



**Qwest**  
1020 Nineteenth Street NW, Suite 700  
Washington, DC 20036  
Phone 202.429.3125  
Facsimile 202.293.0561

**Melissa Newman**  
Vice President - Federal Regulatory

July 18, 2002

**Ex Parte**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW TW-B204  
Washington, DC 20554

Re: Application by Qwest Communications International, Inc. for  
Authorization Under Section 271 of the Communications Act to Provide  
In-Region, InterLATA Service in the States of Montana, Utah,  
Washington and Wyoming, WC Docket No. 02-189

Dear Ms. Dortch,

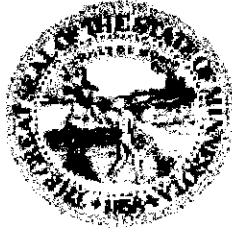
In response to questions from Commission staff, Qwest provided to the FCC the attached materials regarding proposals by the Regional Oversight Commission for long-term administration of PIDs. This material is hereby submitted for inclusion in the record for the above-referenced proceeding.

The twenty page limit does not apply as set forth in DA 02-1666.

Sincerely,

Melissa Newman

cc. J. Myles  
E. Yockus  
G. Remondino  
R. Harsch  
S. Vick  
J. Orchard  
S. Oxley  
C. Washburn



WASHINGTON  
**UTC**  
UTILITIES AND TRANSPORTATION  
COMMISSION

July 8, 2002

**TO:**

Commr. James Irvin, AZ Corp. Comm.  
Chairman Wm Mundell, AZ Corp. Comm.  
Commr. Marc Spitzer, AZ Corp. Comm.  
Commr. Jim Dyer, CO PUC  
Chairman. Ray Gifford, CO PUC  
Commr. Polly Page, CO PUC  
Board Mbr Mark Lambert, IA Util. Board  
Chairman Diane Munns, IA Util. Board  
Board Mbr Elliott Smith, IA Util. Board  
Commr. Dennis Hansen, ID PUC  
President Paul Kjellander, ID PUC  
Commr. Marsha Smith, ID PUC  
Commr. Marshall Johnson, MN PUC  
Commr. LeRoy Koppendrayer, MN PUC  
Commr. Phyllis Reha, MN PUC  
Chairman Gregory Scott, MN PUC  
Commr. Bob Anderson, Montana PSC  
Commr. Matt Brainard, Montana PSC  
Chairman Gary Feland, Montana PSC  
Commr. Jay Stovall, Montana PSC  
Commr. Anthony Clark, ND PSC  
Commr. Leo Reinbold, ND PSC  
Commr. Susan Wefald, ND PSC  
Vice Chair Anne Boyle, NE PSC

Commr. Lowell Johnson, NE PSC  
Commr. Rod Johnson, NE PSC  
Chairman Frank Landis, NE PSC  
Commr. Jerry Vap, NE PSC  
Commr. Jerome Block, NM PRC  
Vice Chairman Herb Hughes, NM PRC  
Commr. Lynda Lovejoy, NM PRC  
Commr. Rory McMinn, NM PRC  
Chairman Tony Schaefer, NM PRC  
Commr. Lee Beyer, OR PUC  
Chairman Roy Hemmingway, OR PUC  
Commr. Joan Smith, OR PUC  
Chairman James Burg, SD PUC  
Vice Chair Pam Nelson, SD PUC  
Commr. Bob Sahr, SD PUC  
Commr. Richard Campbell, UT PSC  
Chairman Stephen Mecham, UT PSC  
Commr. Constance White, UT PSC  
Commr. Richard Hemstad, WA UT C  
Commr. Patrick Oshie, WA UTC  
Chairman Steve Ellenbecker, WY PSC  
Deputy Chair Steve Furtney, WY PSC  
Commr. Kristin Lee, WY PSC

**FROM: EDWARD GARVEY, MARILYN SHOWALTER, BOB ROWE**

**RE: "POST SECTION 271 ENTRY" COORDINATION BETWEEN STATES SERVED  
BY QWEST**

Dear Colleagues,

We write to request that your commission consider and comment on three alternative proposals for "post-Section 271 entry" administration of performance indicators and related post-entry performance plan elements for Qwest.

**Please return your commission's comments to [LT271@puclist.state.id.us](mailto:LT271@puclist.state.id.us) by September 1.**

We suggest your comments address the following questions:

1. *Does your commission wish to consider participating in a post-entry multi-state effort? (If your commission definitely does not wish to participate, please state this.)*
2. *If you do wish to consider this further, please state which of the three proposals you prefer to pursue at this time. Please also state if your commission would choose not to participate if any of the different alternatives were pursued.*
3. *Please suggest any modifications that you think should be considered.*
4. *Please offer any other comments that would be helpful.*

Your commission's comments, received in response to this request, will be shared with state staff members, and will form the basis for ongoing work to further develop a specific proposal most consistent with the state commissions' preferences. A final decision about whether to create a post-entry collaborative, its scope and structure, will be made by participating states.

Our letter will also be shared with industry participants via the ROC Long Term 271 listserv and the ROC OSS TAG listserv. Any comments posted to the either list can be shared with you by your staff, in the way determined most appropriate by your commission.

As you know, the Regional Oversight Committee adopted a resolution this Spring expressing support for an ongoing multi-state collaborative to address post-Section 271-related issues, which represented the product of our thinking to date. The resolution recognized and was intended to build upon the excellent work both by the multi-state collaborative and by the Arizona Corporation Commission. Subsequently, state staff members, Qwest, and CLECs met to discuss alternative approaches to post-entry work.

The following material describes three models: two proposals prepared by state staff and the Qwest proposal. A table summarizing their differences follows the proposals. The final attachment is a copy of the unanimous ROC resolution, adopted at the April meeting in Santa Fe (which we sent to you in May).

Working together, both in the Arizona collaborative and in the multi-state collaborative, we have accomplished a great deal. We all recognize the great benefits of such approaches, if done well. We also recognize that the important work of implementing Section 271 will continue (at a much lower level of intensity!) after Qwest is granted Section 271 approval.

We look forward to hearing from you concerning the alternate proposals. We look forward to continue working with you.

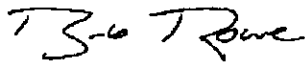
Sincerely,



Edward Garvey, Minnesota  
Outgoing Chair, Regional Oversight Committee



Marilyn Showalter, Washington  
Incoming Chair, Regional Oversight Committee



Bob Rowe, Montana  
Chair, OSS Collaborative

## **Alternatives For Multi-State Collaborative To Address Long Term 271 Issues**

The following document includes three alternatives for the structure of a multi-state collaborative to address ongoing issues that will impact each of the Qwest states. Staff proposals 1 and 2 were developed by a working group of state staff members. The Qwest proposal was developed in response to the ROC resolution passed in Santa Fe. A side-by-side comparison of key elements of the three proposals is at the end of the document.

At the Spring 2002 Regional Oversight Committee meeting, the ROC adopted the *Resolution on Long-Term 271 Multistate Work Efforts* as a means to provide guidance to the current discussions between states, Qwest and competitive local exchange carriers concerning the scope and governance of a possible multi-state collaborative effort to address post-271 oversight activities. (The resolution is attached.) The ROC resolution endorses a multi-state collaborative approach to long-term post-271 oversight activities using the governance structure that was successfully employed in the recently completed ROC-OSS test.

Qwest responded to the ROC resolution with its own proposals for scope and governance of a multi-state collaborative process.

This document is a follow-up to the ROC resolution and Qwest's proposal that is intended to engage the state commissions in a more detailed discussion of the scope and governance issues that must be resolved in order move forward in our discussions with each other, Qwest and CLECs regarding the possibility of multi-state post-271 long-term work efforts.

