

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the Investigation Into)	
)	DOCKET NO. UT-003022
U S WEST COMMUNICATIONS, INC.'s ¹)	
)	
Compliance With Section 271 of the)	
Telecommunications Act of 1996)	
_____)	
)	
In the Matter of)	DOCKET NO. UT-003040
)	
U S WEST COMMUNICATIONS, INC.'s)	12TH SUPPLEMENTAL
)	ORDER ORDERING
Statement of Generally Available Terms)	PARTICIPATION IN
Pursuant to Section 252(f) of the)	MULTIPLE STATE
Telecommunications Act of 1996)	WORKSHOP ADDRESSING
)	QWEST'S POST-ENTRY
)	PERFORMANCE PLAN
_____)	

I. SYNOPSIS

1 In this Order, the Commission determines that it will join other states participating in the multi-state 271 proceeding in considering Qwest's Performance Assurance Plan or PAP. This order also sets forth the process for reviewing the proposed recommendations on Qwest's PAP issued by the facilitator for the multi-state 271 proceeding.

II. BACKGROUND AND PROCEDURAL HISTORY

2 In August 2000, eleven states--Washington, Oregon, Iowa, Nebraska, North Dakota, South Dakota, Utah, Wyoming, Montana, Idaho, and New Mexico--formed a collaborative to discuss Qwest Communication Inc.'s (Qwest) Post Entry Performance Plan (PEPP). After a number of workshops held to determine the process and resolve substantive issues, Qwest ended its participation in the collaborative process in May 2001. Qwest stated its intent to prepare a Performance

¹ Since the inception of this proceeding, U S WEST has merged and become known as Qwest Corporation. For consistency and ease of reference we will use the new name Qwest in this order.

Assurance Plan (PAP) incorporating those agreements reached in the collaborative and to file its PAP in each state's proceeding concerning Qwest's compliance with section 271 and evaluation of Qwest's Statement of Generally Available Terms, or SGAT.

- 3 In addition to participating in the PEPP collaborative, seven states--Iowa, Nebraska, North Dakota, Wyoming, Montana, Idaho, and New Mexico—have held a joint proceeding to evaluate Qwest's SGAT and Qwest's compliance with section 271 of the Act. This proceeding has become known as the “multi-state 271 proceeding.” After Qwest ended its participation in the PEPP collaborative in May 2001, several parties to the multi-state 271 proceeding, including Qwest, filed comments in that proceeding concerning how states should address Qwest's PAP.
- 4 On June 25, 2001, Mr. John Antonuk, the facilitator for the multi-state 271 proceeding, heard comments from participants of the PEPP collaborative and multi-state 271 proceeding. Following that session, Mr. Antonuk on June 27, 2001 issued Procedural Recommendations for Considering Qwest's PAP. Mr. Antonuk determined that “there would be substantial efficiency in addressing Qwest's PAP” in a single proceeding as the factual issues raised by the PAP would be similar in each state. The recommendations invited states participating in the PEPP collaborative to participate in the multi-state proceeding for purposes of considering Qwest's PAP.
- 5 The Commission understands that Mr. Antonuk has proposed the following abbreviated schedule:
- Qwest files PAP on June 29, 2001
 - Parties file responses by July 24, 2001
 - Procedural Conference - August 3, 2001
 - Hearings - week of August 13 and August 20, if necessary
 - Briefs within 20 days of the conclusion of hearings
 - Reply briefs no more than 7 days after main briefs
 - Oral Argument, if necessary, no more than 10 days after the last brief
 - A report to each state commission within 30 days of oral argument.

- 6 Qwest filed in the multi-state proceeding its PAP and a list of resolved and
unresolved issues on June 29, 2001.
- 7 On July 9, 2001, the first day of the fourth workshop in the Commission's section
271/SGAT proceeding, the administrative law judge requested all parties to state their
positions on whether the Washington Commission should participate in the multi-
state 271 proceeding to consider Qwest's PAP. The parties, including AT&T,
WorldCom, Covad, XO Washington, Electric Lightwave, Inc., the Washington
Association of Internet Service Providers, and Public Counsel, acknowledged the
efficiencies gained by participating in the multi-state proceeding, but requested that
the Commission engage in a rigorous and independent review of the facilitator's
report, particularly concerning state specific information and the Commission's view
of the public interest standard under section 271.

