partial Settlement, thereby allowing the agreed or uncontested

provisions of the 2007 Stipulation to become effective. Each party who wishes to comment on the recommended resolution of the disputed issues will do so in separate filings, in accordance with the procedural schedule in this docket.

DATED this 2nd day of April, 2008.

QWEST

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