

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

|   |   |                           |
|---|---|---------------------------|
| In the Matter of the Petition of        | ) | DOCKET UT-073034          |
|   | ) |                           |
| QWEST CORPORATION                       | ) | ORDER 07                  |
|   | ) |                           |
| For Commission Approval of Stipulation  | ) | INITIAL ORDER DENYING     |
| Regarding Certain Performance Indicator | ) | PETITION FOR MODIFICATION |
| Definitions and Qwest Performance       | ) | OF QWEST PERFORMANCE      |
| Assurance Plan Provisions.              | ) | ASSURANCE PLAN (PAP)      |
| .....                                   | ) |                           |

1 **SYNOPSIS:** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order, noting the limited scope of the docket’s six-month review process, would deny Qwest’s Petition to modify its Performance Assurance Plan (PAP) by adding a “one allowable miss” provision and altering the existing Tier 2 payment structure. This Order would not prevent Qwest from seeking the identical modifications to its PAP at a later date under another form of review which allows consideration of more fundamental changes to the plan.*

**MEMORANDUM**

2 **PROCEEDINGS:** Docket UT-073034 originally involved a petition by Qwest Corporation (Qwest) and four (4) competitive local exchange carriers (CLECs) seeking approval of a stipulation modifying various Performance Indicator Definitions (PIDs) as well as the Qwest Performance Assurance Plan (PAP or QPAP), each of which is an exhibit to Qwest’s Statement of Generally Available Terms (SGAT). Qwest filed the stipulation with the Washington Utilities and Transportation Commission (Commission) on June 26, 2007, and was pursuing the same or similar action before thirteen other state commissions across its service territory.

3 **PROCEDURAL HISTORY.** On October 25, 2007, in Order 04, the Commission converted this proceeding to a six-month review. On May 23, 2008, in Order 06, the

Commission approved a partial settlement of the issues presented by the parties.<sup>1</sup> This Order resolves the remaining issues in dispute.

4 **APPEARANCES.** The parties and their representatives remain identical to those previously identified in Order 06. That list is incorporated by reference in this Order.

5 **BACKGROUND AND REMAINING DISPUTED ISSUES.** Qwest and several CLECs held collaborative work sessions between May 23, 2006, and May 17, 2007, in an attempt to update Qwest's PAP and PIDs in all fourteen states of its service territory. The participants in those meetings reached accord in the form of a Stipulation on a number of specific modifications to Qwest's PAP, including thirteen proposed PID/PAP modifications applicable to Washington.<sup>2</sup> When Qwest presented the Stipulation to the Commission, two additional CLECs and Commission Staff then joined the discussion.

6 After months of additional negotiation, the parties filed a 2008 Partial Settlement Agreement that dispensed with 11 of the 13 originally proposed modifications as well as four more that were included in the Issues List for the Commission's consideration at an earlier stage of this proceeding.<sup>3</sup> The Administrative Law Judge entered an Initial Order, Order 06, approving the 2008 Partial Settlement on May 23, 2008.<sup>4</sup>

7 Commission Staff continues to object to two issues; (a) Qwest's request for a "one allowable miss" provision, and (b) the requested change to the PAP's current structure for Tier 2 payments.<sup>5</sup> The 2007 Stipulation originally filed by Qwest and

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<sup>1</sup> The recitation of procedural history in Order 06 need not be repeated again here, and is incorporated by reference in this Order. See *Order 06*, ¶¶ 2-6 and 8-13.

<sup>2</sup> Narrative in Support of Settlement Agreement (September 12, 2007), ¶¶ 4-7; see ¶ 9 for individual descriptions of each of the thirteen issues applicable in this jurisdiction originally raised between Qwest and the CLEC parties to the Stipulation (¶ 9A.5 contains two separate issues).

<sup>3</sup> In the Partial Settlement in this six-month review proceeding (filed April 2, 2008), Qwest, Staff, the stipulating CLECS, and the intervening CLECs reached agreement on fifteen of the seventeen topics set out in the Issues List (filed December 21, 2007).

