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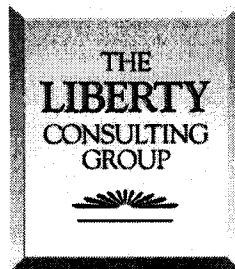
IDAHO PUBLIC
UTILITIES COMMISSION

**Analysis
of
Qwest's Performance Assurance Plans
Final Report**

Prepared for:

The Qwest Regional Oversight Committee

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I. Executive Summary

The Performance Assurance Plans (PAPs) in effect in the states in which Qwest Corporation (Qwest) is the incumbent local service provider include provisions for their review and modification. In addition to a regular six-month review to consider potential modifications to the performance measurements, standards, and performance measurement classifications, most PAPs also call for longer-term reviews of the effectiveness of the PAP and whether its continuation is necessary. The triggering event for these longer-term reviews varies from state to state, and the various triggers include Qwest's filing to eliminate its 272 affiliate and a specific point in time (five and one-half years after the PAP's commencement or six months prior to the PAP's proposed end). Because these triggers had occurred or were about to occur, 11 of the 14 state commissions (Commissions) that are members of the Qwest Regional Oversight Committee (ROC) elected to authorize a joint analysis of their PAPs to facilitate the review processes. These 11 participating Commissions engaged The Liberty Consulting Group (Liberty) to conduct this analysis.

The Commission Staff members forming the QPAP/CPAP Collaborative Committee (Collaborative Committee) defined the scope of this work to include a detailed review and analysis of the PAPs and the Performance Indicator Definitions (PID) measures, which are used to assess Qwest's performance. The Collaborative Committee specified that the work would result in draft recommendations concerning:

- The current effectiveness, value, and usefulness of the PAPs and PID measures in relation to their intended purpose and function
- Whether some or all of the PAP or PID measures may no longer be necessary
- Possible modifications to the PAP and PID measures.

The Collaborative Committee intended that the review, analysis, and draft recommendations be provided in a baseline document to be used for collaborative discussions between the various Commission Staffs, Qwest, and the Competitive Local Exchange Carriers (CLECs), and by individual Commissions in appropriate state proceedings. However, each state Commission would use the data and findings in whatever manner it deems appropriate. The present report is meant to provide the baseline documentation of Liberty's review, analysis, and draft recommendations contemplated in the Collaborative Committee's scope definition.

The Collaborative Committee intended this investigation to include consultation with Qwest and the CLECs, in addition to the Commission Staffs. The Commission Staffs and CLECs responded to Liberty's request for input and suggestions, which Liberty used in the analysis and in formulating the recommendations. Qwest elected not to actively participate in the review and declined to provide its positions on or any proposals for changing the PAPs. However, Qwest agreed to provide Liberty with extensive historical data on PAP payments and PID measure results, which were invaluable in supporting the analysis.

Liberty began conducting this analysis in December 2008, focusing on five separate but related lines of inquiry:

1. Analysis of PAP payments and PID measure results
2. Analysis of the structural components of the PAPs
3. Analysis of the structure of the PID measures
4. Analysis of recommendations and experiences of stakeholders
5. Analysis of industry trends.

In evaluating the continuing effectiveness, value, and usefulness of the PAPs, Liberty reviewed:

- The number of active CLECs that have a significant total subscriber base and are dependent on Qwest's wholesale products and services to serve their end users
- The level of Qwest's penalty payments
- The extent of Qwest's performance that is out of compliance with standards
- The burden on Qwest of maintaining the PAPs and whether this burden outweighs the advantage of protecting competitors.

Liberty analyzed trends in PAP payments, PID performance measurement results, transaction volumes, and lines in service since January 2004. Based on this analysis, Liberty determined that the PAP penalty payments have declined overall in all the participating states since the beginning of 2004. A significant source of this general¹ decline has been an improvement in the quality of Qwest's wholesale service performance as measured by the PID measurements. However, another significant source of the payment decreases has been a decline in the number of active CLECs. Nevertheless, the volume of CLEC activity remains significant in all the participating states, and Qwest continues to make payments based on inadequate performance for some functional areas, with the largest number of recent payments coming from sub-standard performance on Maintenance & Repair transactions.