### **STAFF PROPOSAL 1**

#### Possible Scope of Multi-State Work Efforts

The ROC resolution contemplated a broad scope of activities that could be included in a multi-state process. The various Qwest performance assurance plans (PAPs) differ from state to state in some respects, but they also include some key ongoing oversight activities that are common to all or many states. These include requirements for:

- **Ongoing administration of the performance indicator definitions (PIDs).** The PIDs are performance metrics that define the wholesale service benchmarks and parity standards that Qwest is expected to meet. Many of them have been incorporated into the Qwest PAPs. The ROC-OSS PIDs developed in the 13-state OSS testing project and the Arizona PIDs developed as part of that state's OSS test are products of collaborative processes in which Qwest, CLECs and states participated. At this time, all 14 states' PIDs are the same. While long-term PID administration is not specifically mentioned in the Qwest PAPs, there is a need to respond to Qwest's or other parties' requests for addressing PID issues that may arise. States could provide a

multi-state forum to address PID issues on an *ad hoc* basis as they arise, or they could choose to hold all PID issues for the scheduled 6-month reviews.

- **Audit program/investigation of performance results.** All of the Qwest PAPs include provisions for PAP audits. The PAPs contemplate the hiring by the commissions of an independent auditor to conduct audits and also that the various commissions will attempt to coordinate their audits to avoid duplication. Some PAPs provide that the state commission serves as the final arbiter of disputes arising out of the audit program.
- **Reviews.** All PAPs provide for PAP reviews every 6 months. The major focus of the 6-month reviews is expected to be PID refinements (such as shifting their relative weights in the PAP, or revising, adding or deleting them). However, most PAPs provide for state commission discretion to also consider other PAP issues in the 6-month reviews. Most Qwest PAPs also require, in addition to the 6-month reviews, a comprehensive review of the effectiveness of the PAP.
- **Dispute resolution.** Some Qwest PAPs provide for state commission resolution of disputes over the meaning of PAP provisions and how they should be applied.

The ROC resolution included all of the above items as being in scope for the proposed multi-state post-271 work efforts. Given the current language of the PAPs, it certainly seems possible that a multi-state approach could be employed to conduct: long-term PID administration, whether as part of the 6-month reviews or separately; most, if not all, aspects of the 6-month reviews; the comprehensive reviews, at least for many states; and the audit program. It may be more difficult to undertake dispute resolution regarding the meaning of PAP provisions on a multi-state basis because, while some PAPs provide for dispute resolution by the state commission, others provide for use of the SGAT dispute resolution procedure, which focuses on AAA arbitration.

### Governance

The ROC resolution proposes use of a strong governance structure, such as the ROC-OSS governance structure in the multi-state process for post-271 oversight activities. Under that governance structure, all issues were first discussed by the Technical Advisory Group, which included representatives of Qwest, CLECs and state commission staffs. If the TAG were unable to agree on an issue, the issue would first be escalated for resolution to the Steering Committee, which was comprised of state commission staff members. If either Qwest or the CLECs were dissatisfied with a Steering Committee decision on the issue, either party could appeal the decision to the Executive Committee of state commissioners, which made the final decision.

For purposes of long-term 271 work efforts, the ROC Executive Committee directed staff to develop this discussion document to further explore a modified ROC-OSS governance structure. This modified ROC-OSS structure would be revised to increase the representation of state commissioners on the Executive Committee so that each state may designate a commissioner to serve on that committee, and to eliminate the staff steering committee from the process of resolving disputed issues. State commission staff members would participate in TAG

discussions.

### Discussion

The major reason for state commissions to choose to participate in a multi-state collaborative process is to gain the time and resource advantages it offers, especially to states and parties whose staff and financial constraints would limit their abilities to effectively participate on a state-by-state basis. In addition, the PIDs and some aspects of the PAPs are consistent from state to state now, but will probably not remain so unless states agree to work together on those areas that are common to all or to a majority of the states.

