

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of)	DOCKET UT-991358
)	
U S WEST, INC., and QWEST)	
COMMUNICATIONS)	EIGHTEENTH SUPPLEMENTAL
INTERNATIONAL INC.)	ORDER
)	
For an Order Disclaiming Jurisdiction, or)	
in the Alternative, Approving the U S)	
WEST, INC., - QWEST)	ORDER ALLOWING
COMMUNICATIONS)	LATE-FILED PETITION;
INTERNATIONAL INC. Merger)	GRANTING MITIGATION
)	
.....)	

1 **Synopsis:** *The Commission grants Qwest’s petition for mitigation of a portion of its payment for failure to maintain service quality standards..*

2 **Nature of Proceeding:** This docket involves a 1999 merger proceeding in which QWEST COMMUNICATONS INTERNATIONAL, INC. and U S WEST, INC sought and received conditional approval to merge.

3 **Background:** One of the conditions that the Commission imposed in granting the merger involved Qwest’s service quality. The Commission required as a condition of merger, and Qwest agreed, to make certain payments for failing to achieve specified service quality measures, as incentives to the company to improve service. One of the specific measured items was out-of-service repair intervals longer than 48 hours.

4 The Commission in July 2004 approved a sliding scale threshold for calculating the payment: the Company would pay the full amount if the company failed to clear fewer than 99% of out-of-service reports within 48 hours; half the amount if the company cleared between 99.0% and 99.5%; and no incentive payment if the company cleared 99.5% or more within the required time.

5 For August 2005, the Company cleared all but 120 of its 11,960 out-of-service reports within 48 hours – 98.996655518%. In other words, it fell two timely clearances short of the 99% goal. Under the incentive payment program it is required to pay \$83,333.

6 **Petition:** Qwest petitions for mitigation of the order by allowing the Company to claim compliance at the 99.0% level. Doing so would reduce by \$41,666 in the amount Qwest would otherwise be required to pay. It argues that it is very close to its goal, that rounding to two places would find that it meets its goal, and the difference to customers receiving the payment is only two cents.

7 **Response:** Commission Staff responds, supporting Qwest’s petition. It notes that the company’s performance was very, very close to achieving its goal. Public Counsel filed a letter response, stating that it does not oppose Qwest’s petition.

8 **Discussion and Decision:** We note the support or acquiescence of other parties. We find that the Company is sufficiently close to the goal, and the detriment to individual consumers is so small, that mitigation is warranted. We reject Qwest’s use of rounding, as that would change the measure established in the 2004 order.

ORDER

9 The Commission grants Qwest’s petition to mitigate its payment under incentive provisions of the merger order, as modified.

DATED at Olympia, Washington, and effective March 13, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner