

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation into
U S WEST Communications, Inc.'s
Compliance with § 271 of those
Telecommunications Act of 1996

Docket No. UT-003022

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

QWEST'S QPAP COMPLIANCE FILING

Pursuant to the Commission’s direction, Qwest is providing as Exhibit A its Performance Assurance Plan (“QPAP”)(“Exhibit K to the SGAT”) filed on November 21, 2001, revised to include the provisions of the Commission’s 30th Order Addressing Qwest’s Performance Assurance Plan (“Thirtieth Supplemental Order”) and the Commission’s 33rd Supplemental Order, Denying in Part, and Granting in Part, Qwest’s Petition for Reconsideration of the 30th Supplemental Order (“Thirty-Third Supplemental Order) in Docket No. UT-003022 and Docket No. UT-003040. In this filing Qwest raises three issues for the Commission’s consideration regarding implementation of the Commission’s directives.

QWEST'S QPAP COMPLIANCE FILING

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

1 **I. Six-month review:**

2 In its 30th Supplemental Order the Commission directed Qwest to make certain changes to the
3 six-month review provisions of the QPAP. Indeed, in an effort to adopt the same process for changing
4 the QPAP as that contained in the CPAP, the Commission directed Qwest to incorporate specific
5 provisions of the Colorado plan to reflect the process and operation of six-month reviews under that plan.
6 For example, the Commission directed Qwest to add the sentence, “After the Commission considers
7 such changes through the six-month process, it shall determine what set of changes should be embodied in
8 an amended SGAT that Qwest will file to effectuate these changes.” (Thirtieth Supplemental Order, p.
9 an amended SGAT that Qwest will file to effectuate these changes.” (Thirtieth Supplemental Order, p.
10 39, ¶ 146). The Commission further stated that “consistent with section 18.7 of the CPAP, [the
11 Commission] will permit parties to request that the Commission review other issues [outside of those
12 specified in the six month review process] if they can demonstrate that exigent circumstances exist.”
13 (Thirty-Third Supplemental Order at p. 39, ¶ 147.) The Commission directed Qwest to include
14 language from section 18.7 of the CPAP as follows: “Parties or the Commission may suggest more
15 fundamental changes to the plan, but unless the suggestion is highly exigent, the suggestion shall either be
16 declined or deferred until the biennial review.” (*Id*) Subsequent to the pleadings filed by the CLECs upon
17 which the Commission’s Order is based, the Colorado Commission remanded issues back to the Special
18 Master, and after a Supplemental Report by the Special Master, issued a decision on remand that
19 substantially revised the six-month review process of the CPAP. The significant changes are 1) the
20 identification of changes that are appropriately considered at the six-month review and those that are not,
21 2) a 10% financial collar that applies to changes to the plan, and 3) an automatic stay of any Commission
22 orders that change aspects that are “off-the-table.” “Off-the-table” aspects of the plan include the
23
24
25
26

1 statistical methodology, the payment caps, QPAP duration, the payment regime, the legal operation of the
2 plan, and any proposal that does not relate directly to measuring and/or providing payments for non-
3 discriminatory wholesale performance. This revised process is what Qwest has agreed to incorporate
4 into the CPAP that is filed with the Colorado Commission.
5

6 In light of the Commission's interest in mirroring the Colorado plan as to the six-month review
7 process, Qwest has incorporated into the QPAP the revised sections of the CPAP that address the six-
8 month review process, modified to tailor the provision to the QPAP. Qwest has not included provisions
9 that address the three-year review and six year termination provisions (sections 18.10-18.11) as the
10 QPAP has its own two-year review process and Qwest has already incorporated the six-year termination
11 provisions into section 16.12 of the QPAP at the Commission's direction.
12

13 Qwest also replaced section 18.9 of the CPAP with alternative language as that provision is
14 inapplicable here because the Washington QPAP does not provide for an Independent Monitor.
15 Moreover, the alternative language Qwest proposes, found in new section 16.10 below, provides added
16 flexibility and efficiency that will be beneficial to all participants and the Commission. The new provision
17 allows the successful negotiations of performance measurements by Qwest and participants in an industry
18 forum to be included in the QPAP. The same language has been included in the recently approved North
19 Dakota QPAP.
20

