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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF)
QWEST CORPORATION REQUESTING)
AUTHORIZATION TO WITHDRAW ITS)
STATEMENT OF GENERALLY AVAILABLE)
TERMS AND CONDITIONS.)
CASE NO. QWE-T-08-4
COMMENTS OF THE
COMMISSION STAFF

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, in response to the Notice of Petition and Notice of Modified Procedure in Case No. QWE-T-08-4 issued on May 23, 2008, submits the following comments.

BACKGROUND

On May 2, 2008, Qwest Corporation filed a Petition requesting authorization to withdraw its Statement of Generally Available Terms and Conditions (SGAT). Qwest's Petition explains that the SGAT was developed in 2000 as part of Qwest's application to gain entry into the interLATA (long-distance) services market pursuant to Section 271 of the 1996 federal Telecommunications Act. Bell operating companies like Qwest could fulfill part of their Section 271 obligations by having a "statement of the terms and conditions that the company generally offers to provide such

[network] access and interconnection [that] has been approved or permitted to take effect by the State Commission.” 47 U.S.C. § 271(c)(1)(B).

Qwest is required to enter into interconnection agreements with other telecommunications providers that request access to Qwest’s network, facilities, or services. *See* 47 U.S.C. §§ 251-252. Qwest’s Petition explains that a critical element in the Section 271 process was assurance that the Bell operating companies (BOC) would continue to provide non-discriminatory interconnection services to competitors once the BOC received approval to enter the long-distance service markets. To provide this assurance, the Petition states that Qwest voluntarily put in place a Performance Assurance Plan (PAP) as part of its SGAT. The PAP also contains a comprehensive list of performance measures known as Performance Indicator Definitions (PID) to provide specific data about Qwest’s interconnection services to the competitors using Qwest’s facilities and network. If the Commission approves Qwest’s Petition to withdraw its SGAT, the Performance Assurance Plan and Performance Indicator Definitions will no longer be in place.

Qwest filed its original SGAT in June 2000, but the Petition states that the Company has not offered its SGAT as an option for interconnection agreements since August 2004. Qwest asserts that its SGAT is superfluous and has become outdated due to changes in applicable law, has not been used as the interconnection contract template in Idaho for some time, and has not been updated since August 2004.

STAFF REVIEW

It is appropriate to review the SGAT, including its PAP, before allowing Qwest to withdraw it. The PAP itself states that the Commission will review whether it is necessary to continue it once Qwest eliminates its long distance affiliate. Section 16.3 states:

Qwest will make the PAP available for CLEC interconnection agreements until such time as Qwest eliminates its Section 272 affiliate. At that time, **the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary.** However, in the event Qwest exits the interLATA market, that State PAP shall be rescinded immediately. (Emphasis Added).

State Commission Staff members of the Regional Oversight Committee (ROC) plan to create a review process to evaluate all performance measurements and provide a comprehensive analysis on which measurements should be eliminated, enhanced, or remain in effect.


On May 19, 2008, ROC Staff members prepared a Scoping Document for a multi-state review of Qwest's performance assurance plans. See Attachment 1. The ROC Staff asked Liberty Consulting to perform the review. Liberty Consulting completed the original audit of all the PIDs and thus has knowledge of the PIDs and PAP and should be able to conduct a thorough review in a timely manner.


The ROC Executive Steering Committee has accepted the recommendation for a multi-state PID review by Liberty Consulting. Because Liberty completed the initial PID/PAP audit, using Liberty for this PID review should expedite the review and afford those CLECs that have limited resources the opportunity to participate in all of Qwest's 14 state regions.

STAFF RECOMMENDATION

Staff recommends that the Commission not grant Qwest's request for withdrawal of its SGAT, but instead extend the comment period in this case until a review of the Performance Measurements can be completed and an analysis presented to the Commission for its final review and decision. Staff recommends that the Commission approve the multi-state review process by Liberty Consulting and authorize Staff's participation.

Participating states plan to pay for the review on an individual state prorated basis using Qwest Tier 2 penalty payments¹. Staff believes that there are adequate funds available to cover Idaho's portion of the 14 state collaborative review process.

DATED at Boise, Idaho, this  day of July 2008.


Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Carolee Hall
Patricia Harms

i:umisc/comments/qwet08.4wsch

¹ Similar to the Tier 1 structure, Tier 2 payments are for non-conformance to measurements categorized as High, Medium and Low in Exhibit K (PAP) of the SGAT. The Tier 2 penalty payments are made to the State's PID/QPAP Administrator.

ROC Staff
Scoping Document: Collaborative Review
Qwest Performance Assurance Plans
(QPAP)

- The QPAP* in each of the relevant 14 states (Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Oregon, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Washington, Wyoming) include language regarding reviewing the QPAP by the state commissions. Certain states also have provisions for conducting an analysis, upon the occurrence of certain triggering events, on whether the QPAP should be phased-out entirely and/or identifying any sub-measures, if any, that should continue as part of the QPAP.
- The triggering event varies from state to state. In some states this phase-out review and analysis is triggered by Qwest obtaining relief from section 272 obligations. In other states the trigger is a fixed point in time – 5 ½ years from the start of the QPAP, or 6 months from the QPAP's proposed end.
- Qwest has sought, is seeking, or has indicated plans to seek 272 relief in many states. Further, in the states with the 5 ½ year fixed trigger, the deadline for conducting the review is fast approaching. Therefore, the staffs of the 14 member commissions of ROC recommend a multi-state collaborative review of the QPAP be conducted.
- We recommend that Liberty Consulting be contracted to conduct a detailed review and analysis of both the performance plan and the performance indicator descriptions (PIDS). We further recommend that Liberty Consulting also provide draft recommendations as to the current effectiveness, value, and usefulness of the performance plan and PIDS in relation to their intended purpose and function as well as the usefulness of some or the entire plan and PIDS continuing including possible modifications to such. We recommend that Liberty Consulting document the review, analysis and draft recommendations in a baseline document. The baseline document may be used for collaborative discussions between the various Commission Staffs, Qwest and the CLECs and/or for use by individual Commissions in their separate state 6 month, 6 year, or other appropriate dockets. Should a collaborative discussion of the baseline document occur, we recommend that Liberty Consulting facilitate and document the results of such discussions clearly delineating areas of agreement and issues of dispute along with supporting positions.
- The independent contractor's review will include the participation of and consultation with the QPAP stakeholders; Qwest, Competitive Local Exchange Carriers with business in the relevant fourteen-state region, and the appropriate participating state public commission regulatory bodies.
- Each state would receive a copy of the analysis and report and then use the data and findings in whatever capacity it sees fit. We finally recommend that the cost be apportioned to the states in the same manner as the Qwest Audits.

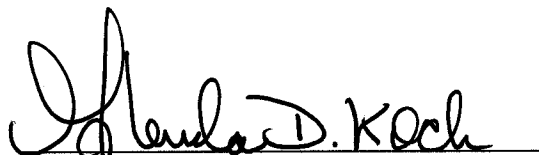
*For purposes of this document "QPAP" is inclusive of the Colorado "CPAP".

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7TH DAY OF JULY 2008, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. QWE-T-08-4, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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