In contrast, the ROC-OSS approach compelled the parties to stay with the process and produced no divergence among participating states. Staff believes decisions reached by fellow Commissioners tend to have more weight among Commissioners than decisions recommended by outside third parties. The ROC-OSS governance structure applied to the multi-state long-term post-271 activities should result in far fewer issues having to come back to the individual states.

However, there are two concerns with the ROC-OSS governance approach that need to be addressed. First, commissions cannot delegate their authority and responsibility to resolve PAP-related disputes to a ROC executive committee. Second, it may be problematic for a state commissioner serving on the Executive Committee to subsequently participate in a state-specific proceeding on an issue decided by the Executive Committee.

In order to resolve the first concern, it should be clear to all states and parties at the outset that each participating state will be formally notified of Executive Committee decision making processes and the resulting decisions and will have the opportunity to approve or disapprove them in whatever forum the state deems appropriate. It should also be made clear to everyone at the outset that Executive Committee decisions will carry great weight with the participating commissions. So, while it is possible this procedure could open the door for dissatisfied parties to seek their preferred result in each individual state, thereby diminishing the value of a multi-state collaborative, it is hoped this understanding will induce participants to attempt to reach agreement on issues at the TAG level and, in those instances where agreement cannot be reached, to accept Executive Committee decisions as final.

Some states indicated it was possible to resolve the second concern in their respective states by requiring an Executive Committee member to disclose his participation in the Executive Committee decision-making process when the same issues are addressed in any manner by his or her state commission. It is not clear whether this process, or something similar, will be sufficient in all states.

The ROC should consider proposing this multi-state collaborative on a trial basis for two years (or until the first 2-year PAP review is complete).

If a multi-state collaborative as envisioned in this document is established, two consultants would be needed: one to conduct the multi-state PAP audit program and one to facilitate and administer everything else in scope. Participating states would have to figure out a way to fund and administer the consultant contracts.

## Staff Proposal 2

- **Form a new collaborative group (271 Performance Assurance Committee).** Membership would be open to anyone. The FCC would be asked whether they want to participate. The group leader would rotate among states annually. The group would work toward consensus on all issues that come before it. If the group cannot reach consensus, the group leader would declare an impasse and gather position statements from the parties that disagree.
- **Impasse resolution.** Impasses would be resolved by an Impasse Resolution Committee, consisting of a group of state staff members, with one vote per state participating in the 271 Performance Assurance Committee. Decisions would be based on position statements, and the group could decide to hear from the parties directly to ask questions. A person other than the person leading the collaborative group, and from a different state would lead the Impasse Resolution Committee. An Impasse Resolution Committee leader would be selected to coordinate the resolution of the impasse.
- **Topics.** PIDs, PAPs, and audits (more?). Anyone in the group would be allowed to raise an issue. Discussion would begin with whether the issue is appropriate for the group (has implications for the majority of the states, either at that time or in the future) or is state-specific. The group would not handle issues that are determined to be state specific. There would be a special audit subcommittee to deal with auditing issues, with a separate leader.
- **Communicating.** A listserv would be opened up for all group members. The group leader would be responsible for setting up conference calls on a regular basis. A time slot will be allotted for regular monthly calls. Two weeks before the scheduled call, the group leader would request agenda items from the members of the list. If no agenda items were suggested, the call would be canceled. Face-to-face meetings would occur in conjunction with the regularly scheduled ROC meetings (maybe Tuesday afternoons?) if needed.
- **Notes.** This proposal requires no outside help, except possibly for audits.  
We need to coordinate with the FCC to make sure that our efforts are not redundant.



## **QWEST PROPOSAL REGARDING STRUCTURE OF LONG TERM PID ADMINISTRATION**

Qwest Corporation respectfully submits this proposal regarding the governance structure of the proposed multistate process for long-term performance measure ("PID") administration. In this document, Qwest sets forth its specific proposals in response to the Regional Oversight Committee's ("ROC") Resolution on Long-Term 271 Multistate Work Efforts (the "ROC Resolution"). The operative paragraphs of the ROC Resolution read as follows:

**Resolved,** The Qwest ROC in its April 2002 Spring meeting in Santa Fe, New Mexico, supports the use of a collaborative approach under the auspices of the ROC with a strong governance structure which may be similar to that used in the OSS test for the post-OSS test continuing multistate work efforts for long term performance measurement and reporting, auditing, Performance Assurance Plan reviews and modifications, and a process for dispute resolution; and be it further

**Resolved,** That participation in any such collaborative approach by any state is voluntary and that each participating state Commission may act independently on issues where it might differ from the multistate group decision or recommendation.

Qwest fully supports a multistate process for long term PID administration. Qwest would agree to a process with the following procedures:

### **1. Meetings**

Qwest proposes that the parties meet at defined regular intervals, perhaps once per month. A facilitator should be retained to run the meetings. The facilitator should publish notices to the parties regarding dates, times and agendas for meetings. Parties should have the opportunity to issue written comments regarding issues, which would be circulated to the parties.

During the meetings, each party should have the opportunity to comment on each issue, and the facilitator should conduct discussions to attempt to resolve issues. The rules governing the process should provide that each party should act in good faith and include all of the evidence and arguments upon which it would rely if the issue were to be resolved by participating commissions. The facilitator should memorialize the position of the parties on each issue and the resolutions reached.

### **2. Governance**

The ROC Resolution contains two concepts regarding governance:

- that the process contain "a strong governance structure which may be similar to that used in the OSS test;" and
- that any decision on impasse issues is not binding, and each state commission "may act independently."

The ROC should determine the necessary procedures for administering the process, i.e. whether an Executive Committee or Steering Committee is necessary to administer the process and hire a facilitator.

With regard to dispute resolution, under the concepts of the ROC resolution, the long term PID process cannot result in binding resolution of impasse issues – at most, the participants in the process can memorialize their recommendations. To accomplish this, Qwest proposes the following procedures once an issue reaches impasse:

- the facilitator should have discretion either to memorialize the positions of the parties or to ask for written comments of the parties;
- the facilitator should issue a proposed resolution of the issue;
- the parties should have the opportunity to comment on the facilitator's proposed resolution; and
- the participating staff's should have the opportunity to discuss the recommendation of the facilitator and memorialize the official position of each staff regarding the facilitator's recommendation.

### **3. Agreements**

Qwest presented language at the last meeting that provides that agreed-upon changes to PIDs will be automatically incorporated into PIDs and Performance Assurance Plans ("PAPs") in each state.

### **4. Scope**

Qwest proposes that the long-term process address proposed changes to PIDs. The ROC Resolution also referred to auditing and PAP reviews and modifications.

With regard to PAPs, Qwest supported multistate effort to design PAPs in order to produce PAPs that were relatively uniform across the participating states. Unfortunately, those efforts were not successful in producing uniformity. Many states have made significant changes to the PAPs that resulted from the multistate efforts. In light of the fact that PAPs vary significantly between states, a multistate effort to discuss PAP issues would not be productive.

With regard to audits, Qwest supports the concept that audits be conducted on a multistate basis. However, such multistate audits need to encompass the audits under state PAPs – the multistate process should not result in audit rights that are additional to the audit rights under state PAPs.

### **4. Conclusion**

In conclusion, Qwest supports a multistate effort to discuss PID changes. Qwest proposes that the ROC schedule an additional meeting of the parties to the long term PID administration process to establish rules governing such a process, consistent with this proposal.