21 Qwest also edited language in the collar provision in section 18.8 of the Colorado plan that allows
22 CLECs to look to the Colorado Special Fund to reimburse them for amounts that would have been paid,
23 but for the collar. This provision is inapplicable in the Washington QPAP in light of the unique nature of
24 the Colorado Special Fund. The Colorado Special Fund is made up CLEC Tier 1 funds as well as Tier 2
25
26

1 funds. In fact, under the Colorado plan, one-half of the escalation portions of all Tier 1 payments is paid
2 to the Special Fund.¹ This is in contrast to the Washington QPAP where all CLEC Tier 1 funds are paid
3 directly and immediately to the CLEC.²
4

5 The following is the most recent and final CPAP language related to the six-month review, with
6 modifications Qwest believes are appropriate in light of the differences between the two plans. The
7 CPAP six-month review provisions, as revised below, have been incorporated into section 16.0 of the
8 QPAP.
9

10 ~~18.2~~ 16.1 Reviews of the QCPAP occur every six months, commencing with the effective date of the
11 CPAP. Under the six-month QCPAP review process, a Commission staff person shall submit a report
12 to the Commission at the five month mark to recommend a series of changes, if any, to the QCPAP,
noting which of those were agreed to by all parties and which were contested.

13 ~~18.3~~ 16.2 In order to prepare this six-month review report, the relevant Commission staff person
14 (along with any technical advisor the Commission may choose to retain and pay from the Tier 2
Special Fund) shall request feedback on possible changes and shall meet with parties (individually or
together) and the Independent Monitor beginning no later than 90 days into the relevant cycle.

15 ~~18.4~~ 16.3 After the Commission staff person submits a six-month review report to the
16 Commission on any suggested changes, parties shall have two weeks to file exceptions to, or
comment on, that report. The Commission will rule within four weeks of receiving the parties'
17 exceptions and/or comments on what changes, if any, should be instituted.

18 ~~18.5~~ 16.4 The Commission shall conduct a proceeding to resolve any disputed issues.

19 ~~18.6~~ 16.5 The six-month QCPAP review process shall focus on refining, shifting the relative
20 weighing of, deleting, and adding new PIDs; however, the six-month review is not limited to these
areas. With the exception of the areas specifically identified in Section ~~16.7~~ as eligible for review
21 ~~only at the three-year and six-year reviews~~, any other part of the QCPAP is eligible for review during
the six-month QCPAP review. After the Commission considers such changes through the six-month
22 process, it shall determine what set of changes should be embodied in an amended SGAT that Qwest
will file in order to effectuate these changes.

23 ~~18.5.1~~ 16.6 If, ~~pursuant to Section 8.2~~, a PID continues to trigger a payment escalation for six
24 months or more, that PID shall automatically be reviewed during a six-month review pursuant to this
Section, in order to determine if there are issues with that PID, such as poor definition, that need to
be addressed. In order to minimize this likelihood, the sound practice for introducing PIDs is to work
25 through a collaborative forum before bringing a proposed PID addition or change to the Commission.

26 ¹ See Section 8.3

² See Section 11.3

1 The preferred approach is to introduce new PIDs as diagnostic measures, allowing for some reporting
2 of actual data before determining the relevant standard and appropriate penalties.

3 ~~18.7~~ 16.7 Parties may suggest more fundamental changes to the QCPAP; but, unless the suggestion
4 is highly exigent, the suggestion shall be denied. ~~either be declined or deferred until the three-year
review.~~ The following areas of the QCPAP will not be eligible for review at the six-month review:
change only at the three-year and six-year reviews:

- 5 (1) The statistical methodology (Sections 4.0 and, 5.0 ~~and 6.0~~) except for additions to the
6 variance tables for new Tier 1A measures;
- 7 (2) The payment caps (Sections ~~12.11.0 and 18.8~~);
- 8 (3) The duration of the QCPAP (Section 16.12~~18.11~~);
- 9 (4) The payment regime structure (Sections 6, 7, 8, 9, 10 and 11~~2.0, 7.0, 8.0, 9.0, 10.1, 10.2,~~
10 ~~10.3, and 10.4~~) except for the addition of payment amounts for new Tier 2 measures and
11 of payment amounts for violations of change management requirements;
- 12 (5) The legal operation of the QCPAP (Sections 13 and 14) ~~5.0 and 16.0~~);
13 ~~(6) The Independent Monitor (Section 17.0) with the exception of assignment of the~~
14 ~~Independent Monitor function to an Administrative Law Judge;~~
15 ~~(7)(6) Any proposal that does not relate directly to measuring and/or providing payments for~~
16 ~~non-discriminatory wholesale performance.~~

17 ~~18.7.1~~ 16.8 ____ If, at the conclusion of a six-month QCPAP review, the Commission orders a
18 change in any areas identified in Section 16~~8.7~~ without Qwest's consent, the Commission decision
19 shall be stayed automatically during the course of any judicial challenge up to issuance of a final
20 non-appealable order on the merits. This provision shall not apply if there is no judicial challenge.

