

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

Docket No. UT-033020

**IN THE MATTER OF THE SIX-MONTH REVIEW OF QWEST
CORPORATION'S PERFORMANCE ASSURANCE PLAN**

Eschelon Telecom, Inc. ("Eschelon") previously responded to the Washington Utilities and Transportation Commission's ("Commission's") May 15, 2003 notice requesting comments on the process and scope for the first six-month review of the Qwest Performance Assurance Plan ("QPAP" or "PAP"). In those comments, Eschelon identified important issues to resolve in the first six-month review.

On October 2, 2003 the parties met to discuss the scope of the first six-month review in a Prehearing Conference before Judge Rendahl. Eschelon submits these comments in response to the Commission's October 10, 2003 Prehearing Conference Order. In that Order, the Commission directed the parties to file comments on the following:

- Which issues are currently before the Long Term Performance Indicator Definitions ("PID") Administration ("LTPA")?
- Which issues raised in this six-month review could be addressed by LTPA?
- Which issues raised in this six-month review are Washington specific?
- Are there new issues that the Commission should consider in the first six-month review?
- Should the Commission address any of these issues in the first six-month review or defer review until the second review period?

Introduction

In these comments, Eschelon responds to Commission's questions and requests that the Commission address two issues during this six-month review. There are many misconceptions about what LTPA is addressing, what LTPA will address prior to the next six-month review, and what LTPA will not resolve at all. Irrespective of the existence of LTPA, there are PAP specific issues that the Washington Commission should resolve during this six-month review.

1. Many issues await LTPA consideration.

The LTPA has met regularly over the last year to make necessary changes to the performance measure designed to capture Qwest's "New Service Quality" ("OP-5"). The limitations in the previous measure necessitated the creation of new submeasures within OP-5 to capture "day-of-cut" issues and an entirely new PID ("PO-20") to measure the accuracy of Qwest's manual creation of service orders. LTPA completed its review of OP-5 just this August. LTPA is currently reviewing PO-20.

While, so far, LTPA has focused solely on fixing the limitations of a single performance measure, both Qwest and CLECs have requested that LTPA develop or change other measures. LTPA has not even begun to address these issues. For example, on August 8, 2002, Qwest submitted a performance measure to LTPA to address the timeliness of Qwest's resolution of billing disputes ("BI-5"). Within a few days, MCI submitted comments and questions on Qwest's proposal. Beyond that, LTPA has taken no action on the development of BI-5 since then. Similarly, on May 2, 2003, MCI, AT&T, and Eschelon submitted a proposed measure of the timeliness of line loss notifications. Once again, LTPA has taken no action.

Eschelon agrees that LTPA is the appropriate venue for discussion of things like how to measure Qwest's performance. For that reason, Eschelon did not propose that BI-5 or the line loss measure be reviewed during this first six-month review. Eschelon does hope, however, that LTPA will address matters more promptly going forward.

2. LTPA is not the appropriate venue to resolve the issues raised by Eschelon in this proceeding.

A. The Washington Commission needs to establish a Tier designation for PO-20.

In its initial comments, Eschelon requested that the Commission establish Tier designations for PIDs like PO-20 in this review. Section 16.1.1 of the Washington PAP allows agreed upon PIDs to be incorporated automatically in the PAP.¹ However, for new measures to be included in the PAP, the Commission must determine a Tier designation. As Tiers are part of the PAPs, not the PIDs, LTPA is not the appropriate forum. Furthermore, the method of designating Tiers varies among the states. Therefore, this is not an issue for a multi-state collaborative. Even Qwest agrees that the Washington Commission must establish a Tier designation for PO-20.²

B. The Washington Commission should establish Enhanced Extended Link ("EEL") standards in this review.

Section 16.1 of the Washington PAP specifies that the Commission and the parties, "shall participate in a review of the performance measurements to determine whether measurements should be added, deleted, or modified...Criteria for review of performance measurements, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance..."³

More than a year ago, this Commission found that the QPAP "must have sufficient measures in place that reflect a broad range of carrier-to-carrier performance at the time Qwest enters the long distance market, including EELs, sub-loops, and line sharing."⁴

¹ See Qwest Statement of Generally Available Terms and Conditions ("SGAT"), Exhibit K, November 6, 2002 at 20. This document is available at:

http://www.qwest.com/wholesale/downloads/2002/021115/WA_Exhibit-K_11-6-02.doc

² See, Qwest's May 20, 2003 Response, In the Matter of the Six-Month Review of Qwest Corporation's Performance Assurance Plan, Docket UT-033020 at 2.

³ See *Id.*

⁴ Thirtieth Supplemental Order in the Matter of the Investigation into U S WEST Communications Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. UT-003022 and In the

The Commission determined that “Qwest must provide payment opportunities in the QPAP for these measures as standards are determined and not wait until a six-month review to do so.”⁵ Because there are still no EEL standards, clearly, the Washington PAP currently fails to “capture intended performance.”

The reason there are no EEL standards in the PAP is not because LTPA is working on the matter. Qwest has never even proposed EEL standards to LTPA. Eschelon would encourage this Commission to recognize Qwest’s request to defer everything to LTPA for what it is—a further delay in complying with the Commission’s Order. There is no need for this Commission to allow further delay just so that LTPA can develop standards. The parties have already discussed and agreed upon EEL standards.

On July 23, 2003, Qwest, AT&T, MCI and Eschelon entered into a Stipulation before the Colorado Commission during its first six-month review of the Colorado PAP (“CPAP”). This Stipulation was accepted by the Colorado Commission and standards for EELs for PO-5, OP-3, OP-4, OP-5, OP-6, MR-5, MR-6, MR-7, and MR-8 are now part of the CPAP.⁶ In Qwest’s compliance filing, Qwest submitted a revised PID document (Exhibit B to the SGAT) and revised PAP (Exhibit K to the SGAT).⁷ Interestingly, Qwest incorporated EEL standards only in the PAP document. Clearly, Qwest does not consider EEL standards to be a PID issue in Colorado.

Eschelon recognizes the resource demands placed on this Commission by the Triennial Review proceedings. Eschelon would be willing to agree to the same standards for EELs in Washington as the parties agreed to in Colorado. If Qwest is not willing to do so, the parties’ positions are already developed and limited resources would need to be expended in order to comply with the Commission’s April 5, 2002 Order to establish EEL standards.⁸

3. There are issues that can be deferred to the next six-month review.

In its initial comments, Eschelon requested that the Commission establish a mechanism for the inclusion in the PAP of PIDs partially agreed upon in LTPA. As there is no longer a PID in this status before LTPA, this issue can be deferred until the second review. Similarly, Eschelon would be willing to defer a review of the “Low Volume, Developing Markets” products specified in Section 10.1 of the Washington PAP until the second review.⁹

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, April 5, 2002 at 33.

⁵ See Id.

⁶ Order Denying Rehearing, Reargument, or Reconsideration in the Matter of Qwest Corporation’s Colorado Performance Assurance Plan, Docket No. 02M-259T, August 22, 2003 at 2.

⁷ Eschelon received these documents in electronic form in series of emails from Qwest on October 13, 2003.

⁸ Even if standards are established during this six-month review, there is no way to comply with the Commission’s directive to do so before Qwest entered the long distance market in Washington.

⁹ It should be noted that, like the other issues raised in Eschelon’s comments, this is a PAP issue. As other PAPs in the region treat this issue differently, this is also not an issue that LTPA can address.

The Washington Commission asked if there are new issues that should be added to this review. Eschelon will not propose additional issues at this time. Eschelon does not want to suggest that there are not important issues to review. However, to conserve resources, Eschelon will bring additional issues to the Washington Commission in the next review.

4. There are steps the Washington Commission can take now to make the next six-month review work more efficiently.

Experience under LTPA demonstrates that LTPA doesn't resolve issues quickly. LTPA works best when all sides want to be at the table. The initial development of the PIDs was important to Qwest because of its desire to enter the long distance market. The Arizona Commission required Qwest to fix the problems in OP-5 as part of its 271 review. Even with that incentive, it took over a year to partially address the problem with a new OP-5 (PO-20 is still under review).

Once Qwest receives 271 relief in all states, Eschelon fears that LTPA certainly won't get faster and may even slow down. Because of this concern, Eschelon very much appreciates the Commission's requirement to file an LTPA Status Report by January 9, 2004.

In addition, this Commission should direct the parties resolve issues currently before LTPA by a date certain (or determine that impasse exists) so that the matters can be brought before the Washington Commission prior to next six-month review.

Conclusion

Eschelon requests that the Commission:

- Include PO-20 in PAP in the same manner as OP-5 is currently treated in the PAP.
- Establish the same EEL standards in the Washington PAP as are contained in the Colorado PAP.

Dated: October 16, 2003

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