

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02M-259T

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

**ORDER DENYING APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION**

Mailed Date: May 16, 2003

Adopted Date: May 2, 2003

I. BY THE COMMISSION

A. Statement

1. On April 14, 2003, AT&T Communications of the Mountain States, Inc., TCG Colorado, and WorldCom, Inc., on behalf of its regulated subsidiaries (collectively, the Joint Commenters) filed an application for rehearing, reargument, or reconsideration (RRR) of Decision No. C03-0295 issued March 25, 2003.

2. In the RRR filing, the Joint Commenters sought clarification of the Commission's Decision No. C03-0295, which set forth the new performance measurement for Qwest Corporation's (Qwest) product and process notifications through the Change Management Process (CMP). Specifically, the Joint Commenters request that the Commission clarify paragraph 32 of that decision to reflect that compliance with the content deliverable in the notice requires Qwest to have actually, properly, and accurately posted the required Technical Publications, PCAT, and history log on the relevant Qwest website. They state that if a notice

¹ The application for rehearing, reargument, or reconsideration was denied by operation of law on May 14, 2003; therefore, this Decision No. C03-0512, mailed May 16, 2003, is of no legal effect and has been withdrawn.

3. indicates that redlined changes are available on the website for Qwest's Technical Publications, PCAT, and history log, but the redlined changes are not, in fact, available on the website when the notice is issued, under paragraph 32 Qwest has technically met the content deliverable in the notice.

4. On April 28, 2003, Qwest filed a Motion for Leave to File a Response to the Application for Rehearing, Reargument or Reconsideration and a Response to the Application for Rehearing, Reargument or Reconsideration. In its Motion, Qwest states that the RRR filing requires a substantive response from Qwest as to why such an extension of the performance measurement is inappropriate. Qwest asserts that even though Rule 22(b) of the Commission's Rules of Practice and Procedure does not contemplate a response as a matter of right to an application for RRR, good cause exists for the Commission to grant Qwest's request.

B. Analysis

5. Rule 4 *Code of Colorado Regulations* 723-1-22(b) states in pertinent part: "no responsive pleading may be filed to answers, interventions, notices, responses, or applications for rehearing, reargument or reconsideration." While a provider may request that the Commission allow for responses, good cause must be shown. Simply stating that good cause exists does not make it so. We deny Qwest's Motion to file a response to the Joint Commenter's RRR for failure to show good cause.

6. One of the goals of the Colorado Performance Assurance Plan (CPAP) is for it to be as self-executing as possible for Qwest, so that constant and detailed monitoring by the competitive local exchange carriers (CLECs) and this Commission is not necessary. It is with this goal in mind that we deny the application for RRR. To add another layer, *i.e.*, the monitoring of the redlined documents on the website for content and availability, goes beyond our intent for

this measurement. The CMP document in sections 5.3 and 5.4 does not require Qwest to post the redlined documents for any particular time frame. While we do expect Qwest to allow CLECs access to these documents during the prescribed comment periods (and even beyond as archived material), we do not believe there is a need to add this requirement to our performance measurement.

7. In the future, if CLECs have a problem in getting access to the redlined documents or if they believe the documents' content is repeatedly not sufficient for them to understand the proposed changes, CLECs can request a modification to the measurement during a six-month CPAP review and/or propose that the CMP document be rewritten in the CMP forum.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation's Motion for Leave to File a Response to the Application for Rehearing, Reargument or Reconsideration filed by AT&T Communications of the Mountain States, Inc., TCG Colorado, and WorldCom, Inc., and Request to Waive Response Time is denied.

2. AT&T Communications of the Mountain States, Inc., TCG Colorado, and WorldCom, Inc.'s Application for Rehearing, Reargument or Reconsideration of Decision No. C03-295 Regarding CLEC Affecting Changes is denied.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 2, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

**THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO**

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners