

3. On June 25, 2004, the Parties filed a Final Issues List and matrix detailing the issues and Parties' positions on the issues in this Second Six-Month Review. The issues included the following:

- Line Splitting: what standard should be used for this product for the MR-3, 4, 6 and 8 and the OP-5 PIDs?
- Loop Splitting: should this product be added to the PO-5, OP-3 through 6, OP-15, MR-3, MR-4, MR-6, 7 and 8 PIDs, and if so, what standard should apply?
- XDSL-i products: should these products be added to the PIDs, and if so how should this be done and what standard should apply, and if not what alternative to adding the products to the PIDs should be approved?
- PO-20: How will the new PO-20 be incorporated into Exhibit B, to what tier should this new PID be assigned, and should Qwest be allowed a low volume exception and a burn-in period for implementation?
- What changes if any should be made to modify the QPAP for Qwest's May 6, 2004 filing that changed Exhibit B to reflect LTPA agreements?
- Should Qwest be required to publish its aggregate payments under QPAP? (Eschelon)
- Should a low-volume exception to QPAP payment requirements exist for the line splitting product as measured by the OP-3 PID? (Qwest)

Scope of the Settlement and its Principal Aspects

4. The Stipulating Parties have agreed, and Qwest respectfully recommends, that the Commission issue its Order approving the disposition of the above listed issues, as described in the Settlement Agreement filed simultaneously with this Narrative. The Settlement is intended to be a resolution of the issues that existed between the Stipulating Parties in this proceeding, with the exception of the Tier 2 designation for PO-20. Regarding the Tier 2 designation for PO-20, MCI, Eschelon, and Covad ("CLECs") have agreed that they will not request or, if already requested, will withdraw their request for a Tier 2 designation, but the Stipulation provides that the Staff may continue to pursue the Tier 2 designation issue, if desired. (*See* footnote 3 to the Stipulation.). The Settlement states that the Stipulating Parties,

at arms' length and with full knowledge of the facts, recommend that this Stipulation be approved by the Commission as it is consistent with the Federal Telecommunications Act of 1996 ("the Act") and this Commission's prior orders regarding the QPAP.

The Settlement Serves the Interests of the Parties and the Public Interest

5. The terms of the Stipulation serve the public interest and the interests of the Parties. Qwest submits that the resolution of the issues will enable the Stipulating Parties to avoid the costs and resource constraints of litigating these issues without sacrificing their ability to provide satisfactory service quality to their end user customers. Other than the specific exceptions set forth in the Settlement Agreement, Qwest has entered into this Stipulation with the intent that it be submitted to and recommended by Qwest and these same other Parties to the other commissions in Qwest's local region. Consequently, Qwest and the other Stipulating Parties and other commissions will avoid expensive and time consuming litigation throughout the Qwest region. Although a hearing may be required to address the remaining issues between Staff and Qwest, the hearing will be streamlined by the absence of the Stipulating Parties and their respective disputes.

Legal Points

6. The Commission should approve the Stipulation to further the goals established by the Commission when adopting the PIDs and QPAP. The enhancements adopted in the Stipulation will be implemented earlier because of the Stipulation, than if extended proceedings were required. The Washington QPAP is a voluntary undertaking by Qwest. The parties have negotiated amendments to the QPAP and certain PIDs which they are submitting to the Commission under Section 16.1. The policy of the law is to favor

settlement of disputes. The disputes in this case have been resolved by arms' length bargaining by parties with adverse interests, and the settlement represents an appropriate balance of those competing interests. The purpose of the QPAP is to prevent backsliding by Qwest in the opening of the local markets to competition. Appropriate guidance is found in the Commission's order approving the QPAP which stated the principles to be used in evaluating all aspects of the plan. The Commission stated that preservation of competition, post Qwest's entry into the long distance business, was the guiding principle. *In the Matter of the Investigation into U S WEST Communications' Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. UT-003022, Thirtieth Supplemental Order, April 5, 2002 at para. 129.

The provisions of the Settlement of Disputed Issues meet this test. The resolution of the issue of the standard for Line Splitting, that of parity with Qwest DSL, meets the test because Qwest DSL is the retail service that competes with services CLECs provide with Line Splitting. The resolution of the issue of including Loop Splitting in the PIDs under a diagnostic standard after CLECs order it in any quantities over three consecutive months meets the test because at such time as Loop Splitting begins to be used by CLECs to compete, it will be reported as a separate product. The issue of the standard for x-DSL loops meets the test because the loops will be reported as a separate product, and Qwest's performance in providing this product can therefore be directly monitored for purposes of determining that competition is preserved. The issues of incorporation of Expanded PO-20 into the QPAP and the tier assignment of Expanded PO-20 meets the test because the PID is given a Tier 1 Medium assignment that is appropriate to the nature of the measurement, and like most other

PO measurements, it is not given a Tier 2 assignment. This is also appropriate because the CLECs and Qwest have agreed on a compromise of competing positions on this issue. The issue of the burn in period and low volume relief for PO-20 meets the test because the settlement is reasonable and it is generally consistent with the determination of the Colorado Commission on these issues. The issue of the aggregate payment report meets this test because it satisfies the desire of the CLECs for aggregate payment reports.

7. If the Commission finds it necessary, Qwest is willing to present a witness to testify in support of the proposal and answer questions concerning the details of the Agreement. In light of the fact that the settlement is uncontested, Qwest respectfully requests that the Commission approve the Settlement Agreement without a hearing.

8. As the settled issues are undisputed, the Commission should approve the Stipulation in the interest of administrative efficiency. The Commission will benefit from this Stipulation, as it will reduce the Commission's time and resources necessary to resolve this proceeding.

Respectfully submitted and dated this 27th day of August 2004.

QWEST CORPORATION

LAW OFFICES OF DOUGLAS N. OWENS

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Dated _____

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CERTIFICATE OF SERVICE

I certify that I served the foregoing Narrative on the parties to the above proceeding this 27th day of August, 2004 by depositing the same in the U. S. Mail, properly addressed and with postage prepaid.

Douglas N. Owens (WSBA 641)