21 ~~18.8~~ 16.9 Qwest shall calculate separately, payments owed under the CPAP that do not include
22 changes made at the six-month review ("baseline CPAP") and payments owed under a CPAP revised
23 to reflect changes made at the six-month review ("revised CPAP"). If payments calculated under the
24 revised CPAP are more than 110% of payments calculated under the baseline CPAP, Qwest shall limit
25 payments to the affected CLECs and to the Special Fund to a 10% increase ("10% collar") above the
26 total baseline CPAP payment liability. ~~Any CLEC affected by this limitation of payments shall be~~
~~eligible for payments above the 10% collar from the Special Fund. If the Special Fund does not~~
~~contain sufficient funds to provide such payments to CLECs, Qwest shall make up the difference.~~
~~Any funds that Qwest provides to make up the difference will be offset against Qwest's future~~
~~Special Fund liabilities.~~ At any six-month review, if the total payment liability for the revised CPAP is
below 110% of the total payment liability for the baseline CPAP for the preceding six month period,
the revised CPAP shall become the baseline CPAP for the next six month period, otherwise, the same
baseline CPAP shall remain in effect for the next six month period.

~~18.9~~ ____ If Qwest or CLEC wishes to modify a PID outside of the six-month review process and
before the Three-Year Review set forth in the CPAP, the change must be approved by the
Independent Monitor and then also approved by the Commission.

16.10 ____ If any agreements on adding, modifying, or deleting performance measurements as
permitted by section 16.1 are reached between Qwest and CLECs participating in an industry
Regional Oversight Committee (ROC) PID administration forum, those agreements shall be
incorporated into the QPAP and modify the agreement between CLEC and Qwest at any time those
agreements are submitted to the Commission, whether before or after a six-month review.

1
2 **II. Critical values:**

3 In its Thirtieth Order, the Commission concluded that Tier 2 payments should be made upon the
4 first, rather than the third month of non-conforming performance. Qwest brings to the Commission's
5 attention the fact that with the elimination of the Tier 2 triggers, Qwest should be allowed to apply the
6 critical values in Table 1, section 5.0 of the QPAP to Tier 2 payments.
7

8 As this Commission is aware, Qwest agreed in the PEPP workshops to eliminate a statistical
9 methodology called the K-table in exchange for specified critical values. Because the K-table applied to
10 Tier 2 calculations the expectation was that the critical values would also apply to the calculation of Tier 2
11 payments, rather than the 1.645 critical value applied by the K-table. This is reflected in the QPAP
12 attached to the final PEPP documentation issued by Maximum Telecom Group ("MTG") and attached as
13 Exhibit B. Based upon a conversation with the FCC, Qwest agreed that it should not apply **both** the
14 negotiated range of critical values **and** the three month trigger. Based upon the multi-state Facilitator's
15 decision to apply at least a variation of the three-month trigger, Qwest voluntarily removed the application
16 of the range of critical values and applied a critical value of 1.645 to all Tier 2 calculations. This is
17 explained in Qwest's Comments on the Multi-state Facilitator's Report and in reflected in the revised
18 QPAP Qwest filed on November 21, 2001.³ Accordingly, Qwest returned the following language to the
19 QPAP in its compliance filing:
20
21

22
23 7.2 Determination of Non-Conforming Measurements: The determination of non-conformance will be
24 based upon the aggregate of all CLEC data for each Tier 2 performance measurement. Non-conforming service
25 is defined in section 4.2 (for parity measurements) and 4.3 (for benchmark measurements), except that a 1.645
critical z-value shall be used for all parity measurements but MR-2 and OP-2. The number of performance
measurements determined to be "non-conforming" and, therefore, eligible for Tier-2 payments, is limited

26 ³ See Brief of Qwest Corporation in Support of its Performance Assurance Plan (QPAP) filed September 12, 2001 at pp. 40-41.

1 according to the critical z-value shown in Table 1, section 5.0. The critical z-value is the statistical standard
2 that determines for each performance measurement whether Qwest has met parity.

3 7.3 Determination of the Amount of Payment: Except as provided in section 7.4, Tier 2 payments are
4 calculated and paid monthly based on the number of performance measurements ~~failing performance~~
5 ~~standards exceeding the critical z-value in any single month, for a third consecutive month, or if two out of~~
6 ~~three consecutive months in the 12 month period have been missed, the second consecutive month for Tier 2~~
7 ~~measurements with Tier 1 counterparts and one month for Tier 2 measurements that do not have Tier 1~~
8 ~~counterparts.~~ Payment will be made on either a per occurrence or per measurement basis, whichever is
9 applicable to the performance measurement, using the dollar amounts specified in Table 4 or Table 5 below.
10 Except as provided in section 7.4, the dollar amounts vary depending upon whether the performance
11 measurement is designated High, Medium, or Low.

12 9.1 Application of the Critical Z-Values: Qwest shall identify the Tier 2 parity performance measurements
13 that measure the service provided to all CLECs by Qwest for the month in question and the critical z-value
14 from Table 1 in section 5.0 that shall be used for purposes of statistical testing for each particular performance
15 measurement. There must be at least 10 data points each month for each particular performance measurement.
16 The statistical testing procedures described in section 4.0 shall be applied. For the purpose of determining the
17 critical z-values, each disaggregated category of a performance measurement is treated as a separate sub-
18 measurement. The critical z-value to be applied is determined by the CLEC volume at each level of
19 disaggregation or sub-measurement.

20 9.1.1 Application of the Critical Z-Value: Qwest shall identify the Tier 2 parity performance measurements
21 that measure the service provided by Qwest to all CLECs for the month in question shall be determined. The
22 statistical testing procedures described in section 4.0 shall be applied, except that a 1.645 critical z-value shall
23 be used for all parity measurements but MR-2 and OP-2.

24 9.1.2 To determine if Tier 2 payments for performance measurements listed on Attachment 1 shall be made
25 in the current month, the following shall be determined. For Tier 2 measurements that have Tier 1
26 counterparts, it shall be determined whether Qwest missed the performance standard for three consecutive
months, or if any two out of three consecutive months for the 12 month period, for two consecutive months.
For Tier 2 measurements that do not have Tier 1 counterparts, it shall be determined whether Qwest missed
the performance standard for three consecutive months, or if any two out of three consecutive months for
the 12 month period, for the current month. If any of these conditions are met and there are at least 10 data
points for the measurement in each month, a Tier 2 payment will be calculated and paid as described below
and will continue in each succeeding month until Qwest's performance meets the applicable standard.

20 **III. Audits:**

21 Qwest is prepared to implement the Commission's recommended audit provisions with the
22 following clarification. The multi-state provision protected Qwest from multiple and duplicative audits of
23 the same performance measurements. The OSS test has demonstrated that Qwest's systems for
24 producing performance measurements are the same for all states. In fact, this point is not at all contested
25 or controversial. Accordingly, it is reasonable that any state specific audit provisions contain language that
26

1 indicates that the Commission will coordinate any audits with audits by other states or CLECs under
2 another PAP and not engage in duplicative audits. In order to facilitate the Commission's efforts in this
3 regard, Qwest is willing to make audits conducted in other states available to the Washington
4 Commission. The following language reflecting these concepts has been inserted into section 15.0
5

6 Any audit requested pursuant to this section shall be coordinated with other audits
7 including audits planned or conducted by the regional audit program or pursuant to any
8 other PAP, shall be planned and conducted so as to avoid duplication and interference
9 with Qwest's ability to comply with the other provisions of the PAP, and shall be of a
10 nature and scope that it can be conducted within the reasonable course of Qwest's
11 business. In order to avoid the unnecessary duplication of other audits, Qwest shall make
12 the audit results of performance measurements in the QPAP available to the Commission.

13 Dated this 28th day of May, 2002.

14 QWEST CORPORATION

15 / Lynn Anton Stang /

16 Lynn Anton Stang
17 Qwest Corporation
18 1801 California Street, Suite 4900
19 Denver, CO 80202
20 Phone: (303) 672-2734

21 Lisa Anderl, WSBA # 13236
22 Qwest
23 1600 7th Avenue, Room 3206
24 Seattle, WA 98191
25 Phone: (206) 398-2500

26 *Attorneys for Qwest Corporation*