

Decision No. C03-0961

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

DOCKET NO. 02M-259T

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

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

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Mailed Date: August 22, 2003  
Adopted Date: August 13, 2003

**I. BY THE COMMISSION**

**A. Statement**

1. By Decision No. C03-0733, mailed July 3, 2003, we ordered Qwest Corporation (Qwest) to make certain changes to the Colorado Performance Assurance Plan (CPAP) and parties to file additional comments on certain measures. These additional comments were to be filed on July 16, 2003. Decision No. C03-0828 granted an extension of time for parties to file comments until July 23, 2003.

2. On July 23, 2003, we received comments from AT&T Communications of the Mountain States, Inc., and TCG Colorado (AT&T); WorldCom, Inc. (MCI); and Qwest. We previously received comments from Covad Communications Company (Covad) and Eschelon Telecom of Colorado, Inc. (Eschelon), that were addressed in Decision No. C03-0733.

3. Parties were directed to file additional comments on measures OP-15, PO-5, and PO-20 in order for the Commission to have more information on the parties' positions with respect to these measures prior to making a decision on their inclusion or exclusion from the

CPAP. In addition, Qwest was ordered to file comments on the status of the standards for enhanced extended loops (EELs).

4. In response to our request for comments on the EELs standards, Qwest, AT&T, Eschelon, and MCI filed a Colorado Performance Assurance Plan Stipulation as to EELs Standards and CPAP Treatment. This Stipulation applies standards to the following submeasures for the EELs product: OP-3, OP-4, OP-5, OP-6A, MR-5, MR-6, MR-7, and MR-8. In addition, this stipulation includes EEL reporting and standards for the submeasure PO-5, Firm Order Confirmations. The Stipulation states that Qwest will begin reporting the OP and MR submeasures at the end of the first full month following the Commission's acceptance of the proposed EELs standards and will begin making payments the month following the reported results. For PO-5, Qwest will begin capturing EELs data in January 2004, reporting them in February 2004, and making any required payments in March 2004. The Stipulation states that because Qwest has not previously reported EELs in the PO-5 measurement, additional development time is required to institute the coding necessary to identify these records in the source data.

5. The Stipulation includes a definition for EELs that more closely conforms with the current Federal Communications Commission definition. It also states that the EELs measurements will be included in the CPAP as Tier 1A. Attached to the Stipulation is a redline modification of the CPAP that makes the changes outlined in the Stipulation.

6. We approve the Stipulation as filed by the parties. The standards outlined in the Stipulation were agreed to by the signatories to the Stipulation and no other party expressed an

objection. Qwest is ordered to make the changes to the CPAP as found in Appendix A to the Stipulation.

7. We asked parties to comment on the inclusion of OP-15, Interval for pending orders delayed past due date, for EELs and line sharing/line splitting reporting. MCI and AT&T support inclusion of OP-15 in the CPAP for EELs and line sharing/line splitting with a diagnostic standard. MCI recommends that the standards should be re-addressed at the second six-month review. AT&T contends that OP-15 needs to be revised because Qwest's policies for retail and competitive local exchange carrier (CLEC) held orders are different, making the current comparison meaningless. AT&T asserts that once the OP-15 measure is revised, the standard can be changes to benchmark or parity.

8. Qwest objects to the inclusion of OP-15 in the CPAP for any product. Qwest contends that OP-15 information is reported as part of the Regional Oversight Committee (ROC) Performance Indicator Definitions (PIDs) and that there is no purpose in including OP-15 in the CPAP as a diagnostic measure. Qwest indicates that OP-15 is not included in any other Qwest PAP and contends that AT&T never previously requested that OP-15 be included in a PAP. Qwest also argues that OP-15 is duplicative of OP-6, which is included in the CPAP.

9. We do not order Qwest to include OP-15 in the CPAP for any purpose at this time. In reviewing the definitions of OP-15 and OP-6, we agree with Qwest that they appear to be duplicative. During the formulation of the CPAP, we did not add OP-15, and cannot find any objection to this exclusion in the record. AT&T now indicates that this measure needs to be revised to represent the difference between Qwest's retail and wholesale policies. If AT&T or any other CLEC wants to raise this issue at the second six-month review, it is able to do so.