<sup>4</sup> If no party seeks review or the Commission does not seek review of the Initial Order on its own motion, the order will become effective on June 12, 2008, by operation of law.

<sup>5</sup> See Narrative in Support of Settlement Agreement (September 12, 2007) for a general description of the background and specific agreement regarding (a) the proposed "one allowable miss" provision (at ¶ 9B.1) and (b) the proposed modifications to the PAP's existing Tier 2 payment requirements (at ¶ 9C.1).

the four stipulating CLECs<sup>6</sup> provides the following summary descriptions of each issue:

One Allowable Miss for Benchmark and Non-interval Parity Measures<sup>7</sup>

Stipulating Parties have agreed to add a one allowable miss provision for benchmark and non-interval parity measurements where 100% performance would otherwise be required to meet the standard in cases where the CLEC aggregate results have met the standard. The one allowable miss provision will also apply if the CLEC aggregate results have not met the standard, but would require 100% performance to meet the standard and with one allowable miss at the CLEC aggregate level would result in CLEC aggregate results meeting the standard.

PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

- Addition of One Allowable Miss in Section 3.1.2 of the PAPs.
- Revisions to existing PAP provisions to account for the addition of the One Allowable Miss provision.

Modify Tier 2 Payment Provisions<sup>8</sup>

Stipulating Parties have agreed to adopt the MT Tier 2 provision. Under the provision, Tier 2 payments will be based on the number of performance measurements exceeding the critical z-value for three consecutive months unless there have been two misses in any three consecutive months during the last 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 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). Qwest has represented that this change reflects the way Qwest has historically applied this provision in Montana. Stipulating Parties' agreement to update the Tier 2 provision does not indicate any agreement by the Stipulating Parties as to whether this historical application is appropriate.

PID and PAP Revisions:

The PID does not have any associated changes. The revised PAP changes include:

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<sup>6</sup> See Exhibit 1 to Petition for Commission Approval of Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions (June 26, 2007).

<sup>7</sup> 2007 Stipulation, ¶¶ 24 and 25.

<sup>8</sup> 2007 Stipulation, ¶¶ 31 and 32.

- Revising Sections 7.3 and 9 in the NE, NM, SD, UT, WA, and WY PAPs to reflect when Tier 2 payments are required and how they are calculated.
- Correcting Section 9 in the MT PAP to achieve consistency with MT Section 7.3.

8 **DISCUSSION AND DECISION:** In considering whether to modify Qwest's PAP, the Commission may rely on its independent state law authority or adhere to the review provisions set out in Plan.<sup>9</sup> To date, the Commission has not asserted its independent authority, preferring instead to rely on industry efforts to reach consensus on such issues whenever possible. Nevertheless, the Commission is mindful of Qwest's recent transition to an Alternative Form of Regulation (AFOR) and that proceeding's requirement regarding the PAP as part of an effective carrier-to-carrier service quality plan required under the AFOR statute.<sup>10</sup>

9 The terms of the PAP allow for reviews (a) every six months, (b) two years after the effective date of its approval, and (c) five and one-half years after its effective date.<sup>11</sup> The PAP also mentions multi-state efforts to conduct reviews.<sup>12</sup> Although initially presented as a Petition to approve the stipulated results of what the parties termed a multi-state collaborative, Qwest later filed a motion to convert this proceeding to a six-month review and the Commission subsequently granted Qwest's motion.<sup>13</sup> Therefore, the PAP's provisions governing six-month reviews apply.

10 Section 16.1 of the PAP provides, in relevant part, as follows (emphasis added):

Every six (6) months, beginning six months after the effective date of Section 271 approval by the FCC for the state of Washington, Qwest, CLECs, and the Commission shall participate in a review of the performance measurements to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measurement to High, Medium, or Low or Tier 1 to Tier 2. Criteria for review of performance measurements, other than for possible reclassification, shall be whether

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<sup>9</sup> Qwest Performance Assurance Plan, Section 16.

