

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

QWEST CORPORATION

Petition for Commission Approval of
Stipulation Regarding Certain Performance
Indicator Definitions and Qwest Perform-
ance Assurance Plan Provisions

DOCKET NO. UT-073034

QWEST'S PETITION FOR RECONSIDERATION
OF ORDER 09, OR, IN THE ALTERNATIVE,
PETITION TO COMMENCE A FIVE AND ONE-
HALF YEAR REVIEW PROCESS

- 1 On January 5, 2009, the Washington Utilities and Transportation Commission ("Commission") entered Order 09 in this docket. In Order 09, the Commission clarified the effect of the AFOR orders, concluding that the Qwest Performance Assurance Plan ("QPAP") should continue in effect until affirmatively changed by the Commission¹, that Qwest should modify Section 16.3 of the QPAP², and that the five and one-half year review proceeding that the QPAP would otherwise have called for should be deferred until at least one year prior to the expiration of Qwest's AFOR.³

¹ Order 09, ¶¶ 57 and 58.

² Order 09, ¶¶ 58, 59, and 62.

³ Order 09, ¶¶ 56 and 61.

- 2 Prior to entry of the order, the Commission received comments from Qwest Corporation (“Qwest”), Commission Staff (“Staff”), Integra Telecom (“Integra”), and the Joint CLECs⁴.
- 3 In paragraphs 20 and 56 of Order 09, the Commission noted that all parties agreed that there was no need to conduct a five and one-half year review at this time. Qwest agrees that its comments did state that there was no need for such a review at this time. However, that comment, in the context of Qwest’s other comments, signified that Qwest believed there was no need for a review *if* the QPAP provisions in Section 16.3 were allowed to operate, and that certain measures expired under the terms of the QPAP. In Order 09, the Commission held otherwise, determining that no automatic expiration of any measures or submeasures would occur. As such, Qwest now believes that a five and one-half year review is warranted. Commencement of a review at this time is not inconsistent with Order 09, and is further warranted by the fact that there is insufficient evidence in the record justifying the continuation of all measures, and that, given the opportunity to do so, Qwest would present evidence showing that there is no harm in allowing certain measures to expire.
- 4 In deferring commencement of the five and one-half review proceeding, the Commission explicitly held that the deferral would be until “at least” one year prior to the expiration of the AFOR.⁵ Qwest understands this provision to mean that the five and one-half year review could in fact be commenced even earlier than one year prior to the expiration of the AFOR. If that understanding is correct, then by this petition, Qwest respectfully asks the Commission to commence that review at this time, so that evidence may be presented regarding those provisions of the QPAP that should be eliminated prior to the full expiration of the QPAP itself. If Qwest’s understanding is incorrect, and the Commission means to defer the five and

⁴ The Joint CLECs are XO Communications Services, Inc., and tw telecom of washington, llc.

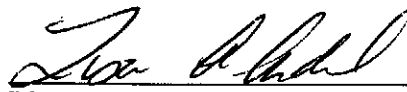
⁵ Order 09, ¶¶ 23 (fn. 15), 56, 61.

one-half year review until November of 2010, then Qwest respectfully asks the Commission to reconsider its decision, and to commence the five and one-half year review at this time.

5 The Commission notes in paragraph 37 of Order 09 that no party provided specific information in their comments as to the effect on CLECs and competition if non-Attachment 3 measures expire. The Commission goes on to note that a large number of measures may be affected. Qwest does not disagree with those observations, but they do not necessarily support the continuation of all measures. Given the opportunity to do so, Qwest would present evidence showing that there is no harm in allowing certain measures to expire at this time. Qwest believes, and would present evidence to show, that certain measures that are not contained in Attachment 3 should be eliminated and could be removed without causing competitive harm, and that the QPAP would still be consistent with the AFOR orders and statute even with those modifications. Examples of such measures might be PO-1, OP-2, and BI-4. Qwest would detail more fully in a five and one-half year review proceeding why these measures, and others, are no longer necessary to ensure that markets remain open or to ensure that Qwest continues to perform acceptably in these areas.

DATED this 14th day of January, 2009.

QWEST



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