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Attorney for Qwest Corporation

**BEFORE THE UTAH PUBLIC SERVICE COMMISSION**

In the Matter of Qwest’s Petition for Review and Termination of Qwest’s Performance Assurance Plan Termination pursuant to Section 16.3	Docket No. 09-049-____ <b>Petition for Review and Termination of Qwest’s Performance Assurance Plan Termination pursuant to Section 16.3</b>
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Qwest Corporation (“Qwest”) respectfully requests that the Utah Public Service Commission (“Commission”) open a technical conference for the purpose of accomplishing the review contemplated in Section 16.3 of the Qwest Performance Assurance Plan (“QPAP” or “PAP”). In support of this petition, Qwest offers the following supporting information:

1. QPAP is a self-effectuating performance assurance plan that is implemented as Exhibit K of interconnection agreements (ICAs) between Qwest and competitive local exchange carriers (CLECs) that opt to include it in their ICAs.
2. QPAP was originally offered voluntarily by Qwest in conjunction with its application to the FCC for authority to offer interLATA long distance services under Section 271 of the federal Telecommunications Act of 1996 (“the Act”).
3. QPAP Section 16 contains provisions that allow for changes approved by the Commission and that also allow for termination of QPAP following review by “the Commission and Qwest.” Specifically, QPAP 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 However, in the event Qwest's authority to serve the interLATA market ends, the PAP shall be rescinded immediately.

4. While the Section 272 affiliate was not necessarily known or constructed as such in Utah, it nevertheless had an existence in Qwest during the early years of QPAP existence and was therefore referenced in the Utah version of Qwest's QPAP. Qwest's Section 272 affiliate no longer exists.

5. In any event, pursuant to Section 272(f)(1) of the Act:

The provisions of this section (other than subsection (e)) shall cease to apply with respect to . . . the interLATA telecommunications services of a Bell operating company 3 years after the date such Bell operating company or any Bell operating company affiliate is authorized to provide interLATA telecommunications services under section 271(d), unless the Commission extends such 3-year period by rule or order.

6. On December 23, 2005, the FCC determined that the provisions of section 272 (other than section 272(e)) of the Communications Act of 1934, as amended (the Act), applicable to Bell Operating Company (BOC) provision of in-region, interLATA telecommunications services sunset for the operations of Qwest Communications International Inc. (Qwest) in the states of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming by operation of law as provided in section 272(f)(1), effective December 23, 2005.<sup>1</sup>

7. The Section 16.3 review by "the Commission and Qwest" of "the appropriateness of QPAP and whether its continuation is necessary" is the subject of this Petition, and Qwest proposes that this review take the form of a technical conference held by the Commission.

8. Qwest believes that the technical conference agenda should address the following:

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<sup>1</sup> Section 272 sunsets for *Qwest Communications International Inc. in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming by Operation of Law on December 23, 2005 pursuant to Section 272(f)(1)*, Federal Communications Commission Public Notice, DA 05-331 (Dec. 23, 2005).

a. A brief overview of the history of QPAP, its purpose in the FCC's consideration of Qwest's application under Section 271 of the Act, and its place in Commission-approved interconnection agreements.

b. A brief review of the QPAP operation from 2003 to present.

c. A discussion of the "appropriateness of the PAP and whether its continuation is necessary," considering the wholesale telecommunications market and (1) overall changes that have occurred since QPAP began and (2) whether the market remains open and is likely to remain open with or without QPAP.

d. A discussion of a future framework for wholesale performance assurance to take the place of QPAP, which Qwest will be prepared to offer.

**WHEREFORE**, Qwest respectfully requests that the Utah Public Service Commission schedule a technical conference to address the aforementioned agenda items.

Dated: December 15, 2009

Respectfully submitted,  
QWEST CORPORATION

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of December 2009, the foregoing **Petition for Review and Termination of Qwest's Performance Assurance Plan Termination pursuant to Section 16.3** was sent by electronic mail and UPS Next Day Delivery to the Commission, and to Mr. Ginsberg.

*(Via UPS Next Day Delivery)*

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