<sup>10</sup> Docket UT-061625 chronicles Qwest's request for an AFOR under RCW 80.36.135. *See* specifically Order 06, Order 08, and Order 09 for a full understanding of the relevance of Qwest's PAP to the carrier-to-carrier service quality plan required of the company under the AFOR adopted in that proceeding.

<sup>11</sup> Qwest Performance Assurance Plan, Section 16.

<sup>12</sup> *Id.*, at ¶ 16.4.

<sup>13</sup> *See* Order 04 and Order 05 in this proceeding.

there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. \* \* \* \* \*

**Parties or the Commission may suggest more fundamental changes to the plan, but unless the suggestion is highly exigent, the suggestion shall either be declined or deferred until the biennial review.**

- 11 In originally approving the PAP, this Commission expressed its opinion that the six-month review process was intended to be the procedural vehicle for “fine-tuning the performance metrics in the plan,” as may be necessary.<sup>14</sup> Therefore, from the language of the PAP and the context of its adoption, it is clear that the six-month review process is primarily designed to address the adequacy and accuracy of the Plan’s performance measurements and not to negotiate more important or consequential changes without some reasonable or compelling showing of urgency.

**A. One Allowable Miss**

- 12 The proposed “one allowable miss” provision does not come within the limited review conditions of the six-month review process. It is not a performance measurement *per se* nor does it substitute a parity standard for an established benchmark or reclassify any performance measurement. If added to the PAP, the “one allowable miss” provision would read:

Where applicable elsewhere in the PAP, this provision modifies other provisions and operates as follows: For any Tier 1 or Tier 2 benchmark or non-interval parity performance sub-measure, Qwest shall apply one allowable miss to a sub-measure disaggregation that otherwise would require 100% performance before the performance is considered as non-conforming to standard (1) if at the CLEC-aggregate level, the performance standard is met or (2) where the CLEC-aggregate performance must be 100% to meet the standard, the CLEC-aggregate

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<sup>14</sup> See 30<sup>th</sup> Supplemental Order, Dockets UT-003022 and UT-003040 (consolidated) (April 5, 2002), ¶¶ 147 and 318. In originally adopting the QPAP, the Commission specifically expressed its concern “that the six-month review process *not become a forum for relitigating the essential terms of the plan*. We believe the six-month review should focus on fine-tuning the performance metrics delineated above, while the other plan elements may be reexamined at the biennial review. However, consistent with the terms of section 18.7 of the C[olorado] PAP, we will permit parties to request that the Commission review other issues if they can demonstrate that exigent circumstances exist. In addition, the Commission itself may identify issues for review.” *Id.*, at ¶ 147 (emphasis added).

performance is conforming after applying one allowable miss at that level.<sup>15</sup>

In essence, this proposed addition would modify (i.e., reduce) Qwest's responsibilities to meet certain of the PAP's previously established performance measures in instances that might otherwise demand perfect or near-perfect achievement of Qwest's obligations to CLECs.

- 13 The six-month review process does not directly allow for consideration of such an addition to the PAP. Although adding the "one allowable miss" provision modifies a limited subset of performance measurements, the criteria for review clarify that a six-month review is limited to "whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement." At best, Qwest's comments in support of this provision can be understood as arguing that the existing PAP terms result in "failure to capture" the company's intended performance as meeting the required standard unless Qwest achieves perfection.<sup>16</sup>
- 14 It is undisputed that the PAP contains standards intended to evaluate Qwest's performance based on those standards as contained in the PAP and its PIDs. Performance standards requiring benchmarks of 90 percent or higher are, of course, difficult to meet, particularly when only a limited number of performance opportunities are presented. As Qwest acknowledges, in a month where there are only 15 opportunities to perform and the benchmark standard is 95 percent, the only way to meet the standard is to achieve perfection.<sup>17</sup> This was the case when the PAP and its PIDs were originally adopted and a six-month review cannot alter that requirement because these performance measurements are capturing Qwest's intended performance: achieve the 95 percent benchmark or make the requisite payment(s).
- 15 There is no omission or failure to capture Qwest's intended performance. It may be true that in practice the PAP is demanding more of Qwest than Qwest can routinely achieve, but Qwest offers no support for its assertion that in developing the PAP there was no clear intent to have Qwest perform at the high levels adopted in the PAP, even

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<sup>15</sup> See ¶ 3.1.2 of Exhibit 2 to Petition for Commission Approval of Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions (June 26, 2007).