Liberty found that CLEC order volumes and lines in service have declined markedly. Major contributors to this decline were the Federal Communication Commission's (FCC's) Triennial Review Order (TRO) and the Triennial Review Remand Order (TRRO) decisions, which eliminated a number of unbundled services, including Unbundled Network Element – Platform (UNE-P). There has also been a significant decline in Resale transactions and a smaller decline in UNEs unaffected by the TRO and TRRO decisions. Despite these declines, the volume of number porting orders has remained high, indicating the increasing importance of facilities-based competitors like cable companies. The wireless carriers are also major and growing competitors of Qwest, but this source of competition is not reflected in the volumes reported in the PAPs and PID measures, because these carriers rarely, if ever, use the wholesale services monitored in this way.

¹ In addition to the factors mentioned here that apply to all states, special factors contributed to the declines in some of the states. For example, there was a significant decrease in Tier 2 payments in Colorado after 2006, which resulted primarily from Colorado PAP changes introduced after the Colorado three-year review that reduced the number and types of PID measures eligible for Tier 2 payments.

Based on analysis presented in this report, Liberty concludes that the PAPs are still serving a useful purpose in all the participating states. Although Qwest's largest competitors are the wireless and cable companies, which are less dependent on Qwest's wholesale services, there continues to be a significant group of CLECs that rely heavily on Qwest's wholesale services to conduct their business, and there are limited readily available alternatives to Qwest's wholesale service for these CLECs. These CLECs still provide significant competition for Qwest, particularly in such important parts of the market as broadband and business services. As noted, Liberty found that Qwest's performance in providing wholesale services continues to improve, contributing to a decline in PAP payments. Although it is difficult to verify from historical data, the incentive provided by the PAPs has likely contributed to this performance improvement.

Despite the improvement in Qwest's performance and reduction in PAP payments, the PAP incentives continue to be important in helping to ensure that Qwest's performance level does not deteriorate, because Qwest's wholesale services remain critical for the CLECs still relying on them. Recent experiences in Hawaii and northern New England demonstrate the severe impact on competitors when an incumbent local company fails to provide adequate wholesale performance, despite the best intentions and preparations.² The circumstances of those cases are very different from what the CLECs face in Qwest's operating territory. However, they illustrate conditions that can arise in extreme cases without adequate protections. The Qwest PAPs help ensure that the correct incentives are in place to prevent such conditions from occurring.

Although concluding that the PAPs should continue to be maintained, Liberty believes some changes should be made in the PAPs to simplify them and make them more targeted to the continuing needs of the competitive marketplace. Liberty used the results of its analysis as well as input from stakeholders, including the CLECs, in identifying potential proposals. In evaluating potential proposals, Liberty considered:

- Whether changes in the marketplace have made elements of the PAPs obsolete
- Whether particular types of transactions are no longer relevant
- Whether the volumes of transactions for sub-measures and products are too small to warrant their continued inclusion in the PAPs
- Whether the PAPs and PID can be simplified
- Whether there are any biases and distortions in the PAPs that need to be corrected
- Whether there are important transactions types that are currently not monitored in the PAPs and PID
- Whether the effort to secure support for and cost of making the changes outweighs the advantage of making them.

Liberty offers several recommendations for the participating Commissions as follows. Many of these recommendations continue a process of evolving the PAPs to tailor them to current needs, which has occurred since their inception. Most notably, major changes were made in the

² See, for example, Liberty's report on the FairPoint Communications, Inc. cutover: <http://www.puc.state.nh.us/Telecom/Filings/FairPoint/Post-Cutover/FairPoint%20Post-Cutover%20Status%20Report%2004-01-09.pdf>

Colorado PAP during 2006 after the three-year review in that state, and in most other states at various times since 2006 in response to recommendations from a joint stipulation between Qwest and some CLECs signed in 2007.

The following recommendations apply to all the participating state PAPs.