10. The parties also responded to our questions concerning the inclusion of line sharing/line splitting reporting for the measure PO-5, Firm Order Confirmations (FOCs) on time. MCI supports including reporting along with a payment standard for line splitting. Timely FOCs for line splitting are an important measure for CLECs to address. The rationale for including this measure and establishing a standard is the same as for any other product or service.

11. Qwest states that PO-5 is not included in the CPAP for either line sharing or line splitting. PO-5 is not broken down by specific products, but rather by groups of products that require a common FOC time. To require a specific reporting for line sharing/line splitting would be completely inconsistent with the design of the measure.

12. We agree with Qwest's position not to include line splitting reporting for PO-5. PO-5 has three reporting categories of products. Line sharing is already included in category (b). Products are not separately reported for this PID, rather they are grouped in these three categories by FOC interval. It does not make sense to us given the way PO-5 is defined, to have line splitting somehow separately reported.

13. PO-20, Manual service orders, was originally ordered to be included as part of the § 271 proceeding. We asked parties to comment on the current need for the measure and the status of its definition in the Long Term PID Administration (LTPA) forum. AT&T and Covad contend that PO-20 should be included in the CPAP. MCI supports the effort to refine PO-20 in the LTPA collaborative. MCI recommends that Qwest be required to file a stipulation within ten calendar days of agreement on a PO-20 measure for immediate addition to the CPAP. MCI further recommends that if agreement cannot be reached in a reasonable period of time that any party should be permitted to raise the issue before the Commission.

14. Qwest contends that the LTPA process should be allowed to continue to review and resolve the definition of PO-20 before adding it to the CPAP. Qwest offers to add the current version of PO-20 to the CPAP until the next six-month review if the Commission is unwilling to wait for an agreed upon PO-20. Qwest recommends that when PO-20 is added to the CPAP, it should be a Tier 1B measure.

15. We order Qwest to file PO-20 for inclusion in the CPAP, when work has been completed in the LTPA forum. However, if consensus has not been reached on PO-20 by the second six-month review, we order Qwest and other parties to file the most current version of PO-20 and comments on the remaining disputes. We agree that PO-20 will be a Tier 1B measure when it is added to the CPAP.

16. Qwest, in its additional comments, also suggests that MR-4, All troubles cleared within 48 hours, should not be included in the CPAP because it is completely duplicative of MR-3 which is currently in the CPAP. In our Decision No. C03-0733, we ordered Qwest to report line splitting for MR-4. Qwest states that if MR-4 was added, Qwest would be subjected to duplicative payments for the same trouble ticket. AT&T did not object to Commission Staff's recommendation to leave MR-4 out of the CPAP.

17. We do not order Qwest to include MR-4 in the CPAP for line splitting reporting or for any other purpose at this time. The CLECs did not specifically comment on this measure either in the initial round of comments or in the additional round. We agree with Qwest that this PID was not originally included in the CPAP because of its duplicity with MR-3, which is currently in the CPAP. If a party has a compelling reason for its inclusion that has not been brought to our attention in this review, it can raise the issue at the second six-month review.

18. MCI suggests in its additional comments, that OP-6, Delayed days, should have been on the Commission's list for line splitting reporting. MCI states this measure was on the list provided by the CLECs for line splitting to be separately reported. Qwest should be reporting line splitting for OP-6. Qwest did not oppose the addition of line splitting reporting for OP-6 in the initial round of comments or in the additional round.

19. We order the inclusion of OP-6 for line splitting reporting. Qwest did not address this PID specifically, but did indicate in its comments in OP-15, that OP-6 is duplicative of OP-15 and therefore both are not needed. Because we did not order the inclusion of OP-15, we now order the inclusion of OP-6.

20. Qwest raises two issues in its comments for rehearing, reargument, or reconsideration (RRR). The first issue that Qwest requests the Commission to reconsider is the changes we ordered to the standards for OP-3 and OP-4. In Decision No. C03-0733, we ordered Qwest to raise the standard for OP-3, Installation commitments met, from 90 percent to 95 percent, and for OP-4, Loop conditioning, from 16.5 days to 15 days. Qwest states in its RRR filing that the Commission's decision to change these standards was not based upon sound legal or policy grounds. The approach taken toward these measurements is inconsistent with its previous reluctance to adopt ROC standards for the CPAP for the mere sake of conformity. While Qwest supports consistency across its region, Qwest opposes selective conformity.