<sup>16</sup> See Qwest's April 2, 2008 Comments, ¶¶ 5-7.

when they may in actual fact require flawless precision.<sup>18</sup> Notably, Eschelon Telecom, Inc., a CLEC supporting Qwest in seeking the “one allowable miss” provision, objects to Qwest’s argument that perfection is an unreasonable standard.<sup>19</sup> Under the version now in place, the PAP intends for Qwest to achieve perfection on certain low volume measurements.

- 16 Qwest contends that its failures to achieve perfection during a twelve month evaluation period resulted in PAP-required payments to CLECs of \$29,631, “a significant amount of money for failure to meet such a stringent standard.”<sup>20</sup> However, under the proposed provision, Qwest would be allowed to perform for individual CLECs at levels dramatically below the PAP’s established benchmarks, so long as its aggregate performance could be demonstrated to remain at an acceptable level. For instance, a CLEC with consistently low volumes of installation requirements might never enjoy timely intercarrier service even though the 95 percent benchmark required of Qwest by the PAP continues to be met for Qwest’s high volume customers.<sup>21</sup> And if the same CLEC had consistently low volumes of other service requirements, the one allowable miss provision sought by Qwest would permit ongoing substandard service to that CLEC in multiple categories. This sort of modification to the PAP is much more fundamental in nature than addition, deletion, or adjustment of a single performance measure as contemplated by the PAP’s six-month review provisions.<sup>22</sup>
- 17 Although Qwest may be correct that the nearly \$30,000 in CLEC payments its current level of service requires is not insignificant, the company has not shown that this amount presents any fiscal exigency for its Washington operations. Thus, under the PAP’s review provisions, the 2007 Stipulation’s proposed modification of multiple performance measures with a “one allowable miss” provision is best taken up at a

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<sup>17</sup> *Id.*, at ¶ 5. Meeting a standard 14 out of 15 times results in a success rate of 93.3percent. By mathematical definition, in order to meet a performance benchmark of 95 percent, Qwest could only underperform 1 time out of every 20 opportunities.

<sup>18</sup> *Id.*, at ¶ 7, wherein Qwest contends that “when the PAP was initially developed, the clear intent was to evaluate Qwest’s performance based on the standards defined in the PID which does not contain a single ‘perfect performance’ requirement.”

<sup>19</sup> Reply Comments of Eschelon Telecom, ¶ 5 (April 25, 2008).

<sup>20</sup> See Qwest’s April 2, 2008 Comments, ¶¶ 8-9.

<sup>21</sup> The OP-3 PID sets a 95 percent benchmark for installation commitments met. See Qwest’s April 2, 2008 Comments, ¶ 5.

<sup>22</sup> The Commission notes Staff’s assertions that PAP ¶ 2.4 already addresses the issue of low volumes affecting Qwest’s ability to meet certain performance benchmarks. See Staff’s Initial Comments, ¶ 31 (April 2, 2008) and Staff’s Comments in Response, ¶¶ 10-14 (April 25, 2008). Nevertheless, given the disposition of this issue, we need not discuss further the merits of Staff’s position on this topic.

biennial review or an equivalent in-depth look at the entirety of the PAP, such as the upcoming five and one-half year review required by the PAP.

