

Decision No. C23-0281

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0210T

IN THE MATTER OF ALLOCATING REMAINING FUNDS IN THE CENTURYLINK QC PERFORMANCE ASSURANCE PLAN SPECIAL FUND.

**COMMISSION DECISION OPENING PROCEEDING,
PROPOSING FUNDS ALLOCATION, SETTING NOTICE
AND INTERVENTION PERIOD, AND ESTABLISHING
DEADLINES FOR PUBLIC COMMENTS.**

Mailed Date: May 5, 2023
Adopted Date: April 26, 2023

TO ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission opens this proceeding to consider the allocation of remaining monies in the Colorado Performance Assurance Plan (CPAP) Special Fund. We seek public comment on the proposed allocations set forth in this Decision, as well as comment on other potential allocations.

2. We invite interested persons to submit comments no later than May 26, 2023.

Reply comments shall be due June 9, 2023. Comments will be considered by the Commission regardless of whether the commenter intervenes in the proceeding.

3. While intervention is not required for comment, any person desiring to intervene or participate as a party in this proceeding in accordance with Rule 1401 of the Commission's Rules

of Practice and Procedure, 4 CCR 723-1, **shall file appropriate notices or motions concurrent with their respective comments by May 26, 2023.**

B. Background

4. The CPAP was created in 2002 by the Commission as part of a self-effectuating performance mechanism with a multi-tiered measurement and payment system resulting from the implementation of the Telecommunications Act of 1996 (Telecom Act). The Telecom Act required Qwest Corporation, as the incumbent local exchange carrier (ILEC) to allow its competitors, competitive local exchange carriers (CLECs), to use its operational support systems and network components to enter the local telephone service market. *As quid pro quo*, the ILEC was allowed to re-enter the long-distance market upon successful opening of the local market to competitors, and was required to implement performance measures, with payments, if the ILEC was not meeting performance obligations to the CLECs, in order to assure that the local market remained sufficiently open.

5. In 2013, the Commission approved modifications to the CPAP through the approval of a Settlement Agreement between Qwest Corporation dba CenturyLink QC (CenturyLink) and several other parties.¹

6. On February 28, 2022, CenturyLink filed a Petition with the Commission requesting that the CPAP be discontinued. CenturyLink stated that the company's most significant competitors have their own networks, and that the CLECs' reliance on the CPAP had declined dramatically. This Petition was granted on October 6, 2022, and the CPAP was eliminated.² The CPAP Special Fund has a remaining balance of \$1,589,067.

¹ See Proceeding 02M-259T, Decision C13-0722.

² See Proceeding 22M-0092T, Decision R22-0602.

7. Section 9 of the CPAP governs the use and distribution of the Special Fund. As relevant to this Proceeding, Section 9.3 states “Upon implementation of the [C]PAP, the Commission shall decide how to use the remainder of this fund. The uses shall be competitively neutral efforts in the telecommunications field that do not benefit CenturyLink QC directly.”

8. The Commission has previously approved allocations of the Special Fund. These expenditures included \$1,607,011 to serve as matching funds for federal 9-1-1 technology grants in 2018 and 2019,³ \$180,000 to serve as matching funds for a separate federal 9-1-1 grant in 2010,⁴ and \$200,000 to support a broadband mapping project undertaken by the Governor’s Office of Information Technology in 2009.⁵

C. Discussion

9. We propose the following uses for the remaining Special Fund balance:
- a) Provide funding to an organization to implement an education and outreach program to increase enrollment in the federal Lifeline program for low-income individuals in Colorado.
 - b) Provide additional funding for the Colorado 9-1-1 Resource Center, Inc., a non-profit entity created to serve as an information clearinghouse and support entity for local 9-1-1 governing bodies and Public Safety Answering Points (PSAPs), which is nearing the end of its existing funding.
 - c) Provide funding to PSAPs for the implementation of text-to-911 service or emergency medical dispatch service if they don’t already provide those services.
 - d) Provide funding to PSAPs for development and improvement of geographic information system data sets necessary for the future deployment of geospatial routing of 9-1-1 calls.
 - e) Provide funding to an organization for the purchase of accessible telephony equipment for persons with disabilities.

³ See Proceeding 18M-0612T, Decision C18-0751 and Decision C19-0331.

⁴ See Proceeding 10A-356T, Decision C10-0757.

