

Decision No. C04-1483

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03M-078T

IN THE MATTER OF THE FILING OF QWEST CORPORATION'S STATEMENT OF
GENERALLY AVAILABLE TERMS AND CONDITIONS.

DOCKET NO. 02M-259T

IN THE MATTER OF QWEST CORPORATION'S COLORADO PERFORMANCE
ASSURANCE PLAN.

ORDER REJECTING NOTICE OF MODIFICATION

Mailed Date: December 15, 2004
Adopted Date: December 7, 2004

I. BY THE COMMISSION

A. Statement

1. On November 12, 2004, Qwest Corporation (Qwest) filed a Notice of Modification to Exhibit K, the Colorado Performance Assurance Plan (CPAP) of the Ninth Revised Statement of Generally Available Terms and Conditions and Motion for Approval.

2. In this Notice filing, Qwest proposes to make several changes to Exhibit K to the CPAP. Qwest states that it previously submitted an updated Exhibit B to the Commission for approval which was derived as the result of work completed during the Washington second six-month review. The Commission approved the changes for Exhibit B by Decision No. C04-1220 mailed on October 19, 2004. In that same decision, however, the Commission rejected the

corresponding changes for Exhibit K that Qwest had also submitted as a result of the Washington review. The Commission decision stated:

The issues in Qwest's second, third, and fourth proposed changes are currently part of an ongoing proceeding before an Administrative Law Judge from the third six-month review, Docket No. 04M-424T. The Washington Stipulation that is at issue here has not been made part of the record in that proceeding, and as such, no party nor the Commission has had an opportunity to explore whether the changes proposed in the Stipulation are beneficial and necessary for the Colorado performance assurance plan.

If Qwest or any of the other parties wants this Commission to accept those same changes, they should file a similar stipulation in our proceeding.

3. In this current Notice filing, Qwest has attached a new Colorado Stipulation signed by representatives from Qwest, Eschelon Telecom, Inc., WorldCom, Inc., Covad Communications, Inc., and AT&T Communications of the Mountain States, Inc. This Stipulation includes agreement on changes to the payment reports, the line splitting standard, loop splitting reporting, and xDSL-I capable loops as a product category. We note, again as we did in Decision No. C04-1220, that these issues are the same issues that are part of Docket No. 04M-424T pending before an Administrative Law Judge (ALJ).

4. Instead of filing this Stipulation in the above captioned dockets, Qwest and the signatories should have filed the Stipulation in the 04M-424T docket so that the ALJ would have an opportunity to question parties on the Stipulation, compare the Stipulation to testimony filed on the same subject matters, and rule on whether the changes are appropriate for Colorado.

5. Therefore, we reject this Notice of Modification and direct Qwest to file the Stipulation and any supporting documentation in Docket No. 04M-424T.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation's Notice of Modification to Exhibit K of the Ninth Revised Statement of Generally Available Terms and Conditions and Motion for Approval is rejected consistent with the above discussion.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 7, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners