BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of U S WEST, INC., and QWEST COMMUNICATIONS INTERNATIONAL INC. For an Order Disclaiming Jurisdiction, or in the Alternative, Approving the U S WEST, INC., - QWEST COMMUNICATIONS INTERNATIONAL INC. Merger	Docket No. UT-991358 PETITION TO TERMINATE OR MODIFY THE SERVICE QUALITY PERFORMANCE PROGRAM

I. INTRODUCTION

1 In accordance with the Commission's Ninth Supplemental Order in Docket No. UT-991358, Qwest Corporation ("Qwest") files this Petition to terminate the Service Quality Performance Program ("SQPP") effective as of December 31, 2003.[1] In the alternative, Qwest requests modification of the SQPP to reflect the new retail service quality rules that became effective on July 1, 2003 and to correct certain flaws in the application of the existing SQPP payment structure.

1 The Ninth Supplemental Order ("Order"), dated June 19, 2000, granted the joint application of U S WEST, Inc. and Qwest Communications International Inc. (collectively the "Joint Applicants") to effect the July 18, 1999 Agreement and Plan of Merger of the Joint Applicants.

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

2 In the Order, the Washington Utilities and Transportation Commission ("Commission") granted approval of the merger transaction subject to conditions stated in the body of the Order, including those conditions set forth in the Settlement Agreements attached to the Order as Appendices A and B. One of the settlement conditions included in Appendix A is the SQPP and accompanying performance measures and payments. Section II. B. 7. of Appendix A allows Qwest to petition the Commission to terminate the SQPP after December 31, 2003. In accordance with its own terms, the SQPP expires after December 31, 2005.

3 The basis for Qwest's Petition to terminate the SQPP is threefold. First, the competitive landscape in Washington has changed dramatically since the Merger Settlement Agreement became effective June 19, 2000. As the Commission recently noted in its order granting competitive classification for Qwest's basic business exchange telecommunications services, between 27 and 40 Competitive Local Exchange Carriers (CLECs) are competing effectively throughout Qwest's territory and have achieved a market share of approximately 28% of analog business lines.[2] Furthermore, the Commission found that the evidence provided in that docket suggested a strongly pro-competitive market structure which has undergone significant change since the Commission's decision in Docket No. UT-000883 on December 18, 2000.[3] In light of the significant competitive presence that now exists in Washington, Qwest believes that the severe payment structure associated with the SQPP is no longer necessary as a performance incentive. In a competitive environment, if Qwest does not meet the performance expectations of its customers, it will lose their business, which is the ultimate performance penalty.

4 Second, in addition to the SQPP, Qwest also administers a Customer Service Guarantee

[2] Order No. 17; Order Granting Competitive Classification, *In the Matter of the Petition of Qwest Corporation for Competitive Classification of Basic Business Exchange Telecommunications Services,* Dkt. No. UT-030614, ¶¶ 99, 103, and 104.

[3] *Id.*, ¶ 99.

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

Program that provides credits directly to retail customers for not meeting specified performance commitments. The service guarantee program is addressed in Appendix B to the Order and in Qwest's retail tariffs. Many of the performance activities in the SQPP are also addressed by Qwest's Customer Service Guarantee Program: delayed service; out-of-service conditions; no dial tone; and trouble report rate. Qwest does not believe that there is an on-going need for this type of 'double-coverage' regarding service quality payment programs.

5 Finally, in July 2003, updated telecommunications service quality rules went into effect in Washington which revised and/or established retail service quality standards for the same activities that are monitored in the SQPP. Qwest believes that the existence of the service quality regulations, in conjunction with the existing Qwest Customer Service Guarantee Program, obviate the need for the SQPP and provide the Commission with adequate oversight of Qwest's retail service quality performance. Further, Qwest is currently subject to both the SQPP and the updated rules, creating confusion on the implementation of programs to meet the various standards. Terminating the SQPP will allow Qwest to manage its business to a single set of standards which are consistent with the standards the Commission deemed sufficient to apply to all other similarly situated providers in the industry.

6 In the event the Commission decides not to terminate the SQPP, Qwest requests that the program be modified to reflect the current rules and to correct certain flaws in the existing payment structure which requires Qwest to issue credits despite providing exemplary service.