21. We deny Qwest's RRR request on this first issue for both OP-3 and OP-4. We reiterate from our first decision on the standard for OP-4 and OP-3 that Qwest should be applauded for consistently surpassing the standards on these measures. We do not order a decrease in the interval for OP-4 as suggested by the CLECs, because we do not wish to penalize

Qwest for good performance. The decision to decrease the interval from 16.5 days to 15 days is purely for ease of Qwest's reporting. Similarly, the increase in the standard from 90 percent to 95 percent for OP-3 is not to punish Qwest, but rather done in recognition of the fact that the ROC standard was "diagnostic" for OP-3 for line sharing when the Special Master's Final Report was filed. He recommended that the standard be set at 90 percent for CPAP purposes. Due to timing and our intent to finalize the CPAP for Qwest to begin reporting, the CPAP standard was not changed when the ROC later agreed to a 95 percent standard for OP-3 line sharing.

22. We point out that Appendix A to the CPAP states:

In areas where this document suggests a standard that is in dispute (both procedurally and substantively) as part of the Commission's Section 271 review (namely, the standards for collocation, TBD1 (premature disconnects), subloops, **conditioned loops** and **line sharing and line splitting**), the standard listed herein is meant as a default standard that would give way in the event that the Commission adopts a different one.

This indicates to us that the PID standards associated with conditioned loops, line sharing, and line splitting were likely to change in the future once the Commission and the parties obtained more experience and knowledge of the products.

23. Qwest's second RRR issue concerns the data return policy denied in our Decision No. C03-0733. Qwest states that it has been reporting performance results for a number of years. Qwest has the experience necessary to identify the types of data errors it incurs, as well as the technical and policy implications to rerunning and reposing data. Qwest's desire to adopt a rerun policy is based upon practical/technical concerns, not simply a desire to avoid payments. Also, Qwest only avoids liability for inaccurate reports if the effort is caught and corrected before the monthly payment is due. Qwest is still penalized for errors, no matter how insignificant, if the error is discovered at a later time or in a different manner.

24. We deny Qwest's RRR request on this second issue as well. Although we acknowledge Qwest's acceptance with reporting performance results, it has only been since the effective date of the CPAP that we have seen evidence of Qwest rerunning data for payment reporting purposes. We still believe that Qwest is gaining more knowledge and understanding of its reporting system as more monthly data is reported. With this knowledge, we hope that the need for rerunning data will be lessened in the future.

25. We by no means are precluding Qwest from requesting a review and implementation of this data rerun policy in the future. We merely believe this first six-month review is too soon to institute such a policy.

26. On August 6, 2003, AT&T filed a Motion for Leave to File Reply to Qwest's Comments and Request for Reconsideration and Hearing in Response to Commission Decision No. C03-0733. The Commission rules do not normally allow for responses to RRR filings. AT&T did not state good cause to allow this reply and we do not believe a reply is necessary. We deny AT&T's request to reply.

27. On August 12, 2003, Qwest filed an Objection to AT&T's Motion for Leave to File Reply, or Alternatively, Qwest Corporation's Motion for Leave to File Response, with Response. We now deny this as moot.

## **II. ORDER**

### **A. The Commission Orders That:**

1. Qwest Corporation is ordered to revise the Colorado Performance Assurance Plan consistent with the above discussion. Qwest Corporation's rehearing, reargument, and reconsideration request is denied.



2. AT&T Communications of the Mountain States, Inc., and TCG Colorado's Motion for Leave to File Reply to Qwest's Comments and Request for Reconsideration and Hearing in Response to Commission Decision No. C03-0733, is denied.

3. Qwest Corporation's Objection to AT&T's Motion for Leave to File Reply, or Alternatively, Qwest Corporation's Motion for Leave to File Response, with Response is denied as moot.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
August 13, 2003.**

(S E A L)



ATTEST: A TRUE COPY

*Bruce N. Smith*

Bruce N. Smith  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners