

**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**

I. Introduction

Eschelon Telecom, Inc. ("Eschelon") offers these comments on the merits of establishing standards for Enhanced Extended Loops ("EELs") and the appropriateness of including the Performance Indicator Definition ("PID") PO-2 in the Washington Performance Assurance Plan ("PAP"). This Commission should establish EEL standards and payment opportunities for seven PIDs and include EELs as a reporting category for another PID. With respect to PO-2, Qwest has provided no basis for removal of PO-2 from the PAP. Instead, Qwest's performance under PO-2 illustrates the importance of including PO-2 in the PAP.

II. Procedural Background

On May 15, 2003, the Commission issued a notice requesting comments on how the Commission should structure its proceeding for the six-month review of the PAP.

On May 30, 2003, the Commission received responses from various parties identifying a number of issues to be addressed in a six-month review proceeding.

On October 2, 2003, the Commission convened a prehearing conference. At this conference the Commission directed parties to file comments on whether to defer all issues to LTPA or the next six-month review period.

On October 17, 2003 and October 27, 2003 parties and the Commission staff identified issues that the Commission should consider in the first six-month review period, and issues that could be addressed by the LTPA collaborative or deferred to the next review period.

On November 12, 2003 the Commission determined that this first six-month review would address line sharing and line splitting performance standards, performance and payment standards for EELs, and the propriety of including PO-2 in the QPAP.

III. This Commission should establish EEL standards under the PAP

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.”¹ 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.”²

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.³

Because Eschelon recognizes the resource demands placed on all parties by the Triennial Review proceedings, Eschelon proposes that the Washington Commission establish the same standards as the Colorado Commission. The standards provided in the following table should apply in the first month following Commission approval.

PID	Standard
OP-3	90% Benchmark
OP-4	6 day Benchmark
OP-5	Parity with Qwest Retail DS1 Private Line
OP-6	Parity with Qwest Retail DS1 Private Line
MR-5	Parity with Qwest Retail DS1 Private Line
MR-6	Parity with Qwest Retail DS1 Private Line
MR-7	Parity with Qwest Retail DS1 Private Line
MR-8	Parity with Qwest Retail DS1 Private Line
PO-5	Add EELs as a product category for PO-5B. A standard for PO-5B already exists.

¹ 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 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.

² See Id.

³ 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.

IV. The PAP's treatment of PO-2 should not change at this time

While Qwest has requested that PO-2 should be reviewed during this six-month review, Qwest has failed to clearly state what exactly it wants this Commission to do with respect to PO-2. In addition, Qwest has never stated why any change is appropriate.⁴ Because Qwest has not provided sufficient information, Eschelon's comments at this time are quite general.

Eschelon would like to caution this Commission against the removal of particular PAP requirements at this time. In its 271 reviews, the FCC relied on the existence of performance plans, like the Washington PAP, to ensure that the market would remain open after Qwest received 271 relief.⁵ Because of this reliance, it is premature to start removing measures at the first six-month review when Qwest's performance after receiving long distance long distance authority across its service region is still unknown.

In terms of Qwest's specific proposal regarding PO-2, it is useful to consider what PO-2 measures and the limitations on when the PAP sanctions Qwest's performance. PO-2 measures Qwest's flow through capabilities. PO-2A measures all orders submitted while PO-2B measures just those orders that are flow through eligible. Only PO-2B contains standards under the PIDs; PO-2A is measured as "diagnostic". That is, Qwest is only held accountable under the Washington PAP for its flow-through performance on a subset of orders for which flow through should occur. Within PO-2A and PO-2B, further disaggregation exists depending on whether the order is submitted by the Interconnect Mediated Access ("IMA")-Graphical User Interface ("GUI") or the IMA-Electronic Data Interchange ("EDI") and for various products (e.g., Resale, Unbundled loops, Local Number Portability ("LNP"), and UNE-P POTS).

Qwest's performance under PO-2 is particularly illustrative of why the measure should remain in the PAP.⁶ For products ordered through the GUI and measured under PO-2B-1, Qwest has failed 3 out of 4 products in at least one month on an aggregate basis in 2003. After failing to meet the standard for resale and UNE-P POTS early in 2003, it appears that the incentives of the PAP have led to Qwest improving performance recently. Unfortunately, Qwest continues to miss the LNP standard in approximately every 3 out of 4

⁴ In its October 17, 2003 comments in this proceeding, for example, Qwest said only that it "has consistently urged that the Washington use of PO-2 to require both Tier 1 and Tier 2 payments is not appropriate, and that the QPAP should be changed to correct this by selecting a single tier for this measurement." Page 7. Qwest failed to indicate which single tier it proposes should remain. Qwest also failed to reference in which proceeding(s) it has made such arguments or whether the Commission had previously addressed the matter.

⁵ See, for example, In the Matter of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York, CC Docket No. 99-295, December 22, 199 at para 429.

⁶ Qwest's PO-2 performance for CLECs in the aggregate can be found at: http://www.qwest.com/wholesale/downloads/2003/031125/WA_271_Nov02-Oct03_Exhibit_PID-Final.pdf at 44-47.

months.⁷ Qwest's performance for products ordered via EDI and measured under PO-2B-2 has shown a similar pattern.⁸

The appropriate conclusion to draw from Qwest's performance is that it can meet the standards that this Commission (and the FCC) accepted as benchmarks in the 271 proceedings as necessary to provide a meaningful opportunity to compete under PO-2. Eschelon would suggest that the inclusion of PO-2 in the Washington PAP has provided an incentive for Qwest to improve its performance. This is the exact purpose of the PAP and it would be counterproductive to restrict PO-2 under the PAP at this time.

Qwest's proposal is not only inappropriate based on the intent of PAPs in general and Washington's specific experience. Qwest's proposal also goes against the grain from what other states are doing with regard to flow through. The Minnesota Commission recently required Qwest to include two additional products under PO-2 and to develop standards for these measures in LTPA.⁹ So, just as Qwest is expanding PO-2 upon direction of the Minnesota Commission, Qwest is requesting that this Commission restrict PO-2 in Washington.

V. Conclusion

EELs should be treated in the same manner under the Washington PAP as the parties have agreed to in Colorado. No changes should be made to the treatment of PO-2 under the PAP at this time.

Dated: December 8, 2003

Ray Smith
Eschelon Telecom, Inc.
730 Second Ave. South, Suite 1200
Minneapolis, MN 55402-2456
612.436.1606

⁷ See id. at 46.

⁸ See id at 47.

⁹ Order Finding Compliance Filing Inadequate and Requiring Further Filings, In the Matter of a Request by Eschelon Telecom for an Investigation regarding Customer Conversion by Qwest and Regulatory Procedures, Docket No. P-421/C-03-616, November 12, 2003.