

Decision No. C03-1236

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02M-259T

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

DOCKET NO. 03M-078T

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

ORDER APPROVING NOTICE WITH MODIFICATION

Mailed Date: November 4, 2003

Adopted Date: October 29, 2003

I. BY THE COMMISSION

A. Statement

1. On October 3, 2003, Qwest Corporation (Qwest) filed a Notice of Compliance Filing Regarding Modified Exhibits K and B to Qwest Corporation's Statement of Generally Available Terms and Conditions (SGAT) and Motion for Approval (Notice). Attached to this Notice are updated versions of Qwest's Exhibits B and K to the SGAT. Qwest states that the revisions include: 1) the inclusion of the measurement titled "Timely and Complete Notification of Product/Process Changes"¹ ordered by Decision No. C03-0295; 2) modifications from the Commission's six-month review, namely by Decision Nos. C03-0733 and C03-0961; and 3) updates to Qwest's Performance Indicator Definition (PID), OP-5.² In addition, Qwest

¹ Qwest indicates that this measurement was actually implemented in April 2003 as ordered by the Commission.

² Qwest indicates that this PID was disaggregated into four new categories, A, B, T, and R. This PID will now be reported in arrears so that trouble reports can be matched to service orders.

requests that the Commission deem any approved revisions applicable without further amendment to any Colorado Performance Assurance Plan (CPAP) incorporated into an existing interconnection agreement (ICA), any ICA pending before the Commission for approval, and any ICA amendment delivered to a competitive local exchange carrier (CLEC) but not yet executed or submitted to the Commission.

2. On October 6, 2003, Qwest filed a Supplement to its Notice that included a redlined version of Exhibit K to the SGAT.

3. On October 15, 2003, Qwest filed a Confirmation of Notice to CLECs stating that Qwest notified CLECs of its proposed revisions and Notice filing electronically or via first class mail. Qwest included its certificate of service.

4. On October 17, 2003, Staff of the Commission (Staff) filed a Response to Qwest's Notice (Staff Response). This Response indicates that Qwest has complied with Decision No. C03-0295 by correctly incorporating the ordered measurement, "Timely and Complete Notification of Product/Process Changes," into the CPAP. Further, Staff states that it has reviewed the revised CPAP regarding the four ordered changes from the six-month review, and has found Qwest's changes to be compliant with those decisions.

5. Staff also reviewed Qwest's inclusion of the Enhanced Extended Loops (EELs) reporting category for certain PIDs, stipulated to and accepted by the Commission in Decision No. C03-0961. Staff found the inclusions to be compliant with the stipulation.

6. Staff then discusses Qwest's revised PID, OP-5. It is Staff's position that the revised PID should be incorporated into Exhibit B of the SGAT, but in the future, Qwest should be required to provide documentation that shows that the revised PID was agreed to by the Long

Term PID Administration (LTPA) forum. Staff suggests that minutes from those pertinent LTPA meetings or some other more formal memorialization of the participants' agreement be provided with any future filings for PID revisions.

7. Further, Staff indicates that, by the terms of the CPAP, the OP-5 revisions must first be approved by the Independent Monitor. Specifically, § 18.9 of the CPAP states: "If Qwest or CLEC wishes to modify a PID outside of the six-month review process the change must be approved by the Independent Monitor and then also approved by the Commission." Qwest has submitted the proposed revisions to OP-5 to the Independent Monitor, Mr. Frank Lamancusa, for his approval. Staff recommends that the Commission withhold approval on the requested modifications to OP-5 until the Independent Monitor's approval is received by the Commission.

8. Staff's last stated issue is that Qwest should be directed to file an advice letter to update its Local Network Interconnection and Service Resale Tariff, PUC No. 22, to reflect any revisions to Exhibits B and K previously ordered, or ordered as a result of this filing, and that the order give Qwest 30 days to do so.

9. On October 22, 2003, Eschelon Telecom, Inc. (Eschelon), filed its Response to Qwest's Notice (Eschelon Response). Eschelon agrees with Qwest's addition of OP-5 in Exhibits B and K to the SGAT, and states that the LTPA reached agreement on changes to the PID that measures Qwest's new service quality, OP-5, on August 6, 2003.