**Comparison of Proposals for ROC Long-term Section 271 Activities**

	Staff Proposal #1	Staff Proposal #2	Qwest Proposal
Nature of Group	Multi-state collaborative – states invited to participate	Open membership.	Not clearly defined - includes “the parties” and staff.
Group leadership/facilitator	2 hired consultants: 1 for PAP audit program, 1 for all else.	State staff; separate leadership for audit sub-group and all else.	Hire a facilitator.
How the group meets/frequency of meetings	For PIDs, as issues arise or every 6 mos.	Conference calls monthly if needed; in person every 6 mos. after ROC meetings.	Regularly - 1 per month?
Communication between meetings/conf. calls	Unspecified.	Listserv.	Facilitator announces meetings; parties “circulate” comments.
Topic areas	LT PID Admin.; 6-mo. reviews (some or all aspects); 2-yr. Reviews (many states); audits.	PIDs, PAPs, audits (unless issue is state-specific).	PID changes. NOT PAPs. No audits in addition to those under PAPs.
Decision-making process	Come to agreement through discussion.	Consensus.	Discussion; facilitator memorializes issue resolutions and positions of parties.
Impasse resolution process	Executive Committee (ideally with one Comm’r from each state) decides on impasse issues.	Group leader determines when impasse is reached. Impasse Resolution Committee made of one staff member from each state recommends a resolution for state consideration.	Facilitator decides whether to memorialize positions or ask for written comments, and then issues a proposed resolution for comment by parties and for each staff rep. to take a position.
	Staff Proposal #1	Staff Proposal #2	Qwest Proposal
How activities are financed	Individual states determine how to fund/administer consultant contracts.	Participants bear their own costs.	Unspecified.
Other	Individual states	Individual states	Agreed-upon PIDS

	remain responsible for final decisions. Trial basis for two years.	remain responsible for final decisions.	automatically incorporated in each state. Individual states remain responsible for final decisions on disputed issues.
--	---	---	--

**Resolution on long-term 271 Multi State Work Efforts**

**Whereas**, The Qwest Regional Oversight Committee (ROC) has been conducting, in conjunction with Qwest and the competitive local exchange carriers (CLECs), a multi state collaborative testing effort of the Qwest Operations Support Systems (OSS) over the last two years; and

**Whereas**, The OSS testing governance structure includes the Executive Committee, composed of interested Commissioners from the participating States, a Steering Committee, composed of staff from each participating Commission, and the Technical Advisory Group (TAG), composed of representatives from Qwest, the CLECs, the Steering Committee, and other interested parties; and

**Whereas**, The collaborative testing effort and governance structure has maximized efficiency in the use of scarce state and industry resources; and

**Whereas**, The collaborative approach and governance structure used in the OSS test have resulted in the development of a consensus in many controversial and difficult subjects, and have been a fair and effective means for resolving the few conflicts in which a consensus was not reached; and

**Whereas**, This governance approach, which preserves the right of each State Commission to reach independent conclusions on any issue, has been very effective at developing a recommended approach, as well as a clear and comprehensive record to support subsequent Commission decisions; and

**Whereas**, Discussions are underway regarding multi state collaborative efforts for post-OSS test long term performance measurement and reporting, auditing, Performance Assurance Plan reviews and modifications, and a process for dispute resolution; and

**Whereas**, The parties to the discussions have not been able to agree on a specific collaborative mechanism or governance structure for the post-OSS test continuing work efforts; now therefore be it

**Resolved**, The Qwest ROC in its April 2002 Spring meeting in Santa Fe, New Mexico, supports the use of a collaborative approach under the auspices of the ROC with a strong governance structure which may be similar to that used in the OSS test for the post-OSS test continuing multi state work efforts for long term performance measurement and reporting, auditing, Performance Assurance Plan reviews and modifications, and a process for dispute resolution, and be it further

**Resolved**, That participation in any such collaborative approach by any state is voluntary and that each participating state Commission may act independently on issues where it might differ from the multi state group decision or recommendation.