

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Disposition of Tier 2 )  
Funds Associated With Qwest's Performance ) DOCKET NO. 11-049-52  
Assurance Plan. ) NOTICE OF INTENT TO TRANSFER  
) QPAP TIER 2 FUNDS  
)  
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ISSUED: November 2, 2011

SYNOPSIS

The Commission provides notice of its intent to transfer QPAP Tier 2 funds to the Utah Universal Public Telecommunications Service Support Fund.

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By The Commission:

In an order dated August 16, 2011, in Docket No. 09-049-60, the Commission granted the motion of Qwest Corporation/CenturyLink ("Qwest") to limit the scope of that proceeding to consideration of Tier 2 payments under the Qwest Performance Assurance Plan ("QPAP"). The Commission also granted Qwest's request to eliminate any future requirement for Tier 2 payments. This notice addresses the Commission's intended disposition of the funds accumulated through Tier 2 payments since inception of the QPAP.

BACKGROUND

Qwest filed the above-referenced motion on June 13, 2011. It was unopposed. At the Commission's request, the Utah Division of Public Service ("Division") reviewed Qwest's motion and, for reasons summarized in the August 16, 2011 order, supported Qwest's motion. The Commission's August 16, 2011 order eliminated the requirement for Tier 2 payments, provided no opposition was filed within 30 days of the order. The Commission's action was

based, in part, on the Division's determination that Tier 2 payments are no longer necessary, in light of Qwest's QPAP performance and the absence of opposition to Qwest's motion. The 30 day window established in the order has expired, and the Qwest motion remains unopposed. Therefore, the order eliminating Tier 2 payments has become final.

The QPAP 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. In its initial form, the QPAP provided for a two-tiered, self-executing remedy to be applied when Qwest's service to CLECs fails to conform to specified performance standards. "Tier 1" refers to compensatory payments made to CLECs. "Tier 2" refers to payments made to the state allocated equally between the Utah Special Fund to defray the costs of QPAP audits and the Utah Discretionary Fund to support Utah telecommunications initiatives.

#### DESCRIPTION OF INTENDED TRANSFER OF FUNDS

With the determination that Tier 2 payments are no longer necessary or required, it is appropriate to dispose of the remaining Tier 2 funds, totaling approximately \$697,000. The Commission anticipates no further requirement for QPAP audit funds. Accordingly, the Commission contemplates using the Tier 2 funds to support a Utah telecommunications initiative, namely the Utah Universal Public Telecommunications Service Support Fund ("USF"), established under Utah Code Ann. § 54-8b-15. The USF promotes universal service within the state by ensuring that customers throughout the state have access to affordable basic telephone service. The current USF balance is lower than the historic norm. Transferring all Tier

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2 funds to the USF will help maintain adequate continuing support for both rural telephone companies and lifeline (low income) telephone customers in this state.

By this notice the Commission provides any interested party the opportunity to file comments opposing the contemplated transfer of Tier 2 funds to the USF or to propose an alternative use of the funds. Such comments shall be filed with the Commission no later than 30 days following the date of this order and shall describe in complete detail all factual, legal and other reasons supporting the party's opposition to the transfer of Tier 2 funds to the USF, as well as the proposed alternative use of the funds. Should any such opposing comments be filed, the Commission will address them in a future order. In the event no opposing comments are filed, the Commission will complete the funds transfer described in this order.

DATED at Salt Lake City, Utah, this 2<sup>nd</sup> day of November, 2011.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
D#210991

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance 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 Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2<sup>nd</sup> day of November, 2011, a true and correct copy of the foregoing NOTICE OF INTENT TO TRANSFER QPAP TIER 2 FUNDS, was served upon the following as indicated below:

By U.S. Mail:

James Farr  
CenturyLink  
250 East 200 South, Room 1601  
Salt Lake City, UT 84111

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, UT 84111

Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, UT 84111

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Administrative Assistant