

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF QWEST)
CORPORATION'S REVISIONS TO THE) CASE NO. QWE-T-03-23
IDAHO QWEST PERFORMANCE)
ASSURANCE PLAN (QPAP)) ORDER NO. 30461
_____)**

On June 26, 2007, Qwest Corporation filed a Notice of Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions and a Joint Motion on Behalf of Stipulating Parties to Accept Same. Exhibit 1 to Qwest's pleading is a stipulation signed by Qwest and four competitive local exchange companies (CLECs): Eschelon Telecom, Inc.; DIECA Communications, Inc.; McLeodUSA Telecommunications Services, Inc. and US Link, Inc. dba TDS Metrocom. The stipulating parties agreed to changes to Qwest's Performance Assurance Plan (QPAP) and to Qwest's service Performance Indicator Definitions (PIDs). Exhibits 2 and 3 to Qwest's pleading show the changes to the QPAP in redlined and clean versions, and Exhibits 4 and 5 show the changes to the PIDs in similar format. Qwest filed an Amended Notice and Motion on June 29, 2007, replacing the original, but did not file new exhibits. Qwest requested that the Commission "accept" the stipulation describing the proposed changes to the QPAP and PID, apply the changes to any interconnection agreement containing the QPAP, and allow the PID to go into effect no later than 60 days after Qwest's filing pursuant to 47 U.S.C § 252(f)(3).

Qwest notified CLECs of the opportunity to participate in sessions to discuss QPAP and PID changes. Nineteen CLECs elected to only be notified of updates while six CLECs met with Qwest in sessions between May 2006 and May 2007. Qwest also notified state commission staffs that the Company and CLECs were meeting to discuss QPAP/PID modifications. Four CLECs entered into a stipulation with Qwest agreeing to the changes identified in the current filing.

The Commission issued a Notice of Qwest's Application and Notice of Modified Procedure on July 27, 2007, establishing August 17, 2007 as the deadline date for written comments. Staff filed a Motion on August 15, 2007, asking that the Commission extend the comment period. The Regional Oversight Committee (ROC) that reviews Qwest activities in its

14 state region requested additional time to obtain information from Qwest and review the effect of the proposed changes on Tier 1 (to CLECs) and Tier 2 (to states) payments. Qwest agreed to an extension in this case to September 28, 2007, and the Commission issued an Order extending the comment period to that date. Order No. 30416. Qwest subsequently agreed to allow Staff until October 19, 2007 to file supplemental comments. At no time did a CLEC seek to intervene or file comments in the Idaho proceeding.

Qwest first filed its QPAP with the Commission in 2000 as part of the Company's successful effort to obtain authorization from the Federal Communications Commission (FCC) to begin providing long-distance (interLATA) telecommunications services. Prior to the enactment of the federal Telecommunications Act of 1996, Qwest and the other Bell Operating Companies (BOCs) were prohibited from providing long-distance telephone service. The 1996 Telecom Act states a process for the local companies to receive such authorization from the FCC in Section 271 of the Act. To be successful under Section 271, Qwest needed to show it was complying with all its obligations under Sections 251 and 252 of the Telecom Act. It is Sections 251 and 252 that give rise to Qwest's Performance Assurance Plan and the associated PIDs.

Section 251 of the Telecom Act, entitled Interconnection, states the obligations of all local exchange carriers, and additional requirements for incumbent local exchange carriers (ILECs), to allow interconnection of their facilities with competitive local exchange carriers (CLECs). Specific ILEC interconnection requirements include duties to (1) negotiate interconnection terms in good faith; (2) provide dialing parity, number portability and nondiscriminatory access to network elements on an unbundled basis; (3) offer for resale at wholesale rates any telecommunication service that the carrier provides to retail customers; and (4) provide physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the ILEC. 47 U.S.C § 251(a), (b) and (c).

Section 252 of the Telecom Act provides terms for negotiation or arbitration of interconnection agreements, and approval of agreements by state commissions. In addition to entering into interconnection agreements for state approval, Section 252(f) allows a Bell Operating Company to file "a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 and the regulations thereunder," referred to as a statement of generally available terms (SGAT). Qwest filed its

original SGAT with the Commission in June 2000. The QPAP and related PIDs became part of the SGAT as a result of Qwest's Section 271 application filed with the FCC.

As Section 2.1 of the QPAP states, the QPAP is a two-tiered, self-executing remedy plan. Tier 1 payments are made to CLECs if Qwest "does not provide parity between the service it provides to CLEC and that which it provides to its own retail customers, or Qwest fails to meet applicable benchmarks." QPAP Section 2.1. If Qwest fails to meet parity and benchmark standards on an aggregate CLEC basis, Qwest is required to make Tier 2 payments to a fund established by the state commission or, if required by law, to the state general fund. QPAP Section 2.1.1.

The last changes to the QPAP and PIDs prior to the current filing were in 2004. Changes are typically arrived at through agreement between Qwest and CLECs, or from participants in a Long Term PID Administration, including members from state commissions. It is not unusual for the Commission to issue notice of proposed changes and, if no CLEC responds, to allow the changes to become effective after 60 days pursuant to 47 U.S.C. § 252(f)(3)(B). By that process, the Commission is not precluded "from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2)." 47 U.S.C. § 252(f)(4).

Staff filed supplemental comments on October 19, 2007 recommending the Commission take no action on Qwest's Application and allow the changes to the SGAT to become effective after 60 days pursuant to 47 U.S.C. § 252(f)(3)(B). Staff will continue to participate in ROC reviews of the QPAP and PIDs, including a PID audit currently underway by Liberty Consulting.

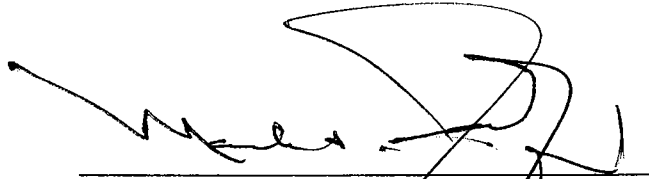
Because Qwest agreed to extensions for processing the case, it is not clear on what date the 60 days expires, allowing the changes to become effective. 47 U.S.C § 252(f)(3) requires the Commission, within 60 days, to either complete its review, or permit the changes to the SGAT to take effect. Qwest agreed to extend the time for review to October 19, 2007, and the Commission finds it reasonable to make that the effective date for the changes. The Commission reminds the parties that allowing the changes to become effective does not prevent the Commission from continuing to review the SGAT, as stated in 47 U.S.C. § 252(f)(4).

ORDER

IT IS HEREBY ORDERED that the changes to the Qwest Performance Assurance Plan (Exhibit K to Qwest's SGAT) and to the Performance Indicator Definitions (Exhibit B to Qwest's SGAT), as set forth in the Stipulation filed in this case, are deemed effective as of October 19, 2007, pursuant to 47 U.S.C. § 252(f)(3).

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 8th day of November 2007.



MACK A. REDFORD, PRESIDENT

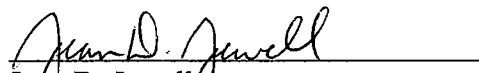


MARSHA H. SMITH, COMMISSIONER



JIM KEMPTON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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