III. DISCUSSION AND TERMS OF PARTICIPATION

- 8 Participation in the multi-state 271 proceeding for purposes of considering Qwest's
PAP would allow the Commission to evaluate Qwest's PAP more efficiently than
doing so on its own. Commission staff participated in the PEPP collaborative and
their continued participation in an advisory capacity in the multi-state proceeding will
provide continuity in the process. As noted by Mr. Antonuk, there are common
issues of fact that would otherwise be addressed separately in each state, and it will be
beneficial to combine efforts to review Qwest's PAP in one forum.
- 9 This Commission will participate in the multi-state 271 proceeding pursuant to
statutory authority that allows the Commission to hold joint hearings with other state
commissions and to hold hearings outside of the state. RCW 80.01.070.
- 10 We adopt the schedule set by Mr. Antonuk for filing responses to Qwest's PAP, filed
in the multi-state proceeding on June 29, 2001. Although Qwest already filed its
proposed PAP in the multi-state 271 proceeding on June 29, 2001, Qwest must file
with the Commission and serve on all parties in this proceeding copies of its PAP on
the day following the service date of this Order. We request that the parties comply
with the filing dates set forth above, and file documents with the Commission on the
same date on which they file documents in the multi-state proceeding.
- 11 Once Mr. Antonuk's report has been issued and received by the Commission, we will
hold a scheduling conference to establish a timeline as well as the process for
reviewing the report. We consider Mr. Antonuk's report to be analogous to an initial
order entered by an administrative law judge or hearing examiner. All findings and
conclusions reached in Mr. Antonuk's report will be subject to review by the
Commission.

IV. FINDINGS OF FACT

- 12 (1) The states of Iowa, Nebraska, North Dakota, Wyoming, Montana, Idaho, and New Mexico are holding joint proceedings, termed the multi-state 271 proceeding, to evaluate Qwest's compliance with section 271 of the Act and to evaluate the terms of Qwest's SGAT.
- 13 (2) Washington state was among 11 states participating in a collaborative effort to discuss Qwest's Post Entry Performance Plan. The PEPP collaborative dissolved upon Qwest's withdrawal from the collaborative in May 2001.
- 14 (3) Qwest has developed a Performance Assurance Plan (PAP), which will be addressed in the multi-state 271 proceeding. On June 25, 2001, the facilitator of the multi-state proceeding issued recommendations for addressing Qwest's PAP in the multi-state proceedings and invited states participating in the PEPP collaborative to participate in the multi-state proceeding to consider Qwest's PAP.
- 15 (4) Participation in the multi state process offers the Commission and the parties the advantage of efficiencies and time savings compared with conducting an independent inquiry, while offering parties every opportunity for full participation and assuring a complete record for the Commission.

V. CONCLUSIONS OF LAW

- 16 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and the parties to the proceeding.
- 17 (2) The Commission has authority pursuant to RCW 80.01.070 to hold joint hearings with other state commissions and to hold such hearings outside of the state of Washington.
- 18 (3) The Commission's participation in the multi-state 271 proceeding for purposes of considering Qwest's PAP will provide continuity from the PEPP collaborative in which Commission staff participated and will allow the Commission to review more efficiently Qwest's PAP, given that there are common issues of fact that would otherwise be addressed separately in each state. The Commission should participate in the multi state process.

VI. ORDER

THE COMMISSION ORDERS That:

- 19 (1) The Commission will join the states of Iowa, Nebraska, North Dakota,
Wyoming, Montana, Idaho, and New Mexico in the multi-state 271 proceeding
for the purpose of considering Qwest's PAP.
- 20 (2) Parties must follow the schedule set by Mr. Antonuk for consideration of
Qwest's PAP in the multi-state proceeding, including filing responses to
Qwest's PAP.
- 21 (3) Qwest must file with the Commission and serve on all parties in this
proceeding copies of its PAP on the day following the service date of this
Order.
- 22 (4) When filing documents in compliance with filing dates in the multi-state
proceeding, parties must file copies of the documents with the Commission on
the same date on which they file documents in the multi-state proceeding.
- 23 (5) Following the issuance of recommendations concerning Qwest's PAP from the
multi-state proceeding, the Commission will hold a scheduling conference to
establish a timeline, as well as a process, for reviewing the report.
- 24 (6) All findings and conclusions made in the recommendations of the multi-state
proceeding are subject to review by the Commission.
- 25 (7) The Commission retains jurisdiction to implement the terms of this order.

DATED at Olympia, Washington and effective this day of July 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner