

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of
Qwest Corporation
For Commission Approval of Stipulation
Regarding Performance Indicator Definitions
and Qwest Performance Assurance Plan
Provisions

Docket No. UT-073034
**PARTIAL SETTLEMENT OF
DISPUTED ISSUES**

- 1* Qwest Corporation (“Qwest”), Eschelon Telecom of Washington, Inc. (“Eschelon”), Covad Communications Company (“Covad”), McLeodUSA Telecommunications Services, Inc. (“McLeodUSA”), Integra Telecom of Washington, Inc. (“Integra”), XO Communications Services, Inc. (“XO”), Time Warner Telecom of Washington, LLC (“TWTC”), and Commission Staff (“Staff”) (collectively, the “Stipulating Parties” and each individually, a “Party”) submit the following Partial Settlement, resolving all but two of the outstanding issues in this Third Six-Month Review proceeding (“2008 Partial Settlement”).
- 2* The Stipulating Parties have agreed and respectfully recommend that the Washington Utilities and Transportation Commission (“Commission”) issue its Order approving the following dispositions of the issues which appear on the Final Issues List in this proceeding. This 2008

Partial Settlement is intended to be a comprehensive resolution as between all the parties who have taken positions on the disputed issues except Staff, with whom the Parties have instead reached a partial settlement. With regard to the settled issues, each Stipulating Party has agreed to compromise its positions, including legal positions, with the goal of achieving an overall resolution that is fair and consistent with the law and the public interest.

- 3 The Stipulating Parties recommend that this 2008 Partial Settlement be approved by the Commission as it is consistent with the Federal Telecommunications Act of 1996 (“the Act”), this Commission’s prior orders regarding the Qwest Performance Assurance Plan (“QPAP” or “PAP”), RCW 80.36.135(3), and the Commission’s orders in docket UT-061625 (granting, with conditions, Qwest’s petition for an alternative form of regulation).
- 4 The Stipulating Parties, except Staff, XO, and TWTC, further recommend that the Stipulation previously filed in this docket on June 26, 2007 (“2007 Stipulation”) be approved by the Commission as to the two outstanding issues for which Staff disagrees as they are consistent with the Act and this Commission’s prior orders regarding the QPAP. XO and TWTC take no position on these two issues.
- 5 If the Commission does not adopt the proposal in this 2008 Partial Settlement in whole or in part, the Stipulating Parties reserve their rights to take positions on issues in future proceedings that may be contrary to this Stipulation.
- 6 The Parties expressly agree that the resolution of issues in this docket will not preclude a party from taking a position on any issues in the upcoming review to be conducted under Section 16.3 of the QPAP with regard to the continuation of any measures.
- 7 The Parties stipulate and agree to the following outcome on each of the issues on the Final Issues List.

DISPUTES AND RESOLUTIONS

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: In resolution of this issue, all Parties agree that the PAP should be modified as set forth in Sections 1.1 (including subparts 1.1.1, 1.1.2, and 1.1.3), 3.1 (not including subparts) 13.2, 16.1 (not including subparts) and 16.3 of the redlined version of the PAP attached hereto as Exhibit 1 (also labeled Exhibit K).

The Parties further agree that Qwest's obligation under ordering clause (1)(c) of the Commission's Order 08 in Docket UT-061625 (AFOR docket) that "[t]he QPAP terms must apply to all wholesale service provided by Qwest as a substitute for unbundled network elements during the term of the AFOR, unless the affected parties agree otherwise" is satisfied by the attached Exhibit 2, the "Washington PID/PAP Commercial Agreement," which the Parties intend to be available for adoption and execution in this form by any eligible local exchange company, and by Qwest's offer of PAP terms, in a like manner, to carriers entering into other commercial agreements for UNE substitute services during the four-year term of the AFOR. The current version of the QLSP agreement is <http://www.qwest.com/wholesale/downloads/2007/071127/Commercial-QLSP-MSA-v4-11-16-07.doc>. Qwest will offer this QLSP agreement during a 30-day window, to start no later than 10 days after a Commission final order approving the terms of this 2008 Partial Settlement, for all eligible carriers, so long as such an order is entered no later than June 25, 2008. If an order approves this Partial Settlement after that date, Qwest will offer the most current QLSP agreement for the 30 day window, 10 days after the Commission's final order.

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: All Parties agree the footnotes shown on the redlined PAP as footnote 1 and footnote 6 should be added 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. (This is the complete list of PIDs included in the Stipulation; because CP-3 is not in the WA QPAP, the WA specific proposal does not include CP-3). [PAP §3, 2007 Stipulation¹]

Resolution: All Parties agree that this issue should be resolved in accordance with the 2007 Stipulation. Section 3 of the redlined PAP implements this resolution, with the exception of Section 3.1.2, which remains disputed as discussed in “One Allowable Miss” immediately below.

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. Sections 2.4, 3.1.2 and Attachment 1, existing note c and new note d of the redlined PAP implement this resolution, and are shown with highlighting on Exhibit 1 to indicate that this issue remains disputed as between the parties to the 2007 Stipulation and Staff.

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.

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. Section 6.2 of the redlined PAP, including the payment tables, implements this resolution

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 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. Section 6.4 of the redlined PAP, including the payment table, implements this resolution.

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. Section 7.3 and Section 9 of the redlined PAP implement this resolution, and are shown with highlighting on Exhibit 1 to indicate that this issue remains disputed as between the parties to the 2007

Stipulation and Staff.

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. Section 16.1.3 of the redlined PAP implements this resolution.

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. The redlined PIDs to implement this resolution are shown in Exhibit 3 (also labeled Exhibit B) to this 2008 Partial Settlement.

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. Section 10 of the redlined PAP implements this resolution. In addition, the redlined PIDs to implement this resolution are shown in Exhibit 3 to this 2008 Partial Settlement.

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 this 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. The redlined PID to implement this resolution is shown in Exhibit 3 to this 2008 Partial Settlement.

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.

Section 10, Attachment 1 note g and Attachment 3 of the redlined PAP implement this resolution.

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. Section 3.2 and Attachment 1 in the redlined PAP implements this resolution. In addition, the redlined PID to implement this resolution is shown in Exhibit 3 to this 2008 Partial Settlement.

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. In addition, the redlined PID to implement this resolution is shown in Exhibit 3 to this 2008 Partial Settlement.

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. Sections 2.2 and 6.2 (including subparts 6.2.2, 6.2.3 and payment table 2B) of the redlined PAP implements this resolution. In addition, the redlined PID to implement this resolution is shown in Exhibit 3 to this 2008 Partial Settlement.

Whether to Move a Classification of a Measurement to High, Medium or Low or Tier 1 to Tier 2

25 Issue: Section 16.1 of the PAP states that one of the issues to be considered in a six-month review is whether to change the classification of a measurement. No party made such a proposal, so there is no issue to resolve.

Adding New Products Disaggregation Representing New Modes of CLEC Entry

- 26 Issue: Section 10.3 of the PAP states that, in a six-month review, Qwest will consider adding new products disaggregation representing new modes of CLEC entry into developing markets. No party made such a proposal, so there is no issue to resolve.

Other Issues

- 27 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.
- 28 This Stipulation may be executed in counterparts including signatures by facsimile. So we all have stipulated as of the _____ day of _____ 2008.

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