

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of Qwest Corporation's)
Request for Approval of a Stipulation) DOCKET NO. 07-049-31
Regarding Certain Performance Indicator)
Definitions and Qwest Performance) ORDER APPROVING PAP AND PID
Assurance Plan Provisions) CHANGES
)

ISSUED: June 30, 2008

By the Commission:

In this matter, Qwest Corporation (Qwest) requests the Commission approve changes to its Performance Assurance Plan (PAP) and Performance Indicator Definitions (PIDs). The PAP contains terms and conditions, including PIDs, which were established as part of Qwest's effort, in the early part of this decade, to obtain Federal Communications Commission (FCC) approval, pursuant to 47 U.S.C. Section 271, to enter into the interstate long distance telecommunications market. It was feared Regional Bell Operating companies (RBOCs), including Qwest, could 'back-slide' in their interconnection performance and in providing network provisioning and access to other telecommunications providers once the ROBs were permitted to participate in the interstate long distance telecommunications market. Hence, PAPs were negotiated to provide additional assurance of continued appropriate interconnection and network access between Qwest and other telecommunications providers. The PAP and PIDs may be incorporated into or referenced in individual interconnection agreements between Qwest and another telecommunications providers. They were also included in the Statement of Generally Available Terms and Conditions (SGAT) previously approved by the Commission and

available to telecommunications providers who did not desire to negotiate a separate, unique interconnection agreement with Qwest .

During 2006 and 2007, Qwest held a number of meetings to negotiate possible changes to its PAP and PIDs. Part of the drive for PAP and PID changes is due to the FCC's changing iterations of necessary interconnection terms, including network elements that must be provided pursuant to 47 U.S.C. 251, and changes in the types of network services, functions and capabilities developed or developing in the telecommunications industry. As a result of these negotiations, Qwest,, Eschelon Telecom, Inc., DIECA Communications, Inc. d/b/a Covad Communications Company, US Link, Inc. d/b/a TDA Metrocom, and McLeodUSA Telecommunications Services, Inc. (Stipulating Parties) entered into a Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions (2007 Stipulation). They intended the 2007 Stipulation be implemented throughout Qwest's 14 state service territory. On June 27, 2007, Qwest, for itself and on behalf of the other Stipulating Parties, submitted the 2007 Stipulation and requested the Commission approve the 2007 Stipulation, accept the agreed upon changes to Qwest's PAP and apply them to interconnection agreements containing the PAP, and also allow the changes to the PIDs to take effect and be applicable after Commission approval.

The Commission requested comments from interested parties regarding the Stipulating Parties' requests and received comments for the Division of Public Utilities (DPU) and XO Communications Services (XO). The DPU recommended granting approval. XO raised concerns relative to the time frame the Stipulating Parties had suggested for Commission review.

In addition, XO argued that approval by the Commission should not affect pre-existing agreements of non-Stipulating Parties and noted that Qwest no longer offered an SGAT in Utah, at least not one approved by the Commission. As the Stipulating Parties sought approval of the 2007 Stipulation in all of the states of Qwest's service territory, many states considered a joint examination of the 2007 Stipulation be conducted by these states' Regional Oversight Committee (ROC), an existing organization established to coordinate such activities among the 14 Qwest-territory states. The DPU, participating in the ROC effort on behalf of the State of Utah, has reported on the status of the ROC work. However, in its latest report, submitted May 9, 2008, the DPU, notes the participating states drifted to dealing with the 2007 Stipulation on an individual state basis and no further collaborative work is expected. The DPU recommends the Commission now rule on the 2007 Stipulation and requested approvals. The DPU reiterates its prior recommendation for Commission approval of the 2007 Stipulation and adoption of the PAP and PID changes. The DPU further explains that the earlier concerns expressed by XO have been addressed as they were of a procedural, not substantive, basis concerning consideration of the 2007 Stipulation. The DPU reports that recent communication with XO indicates there are no lingering substantive XO objections.

In light of the forgoing, we now address approval of the 2007 Stipulation and the specific requests made by the Stipulating Parties. We recognize and agree that developments within the telecommunications industry and changes in the FCC's implementation and administration of the 1996 Federal Telecommunications Act provide a basis for changes in the PAP and PIDs. Certain items or aspects are no longer available, relevant or necessary to

effectuate the purpose of a performance assurance plan. We conclude that the suggested changes to the PAP and PIDs proposed in the 2007 Stipulation are reasonable and may be approved for use in interconnection agreements of Qwest and other telecommunications providers with Utah operations.

However, we agree with the comment originally made by XO. The changes to the PAP and PIDs will only be effective on a going forward basis. Our approval herein is not intended to alter PAP terms and conditions or PIDs in any interconnection agreement existing or entered into prior to this order. Obviously, parties to an existing agreement may voluntarily modify their contracts to adopt the new PAP and PIDs, but we will not retroactively impose changes upon unwilling parties who do not wish to modify agreements entered into prior to this order.

Wherefore, we enter this ORDER, wherein we:

1. Adopt and approve the changes to Qwest's Performance Assurance Plan (PAP) and associated Performance Indicator Definitions (PIDs) contained in the Stipulating Parties' 2007 Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions submitted to the Commission on June 27, 2007.
2. Approve the use of the new PAP and PIDs adopted herein as of the date of this order. They may be used for an interconnection agreement negotiated and effective after such date.
3. Deny the request that the changes to the PAP and the PIDs be applied, absent a mutual voluntary modification by agreement parties, to any interconnection agreement existing and effective prior the date of this order.

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Pursuant to Utah Code §§63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the effective date of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code §§63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 30th day of June, 2008.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#57919