

Decision No. C13-0722

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02M-259T

IN THE MATTER OF QWEST CORPORATION'S COLORADO PERFORMANCE
ASSURANCE PLAN.

**ORDER APPROVING SETTLEMENT, CLOSING DOCKET,
AND OPENING NEW DOCKET FOR REPORTING FOR
NEW PERFORMANCE ASSURANCE PLAN**

Mailed Date: June 17, 2013

Adopted Date: June 12, 2013

I. BY THE COMMISSION

A. Statement

1. On May 23, 2013, Qwest Corporation, doing business as CenturyLink QC (Qwest); Comcast Phone of Colorado, LLC; MegaPath Corporation, formerly known as DIECA Communications, Inc., doing business as Covad Communications Company; tw telecom of colorado llc; Eschelon Telecom of Colorado, Inc., doing business as Integra Telecom; and Staff of the Commission (Staff) (collectively the Settling Parties) filed their Unopposed Motion to Approve Settlement Agreement, Close Docket, and Open New Docket relative to the new Colorado Performance Assurance Plan (CPAP).

2. In 2009, following the circulation of Staff's Sixth Year Review Report, the Commission on July 10, 2009 issued Decision No. C09-0747, which began its six-year review process of the CPAP, as contemplated when the original CPAP was adopted. That review culminated in the Commission's Decision Nos. C10-1075 on September 30, 2010, and C10-0863 on August 11, 2010, which ordered a redesign of the CPAP.

3. The redesign of the CPAP began with Staff employing Liberty Consulting (Liberty) to analyze the original CPAP, and it made recommendations regarding changes to be implemented in the six-year review. Staff and the Competitive Local Exchange Carriers (CLECs) supported the proposals made by Liberty, while Qwest was against the use of the Liberty changes and proposed its own proposal for a new CPAP.

4. The Commission, in Decision C10-0863, set forth guidelines for the new CPAP, blending the proposals of Liberty and Qwest. The decision gave specific directions regarding some CPAP issues and general directions on other issues, and directed the parties to negotiate a new CPAP that complied with those directions. Each CLEC in Colorado had the opportunity to participate in this docket and the settlement negotiations.

5. Before this proceeding concluded, Qwest's parent company, Qwest Communications International, Inc. (QCII) merged with CenturyLink, Inc. (CenturyLink). Pursuant to Decision No. C11-0511, issued May 12, 2011, the Commission granted the request of the active parties to this proceeding to submit briefs addressing whether the order of the Federal Communications Commission (FCC) approving the transfer of control of licenses and authorizations held by Qwest and its subsidiaries from QCII to CenturyLink affected the Commission-ordered redesign of the CPAP and, if so, in what way. The Commission concluded in Decision No. C12-0197 issued on February 24, 2012, that the public interest was best served by delaying the implementation of the new CPAP until April 1, 2014, but it also ordered the parties to begin negotiations in October 2012 and file the new CPAP on April 1, 2013.¹

¹ By Decision Nos. C13-0431-I issued April 12, 2013, and C13-0508-I issued May 1, 2013, the Settling Parties were granted extensions of time to finalize the new CPAP.

6. The parties engaged in settlement discussions regarding the redesign of the CPAP as directed in Decision No. C12-0197, and, as a result of those discussions, they agreed upon a Settlement Agreement and a redesigned CPAP. The redesigned CPAP is included as Attachments 1 and 2 to the Settlement Agreement, and they reflect new CPAP Exhibits K and B to the Plan.

7. The Settling Parties also are requesting that the current proceeding be closed and a new proceeding be opened as the repository for reporting under the new CPAP. The Settlement Agreement also asks that the CPAP take effect on July 1, 2013, and that current interconnection agreements will include the new CPAP without the need to file amendments at the Commission.

B. Discussion and Findings

8. Commission Rule 1408, 4 *Code of Colorado Regulations* of the Rules of Practice and Procedure 723-1, concerns Settlements among parties that are brought to the Commission:

The Commission encourages settlement of contested proceedings. Any settlement agreement shall be reduced to writing and filed with the Commission, which shall enter a decision approving or disapproving it, or recommend a modification as a condition for approval. The Commission may hold a hearing on the settlement agreement prior to issuing its decision. An agreement that is disapproved shall be privileged and inadmissible as evidence in any Commission proceeding

9. The filed Settlement Agreement and new CPAP comply with the specific general guidelines we put into place via Decision Nos. C10-1075 and C10-0863 in this proceeding, and we do not need to hold a hearing on the Agreement. We commend the Settling Parties for reaching a Settlement Agreement on this effort. The resulting CPAP is more streamlined and better reflects the services currently purchased by CLECs as a result of the modification of FCC rules under the Telecom Act of 1996.

10. We find that good cause has been demonstrated to approve the filed Settlement Agreement, close the docket, and open up a new repository docket for future periodic reporting of performance indicator results and any other reports required to be filed under the new CPAP.

II. ORDER

A. The Commission Orders That:

1. The Settlement Agreement regarding the redesigned Colorado Performance Assurance Plan (CPAP) filed on May 23, 2013 by Qwest Corporation, doing business as CenturyLink QC (CenturyLink QC) on behalf of Parties in this docket is approved and effective on July 1, 2013.

2. All existing Interconnection Agreements between CenturyLink QC that currently contain the CPAP are modified effective July 1, 2013, to incorporate the new CPAP without the need for further filings or Commission approvals.

3. Docket No. 02M-259T is deemed closed effective July 15, 2013.

4. Docket No. 13M-0673T is opened for the purposes of providing a repository for reports emanating from the new CPAP.

5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Order.

6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 12, 2013.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

PAMELA J. PATTON

Commissioners