- 18 This Commission has previously recognized that “potential liability that provides a meaningful and significant incentive to comply with the designated performance standards” is a reasonable characteristic of a PAP.<sup>23</sup> Under the current terms of the PAP, Qwest must strive for perfection to ensure acceptable levels of service to all CLECs. Although the mathematical standards adopted in the PAP may require perfection below certain volumes, we do not question that the overall spirit of service required by the PAP is no more than one of excellence.
- 19 The PAP and PIDs were developed and approved by this Commission as Qwest wholesale service quality standards in order to ensure Qwest’s compliance with the competitive checklist of Section 271 of the Telecommunications Act. These measurements and benchmarks play an essential role in safeguarding against potential backsliding by Qwest. Having already approved the 2008 Partial Settlement Agreement in Order 06, the Commission will not further disturb the PAP’s system of previously adopted performance measures in the context of this six-month review.

### **B. Tier 2 Payments**

- 20 The proposed modifications to the Tier 2 payment provisions also do not fall within the limited review criteria of the six-month review process. As noted in the foregoing discussion, the current Tier 2 payment structure is accurately capturing Qwest’s intended performance under the PAP.<sup>24</sup> Further, the Tier 2 payment provisions are not duplicating any other measurement. Finally, Qwest has not argued that a change to the PAP’s current structure for Tier 2 payments is highly exigent.
- 21 The review provisions of the PAP suggest that restructuring the Tier 2 payment schedule is best taken up at a biennial review or the upcoming five and one-half year review. Therefore, the merits of the arguments Qwest and Staff present need not be taken up here.

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<sup>23</sup> See 30<sup>th</sup> Supplemental Order, Dockets UT-003022 and UT-003040 (consolidated) (April 5, 2002), ¶¶ 7, 35-37, and 295-96; see also ¶¶ 43-109 (general discussion of “meaningful and significant incentive”).

<sup>24</sup> Qwest’s attempt in this proceeding to alter the Tier 2 payment terms of Washington’s QPAP to align with those of the Montana QPAP, as explained in the Narrative in Support of Settlement Agreement (September 12, 2007), ¶ 9C.1, were not understood to address the types of concerns regarding “escalating Tier 2 payments” previously acknowledged by the Commission as appropriate for possible consideration in a six-



### C. Conclusion

- 22 The Commission recognizes that the parties to the 2007 Stipulation worked for nearly one year to reach consensus on the issues that ultimately found their way into Qwest's Petition. The Commission also realizes that another year has elapsed since Qwest initially brought its proposed modifications forward for approval. Accordingly, the Commission commends the efforts of Qwest, Staff, and the CLEC parties in reaching compromises on the majority of the issues raised in this six-month review.
- 23 Nevertheless, the Commission finds that the two remaining issues in dispute are simply not the types of changes that the PAP permits or contemplates may be resolved in this forum.
- 24 In addition and of equal import, the effect of Qwest's recently approved AFOR must be fully considered before any such fundamental changes are made to the PAP.<sup>25</sup> The Commission previously concluded that statutory emphasis on the importance of Qwest's carrier-to-carrier service obligations as integral to any AFOR requires that any changes to the QPAP must be measured against the standards of RCW 80.36.135(3) before the Commission can provide its approval.<sup>26</sup>
- 25 Any proposed changes to the QPAP must be considered in the context of state law governing approval of Qwest's AFOR. Neither Qwest's 2007 Stipulation nor its subsequent briefing in this case have adequately addressed the impact of these two proposed changes to the QPAP on the AFOR's requirements. Thus, the Commission should defer its consideration of these issues to the upcoming five and one-half year review, as required by the PAP itself.

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month review. *See* 30<sup>th</sup> Supplemental Order, Dockets UT-003022 and UT-003040 (consolidated) (April 5, 2002), ¶ 87.

<sup>25</sup> *See* Docket UT-061625. In Order 06, the Commission found that the modified AFOR did not meet the requirement in RCW 80.36.135(3) for a carrier-to-carrier service quality plan, and required that Qwest file an acceptable plan. *See* Order 06 (July 24, 2007), ¶¶ 26, 107-111, 122, 130, 136 and 141. In response, Qwest filed the then existing version of its wholesale service quality plan, including the QPAP, asserting that the Plan met the requirements of RCW 80.36.135(3). In Order 08, the Commission conditionally accepted the Plan filed by Qwest, even while referencing the reductions in carrier-to-carrier service Qwest sought in this docket. *See* Order 08 (September 6, 2007), ¶ 21 (referencing Docket UT-0-73034 in footnote 16) and ¶¶ 28-33, 36-40, and 42-43. In Order 09, Qwest accepted the Commission's terms for an AFOR. *See* Order 09 (September 20, 2007).