⁵ See Proceeding 08A-533T, Decision C09-0011.

- f) Provide funding to an organization to implement an education and outreach program regarding already existing accessible telephony programs for persons with disabilities.
- g) Provide funding to the 988 Crisis Hotline Enterprise Board for public education and outreach.
- h) Provide funding to an organization to implement a public outreach program to raise awareness of the Colorado Inmate Communications Services (ICS) program at the Public Utilities Commission, including informing consumers of their right to request remedies by submitting an informal consumer complaint regarding potential predatory practices.

10. The Commission is interested in hearing from public commenters and any parties to this proceeding on the above proposals. We encourage commenters to consider whether the populations served by the proposals represent disproportionately impacted communities, whether the proposals benefit public safety or critical needs, and whether any of the proposals present an opportunity for the matching of funds. We also seek input on what existing organizations may serve as the recipients for these funds, where a specific organization is not already identified.

11. The Commission requests that commenters provide input regarding what amount of the funds available should be designated for each proposal.

12. We will also consider alternative uses proposed by commenters and parties. Such alternative proposals should be limited to providing funds to non-profits or government entities, including local governments as defined in § 29-20-103(1.5), C.R.S., and must consist of a one-time distribution of funds, rather than ongoing distributions. Alternative proposals should identify any other funds that may be combined with distributions from this proceeding to meet the stated goal of the proposal, as well as the source of funding for any ongoing costs that may be incurred. Any alternative proposals must also meet the requirements of Section 9.3 of the CPAP.

13. The Commission will consider next steps, including specific proposal amounts and any further notice or other additional process necessary in this Proceeding, after comments are received and through separate order.

D. Findings and Conclusions

1. To fulfill the CPAP approved by the Commission by Decision C13-0722, the Commission finds it necessary to allocate the excess funds derived from the implementation of the Plan. We invite public comment consistent with the Discussion above.

2. This Decision is available for public inspection by accessing the Commission's E-Filing system under the above proceeding number at Colorado.gov/dora/puc. **This Decision is the notice that the Commission is opening a proceeding to solicit comment on the allocation of the remaining funds in the Colorado Performance Assurance Plan Special Fund.**

3. The Commission's notice period for this Decision opening this Proceeding shall extend through and include **5:00 p.m. on May 26, 2023.**

4. We invite interested persons to submit comments or briefing, to be filed no later than **5:00 p.m. on May 26, 2023.**

5. Any person desiring to intervene or participate as a party or in this proceeding shall file appropriate notices or motions to become a party concurrent with their respective comments no later than **5:00 p.m. on May 26, 2023.**

6. Reply comments may be filed on or before 5:00 p.m. June 9, 2023.

7. The PUC strives to accommodate all members of the public at its hearings and meetings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Requests for such accommodations should be

made at least one week prior to the event by completing the [Language Access Form](#). Requests can also be made directly by contacting Holly Bise at (303) 894-2024 or by emailing holly.bise@state.co.us.

II. ORDER

A. It Is Ordered That:

1. The Commission opens this Proceeding on its own motion consistent with its previous Decision No. C13-0722.

2. Consistent with the discussion above, we invite public comment regarding the allocation of the remainder of the Colorado Performance Assurance Plan (CPAP) Special Fund.

3. The notice period for this Decision shall extend through and include **5:00 p.m. on May 26, 2023**.

4. Comments shall be due by **5:00 p.m. on May 26, 2023**.

5. Persons who do not wish to intervene or become a party, but desire to file comments, may send written comments on or before May 26, 2023, addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. Comments may also be submitted via the Commission's online public comment form at <https://docs.google.com/forms/d/e/1FAIpQLScIWDDeNS2FCh0NdEijNU4igpUKqRZvTIYwZ8XSA2YYx3LF6qA/viewform>, through email at: dora_puc_website@state.co.us or by calling (303)869-3490 to leave oral comments.

6. Any person desiring to intervene or participate as a party in this proceeding shall file a petition for leave to intervene or, pursuant to the Commission's Rules of Practice and

Procedure, other appropriate pleadings to become a party concurrent with initial comments by **5:00 p.m. on May 26, 2023.**

- 7. Reply comments shall be due by **5:00 p.m. on June 9, 2023.**
- 8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 26, 2023.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

Commissioners

Rebecca E. White,
Director

COMMISSIONER TOM PLANT
ABSENT