II. DISCUSSION

A. SQPP Termination

7 The SQPP established eight distinct performance measures for Qwest's provision of service to its retail customers. It established baseline levels of performance, defined performance exclusions and established the methodology for the calculation of credits. Qwest's annual

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

performance for 2001, 2002, and 2003, as reported to the Commission, is documented in Attachment 1 to this Petition. As is evidenced in Attachment 1, Qwest's performance over the past three years has been exemplary in all performance categories with the exception of "Business Office Access".[4] Regardless of this high level of performance, the SQPP payment structure has resulted in nearly $7,000,000 in credits during 2001, 2002 and 2003 for all metrics.[5] In light of its exceptional performance record, Qwest believes that the continuation of such credit obligations serves no useful purpose. This is particularly true given that during the same period the SQPP has been in effect, Qwest has also issued credits to its customers under the Customer Performance Guarantee Program totaling nearly $12,000,000 for the same activities measured under the SQPP.[6]

8 Furthermore, Qwest's service quality performance is monitored under WAC 480-120-439 for the same activities covered by the SQPP. A comparison of the July 1, 2003 service quality rules to the SQPP metrics can be found in Attachment 2.

9 The SQPP was adopted by the Commission over three years ago to provide additional assurance that the merger of Qwest's parent and U S WEST would not result in any degradation of service quality. During the past three years there has been significant change to the competitive environment. Qwest applied for and received Section 271 relief on the basis that the local market is open to competition. Qwest has consummated hundreds of

---

4 Even for this metric, however, if Qwest were held to the standard under the Commission's new rules, it would have met the standard in the majority of months the SQPP has been in effect. The SQPP metric requires that, except during periods of emergency operation, Qwest shall answer 80% of business office calls within thirty seconds. The comparable rule in WAC 480-120-133 requires that for companies using an automated answering system, the average wait time should not exceed sixty seconds after customer selects the appropriate option to speak to a live representative.

5 It should be noted that actual annual per line credit to customers for each year the SQPP has been in effect has only been approximately $1. Qwest doubts whether customers appreciate or even know the rationale behind the credit, even though an annual accounting of the SQPP performance and payments is sent to customers in a bill insert. Using the payments to fund specified infrastructure projects would probably provide more tangible benefits to customers.

6 The Customer Service Guarantee Program is filed in Qwest's Exchange and Network Services Tariff, WN U-40, Section 2.2.2 B., Customer Service Guarantee Programs. The programs provide customers credits for missed appointments and commitments; delayed primary basic exchange service; out-of-service conditions; dial tone within 3 seconds; and trouble report rate. The annual credits under these programs were $5.7M in 2001, $3.9M in 2002, and $2.2M in 2003.

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

interconnection agreements with its competitors, and over 85 CLECs submitted Local Service Requests to Qwest to purchase thousands of network components in order to provide competing local services in Washington during 2002 and 2003. Because the competitive environment for local services has fundamentally changed, the Commission should re-examine Qwest's obligations under the SQPP.

10 Even though Qwest has had exemplary performance over the life of the SQPP, it has made significant payments under the plan's severe payment structure. The competitive environment has obviated the need for the SQPP and other rules and programs are in place that will help ensure that Qwest provides high levels of service quality to its customers. The Commission's rules are the standards by which the Commission regulates the other local exchange providers in the state. Basic fairness and principles of parity in regulation dictate that it is now appropriate that Qwest be evaluated under the same rules with the same potential payment liability as its competitors. Consequently, Qwest requests that the Commission terminate the SQPP.

B. SQPP Modification

11 In the event the Commission decides not to terminate the SQPP, Qwest requests that the Commission make three modifications to the SQPP: (1) Replace the existing SQPP standards with the standards from the Commission's service quality rules as outlined in Attachment 2, but leave the existing SQPP payment structure in place, (2) Modify the "Out-of-Service Repair Interval" metric such that 100% performance is not required to meet the standard, and (3) Modify the "Complaint Response" metric such that 100% performance is not required to meet the standard.

12 Qwest believes that even though it may be required to pay credits associated with the SQPP for the next two years, it should only pay those credits based on the same standards the

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

Commission uses to evaluate the rest of the industry. As reflected in Attachment 2, the two order completion metrics are unaffected by changing to the Commission's rules. For the remaining metrics, there are relatively minor differences between the SQPP standards and the Commission's rules except for the dial tone speed and the business office and repair center access metrics. For the dial tone speed metric, WAC 480-120-401 is actually a stricter standard, requiring dial tone in 3 seconds for 98% of the calls rather than for 90% of the calls as required by the SQPP. For the business office and repair center access metrics, WAC 480-120-133 requires that there be no more than a sixty second average wait time for a service representative after customers make their final menu choice. The SQPP standard requires that 80% of the calls to the business office and repair centers be answered by a service representative 30 seconds after customers make their final menu choice. Qwest believes that the call center standard should reflect the minimum acceptable performance baseline expected of other providers – the 60 second average wait time, if using an automated answering system. A standard (such as the one in the SQPP) that evaluates the percentage of calls answered in a number of seconds does not adequately reflect the quality of the total customer experience. Customers cannot detect a service difference between 80% of calls answered in 20 seconds and 85% of calls answered in 30 seconds. However, they do notice the duration of the hold time after they have made their final menu selection. Consequently, Qwest believes that the 60 second average wait time standard from the Commission's rule is the appropriate standard to measure the customer's experience in accessing its business office and repair center.

13 The major impact of substituting the metrics from the Commission's rules for the SQPP metrics is to harmonize the standards and mitigate the harsh payments associated with Business Office Access. As previously stated, Qwest would have met the Commission rule standard for Business Office Access for the majority of months that the SQPP has been in

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

effect.[7]

14 Qwest also seeks to modify the "Out-of-Service Repair Interval" metric such that 100% performance is not required to avoid the payment requirement. Given the complex nature of its network and the thousands of events that can affect service daily, Qwest will never be able to meet the 100% benchmark requirement. Qwest's average performance for this metric has been above 99% for the past two years. However, because Qwest is required to make a payment regardless of how well it performs, short of 100% performance, the metric provides little incentive to perform at a high level. Consequently, Qwest proposes the following sliding scale:

Percent of out-of-service condition restored in 48hrs

Below 99%	99-99.5%	99.5-100%
100% of payment	50% of payment	No payment

The impact of substituting the proposed sliding scale for the 100% benchmark would be to mitigate the counter-productive and punitive payment Qwest currently makes under the existing standard.[8]

15 Finally, Qwest seeks to modify the Complaint Response metric such that 100% performance is not required to avoid the payment requirement. Qwest has reduced the number of violations assessed by the Commission for failing to respond within two business days or failing to provide a complete and detailed response for this metric from 794 in 2001 to 20 in 2002 and to 2 in 2003. Like the "Out of Service Repair Interval" metric, Qwest believes that a 100% standard is too punitive and, therefore, is counter-productive. For example, once Qwest is late

7 For 2003, Qwest's $666,667 payment would have been reduced to $166,667 under the standard set out in the Commission's rule.

8 For 2003, Qwest's $1,000,000 payment would have been reduced to $250,000 if the proposed sliding scale had been used rather than the 100% benchmark.

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

with one complaint response in a month, it has little incentive to reply to subsequent complaints that month within the standard because the one miss triggers the maximum payment. Consequently, Qwest proposes the following sliding scale:

Number of missed responses to Commission within two/five days of complaint

>10	**6-10**	**1-5**
100% of payment	50% of payment	No payment

The impact of substituting the proposed sliding scale for the 100% benchmark would be to mitigate the counter-productive and punitive credit payment Qwest currently makes under the existing standard.[9]

III. CONCLUSION

16 The change in the competitive environment and the existence of duplicative service quality standard rules provide strong rationale for the Commission to terminate Qwest's SQPP obligations. Such termination is specifically allowed under the Merger Settlement Agreement and no useful purpose is served by continuation of the program. The Commission's rules are the standards by which the Commission regulates all other local exchange providers in the state and it is appropriate that Qwest now be evaluated under the same rules.

17 In the alternative, should the Commission decline to terminate the SQPP, Qwest petitions the Commission to modify the SQPP to mitigate the excessive payment levels, given Qwest's exemplary performance. Qwest proposes that the SQPP be modified to incorporate the standards found in the Commission service quality rules, while leaving the existing SQPP payment levels in effect. This change primarily impacts the Business Office Access metric.

[9] For 2003, Qwest's $166,667 payment would have been eliminated if the proposed sliding scale had been used rather then the 100% benchmark.

Qwest
1600 7th Ave., Suite 3206
Seattle, WA 98191
Telephone: (206) 398-2500
Facsimile: (206) 343-4040

Qwest further proposes that the Commission replace the current 100% benchmarks for the "Out-of-Service Interval" and "Complaint Response" metrics with sliding scale payment structures that would prove less punitive and more productive, consistent with the Commission's original goal of encouraging high service quality.

DATED this _____ day of January, 2004.

QWEST

____

Lisa A. Anderl, WSBA #13236
Adam L. Sherr, WSBA #25291
1600 7th Avenue, Room 3206
Seattle, WA 98191
Phone: (206) 398-2500