<sup>26</sup> *See* Docket UT-061625, Order 08 (September 6, 2007), ¶ 21.

26 For all of the foregoing reasons, Qwest's Petition, with regard to the remaining  
disputed issues of adding a "one allowable miss" provision and modifying the  
existing Tier 2 payment structure, should be denied at this time.

**FINDINGS OF FACT**

27 Having discussed above in detail the evidence received in this proceeding concerning  
all material matters, and having stated findings and conclusions upon issues in dispute  
among the parties and the reasons therefore, the Commission now makes and enters  
the following summary of those facts, incorporating by reference pertinent portions of  
the preceding detailed findings:

- 28 (1) The Washington Utilities and Transportation Commission is an agency of the  
State of Washington, vested by statute with authority to regulate rates, rules,  
regulations, practices, and accounts of public service companies, including  
telecommunications companies.
- 29 (2) Qwest Corporation (Qwest) is a "public service company" and a  
"telecommunications company," as those terms are defined in RCW 80.04.010  
and as those terms otherwise are used in Title 80 RCW. Qwest is engaged in  
Washington State in the business of supplying telecommunications service for  
hire, sale, or resale to the general public for compensation.
- 30 (3) On June 26, 2007, Qwest, with the support of several CLECs, filed a Petition  
for Commission Approval of Stipulation Regarding Certain Performance  
Indicator Definitions and Qwest Performance Assurance Plan Provisions.
- 31 (4) On October 25, 2007, the Commission granted Qwest's Motion to Convert  
Proceeding to Six-Month Review.
- 32 (5) In April 2008, the parties filed their initial and responsive comments on the  
disputed issues regarding two proposed modifications to Qwest's Performance  
Assurance Plan: adding a "one allowable miss" provision and modification of  
the existing Tier 2 payment provisions.
- 33 (6) Under the terms of Qwest's Performance Assurance Plan, the criteria for  
review of performance measurements, other than for possible reclassification,

shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement.

34 (7) Under the terms of Qwest's Performance Assurance Plan, fundamental changes to the Plan shall be declined or deferred from consideration under a six-month review unless the suggested changes are highly exigent.

35 (8) No party alleges exigent circumstances requiring immediate consideration of the proposed "one allowable miss" or Tier 2 payment modifications.

### CONCLUSIONS OF LAW

36 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

37 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *Title 80 RCW.*

38 (2) Qwest's Washington Performance Assurance Plan provisions and Performance Indicator Definitions require regular review and modification.

39 (3) The proposed "one allowable miss" and Tier 2 payment modifications do not address an omission or failure to capture intended performance, nor do they attempt to resolve duplication of another measurement.

40 (4) These proposed modifications would result in fundamental changes to Qwest's Performance Assurance Plan.

41 (5) The terms of Qwest's Performance Assurance Plan require the Commission to decline or defer consideration of non-exigent fundamental changes until a biennial review.

42 (6) Under the terms of Qwest's Performance Assurance Plan and the circumstances presented, it is appropriate to defer consideration of the proposed "one allowable miss" provision and the suggested changes to the

Tier 2 payment provisions until the biennial review or an equivalent in-depth review process of the entire Plan is commenced.

- 43 (7) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *RCW Title 80.*

**ORDER**

**THE COMMISSION ORDERS:**

- 44 (1) Qwest's Petition for Commission Approval of Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan, insofar as it has not already been addressed by Order 06 approving the 2008 Partial Settlement Agreement, is denied.
- 45 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington and effective June 5, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM  
Administrative Law Judge

### NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and (8) copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250