Recommendation 1. The Commissions should introduce a new aggregation mechanism to minimize low-volume tests in determining payments. Specifically, transactions for CLECs with low volumes should be aggregated with those of other CLECs, and, as necessary, aggregated over up to a three month period, for the purpose of determining non-conformance and calculating payments.

Recommendation 2. The Commissions should eliminate the following PID measures (in addition to those included in the 2007 Stipulation recommendations) from consideration for PAP payments for those states that use them, and place them on the list of measures subject to the Reinstatement/Removal Process:

- PO-9 Timely Jeopardy Notices
- PO-19 Stand Alone Test Environment (SATE) Accuracy
- PO-20 Manual Service Order Accuracy
- CP-1 Collocation Completion interval
- CP-2 Collocations Completed within Scheduled Intervals
- CP-4 Collocation Feasibility Study Commitments Met.

Recommendation 3. The Commissions should make the following additional changes to certain PID measures in the PAPs:

- For OP-5 (New Service Quality), use sub-measure OP-5T instead of sub-measures OP-5A and OP-5B.
- Replace the current retail analog of "retail Integrated Services Digital Network Basic Rate Interface (ISDN-BRI) designed" with some other retail product or with a benchmark.

Recommendation 4. The Commissions should eliminate the following low-volume products from the OP and MR measures in the PAPs:

- Unbundled Digital Signaling Level 3 (DS-3) Loops
- Unbundled Dedicated Interoffice Transport (UDIT) – Above DS1
- Unbundled 4-Wire Non-Loaded Loops
- Loops with Conditioning (applies only to OP measures)
- Unbundled ISDN Capable Loops (applies to all states and measures except for MR measures in Arizona and Colorado)
- Line Sharing (already removed in Colorado).

Recommendation 5. *The Commissions should make the following additional changes to certain PID measures:*

- *Limit MR-4 (All Troubles Cleared within 48 Hours) to service-affecting troubles*
- *Add a diagnostic sub-measure to OP-4 (Installation Interval) to measure performance on expedited orders*
- *Add a diagnostic sub-measure to MR-7 (Installation Interval) to measure chronic troubles*
- *Add a diagnostic sub-measure to OP-3 (Installation Appointments Met) to measure the percentage of coordinated appointments met.*

Recommendation 6. *The Commissions should adopt provisions to assess Qwest for the cost of PAP administration functions, including independent auditor and audit costs and payment of other expenses incurred by the participating Commissions in the regional administration of the PAP, if the Special Funds created by the Tier 2 payments are insufficient for fund these functions.*

The following recommendation applies to all participating states except Colorado and Utah.

Recommendation 7. *The Commissions should adopt changes in the PAPs and PID to recognize Qwest's replacement of the Electronic Data Interchange (EDI) interface by the Extensible Markup Language (XML) interface.*

The following two recommendations apply only to Colorado.

Recommendation 8. *The Colorado Public Utilities Commission should restore the Tier 1B, Tier 1C, and Tier 2 mechanisms to the CPAP, subject to the changes required by Liberty's other recommendations.*

Recommendation 9. *The Colorado Public Utilities Commission should make the following additional changes to the CPAP:*

- *Restore the Unbundled Asynchronous Digital Subscriber Line (ADSL)-Capable Loop product*
- *Eliminate the UNE-P products.*

The following recommendation applies to Montana only.

Recommendation 10. *The Montana Public Service Commission should adopt the recommendations of the 2007 Stipulation.*

The next chapter of this report (Chapter II) details the background and purpose of Liberty's review, describes Qwest's PAPs and PID measures including a high-level description of recent changes, and outlines Liberty's analysis approach. Chapter III describes Liberty's data analysis. Chapter IV discusses proposals for PAP and PID modifications. Chapter V summarizes Liberty's conclusions and recommendations.

Attached to the proposal are four appendices. Appendix A summarizes the key features of the PAPs, indicating those areas where the PAPs differ among the states. Appendix B provides details of Liberty's data analysis for each of the 11 participating states. Appendix C describes the detailed applicability of Liberty's recommendations for each of the 11 participating states. Appendix D provides a glossary of terms used in the report.