10. Eschelon does have a concern with Qwest's modified Exhibit B, and states that Exhibit B inaccurately characterizes the EELs standards for Colorado. Eschelon states in its Response that it agrees with the EEL changes made to Exhibit K and its appendices, but states

that Qwest should be required to similarly include the Colorado EEL standards in Exhibit B while listing other states as “diagnostic.”

11. Eschelon agrees with Qwest’s request that the Commission deem the revisions to the SGAT applicable without further amendment to any CPAP. Eschelon states that it recognizes the logistical complications of amending each and every ICA containing Exhibits B and K, and believes Qwest’s approach is reasonable.

12. Having reviewed the Notice, the Staff Response, and the Eschelon Response, we accept Qwest’s changes to Exhibit K for the new “Timely and Complete Notification” measure, the language added to §§ 10.6 and 13.2, the standard change for OP-3, and the interval change for OP-4. We also accept the changes to the submeasures in Exhibit K, Appendices A and B, to include the EEL product category.

13. We do not agree with Eschelon’s request that Qwest be ordered to change the PIDs in Exhibit B to the SGAT to reflect the differences between the Regional 14-state PIDs and the Colorado PIDs for EEL standards. The purpose of *Appendix B* to Exhibit K is to recognize and outline any of those differences. While Qwest’s *Exhibit B* might contain some state specific standards, its purpose is to reflect the PIDs that are universal across the 14 states. Qwest has made the appropriate changes to *Appendix B* and should not reflect those differences in *Exhibit B*.

14. We do agree with Staff that under the current language in § 18.9 of the CPAP we are constrained to wait until the Independent Monitor has made an evaluation and has approved a change to a PID prior to our approval. We await the Independent Monitor’s report on OP-5

before ruling on its inclusion in Exhibit K.³ We urge the participants to examine this language prior to the next six-month review to determine if a change in the language would be appropriate. We note that it was not our intent to require approval by the Independent Monitor in those instances when agreement on a proposed change has been reached by the LTPA participants. Rather, approval by the Independent Monitor should only be required if a party or parties dispute the proposed change. To make this clear, however, § 18.9 would need modification. Once we have received the Independent Monitor's evaluation of the new PID, we will rule on its inclusion in Exhibit K.

15. We also agree with Staff that Qwest should be required to file an advice letter and tariff pages to make corresponding changes to its Local Network Interconnection and Service Resale Tariff, PUC No. 22. Qwest shall have 30 days from the mailed date of this decision to file an appropriate advice letter.

16. All revisions approved in this decision shall be applicable without further amendment to any CPAP incorporated into an existing ICA, any ICA pending before the Commission, and any ICA amendment delivered to a CLEC but not yet executed or submitted to the Commission for approval. This decision is consistent with past Commission actions, and will lessen the administrative burden on both Qwest and other telecommunications providers.

17. Finally, we raise an issue *sua sponte*. In Decision No. C03-0961, we ordered Qwest to begin reporting line splitting as a separate product category for the following PIDs: OP-3, OP-4, OP-5, OP-6, MR-3, MR-4, MR-6, MR-7, and MR-8. In this Notice, Qwest made no changes to Exhibit K, Appendix A or Appendix B to reflect this diagnostic reporting. We order

³ We do allow Qwest to include the revised OP-5 in Exhibit B at this time.

Qwest to make the appropriate changes and refile a redlined Exhibit K reflecting those changes within two weeks of the mailed date of this decision.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation's Notice of Compliance Filing Regarding Modified Exhibits K and B to Qwest Corporation's Statement of Generally Available Terms and Conditions and Motion for Approval is approved in part consistent with the above discussion.

2. Qwest Corporation is ordered to file an advice letter and tariff pages to make corresponding changes to its Local Network Interconnection and Service Resale Tariff, PUC No. 22, within 30 days of the Mailed Date of this Decision.

3. Qwest Corporation is ordered to file a redlined version of Exhibit K to add the line splitting product category to the Performance Indicator Definitions enumerated above within two weeks of the Mailed Date of this Decision.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 29, 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