

Decision No. C04-1220

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 ON NOTICE OF MODIFICATION

Mailed Date: October 19, 2004

Adopted Date: October 6, 2004

I. BY THE COMMISSION

A. Statement

1. On September 20, 2004, Qwest Corporation (Qwest) filed a Notice of Modification to Exhibits B and K to 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 both Exhibit B, the 14-State 271 Performance Indicator Definitions (PIDs), and Exhibit K, the Colorado Performance Assurance Plan (CPAP). Qwest states that it proposes to make these changes to comply with Commission Decision No. C04-1111 and also with a Stipulation filed with the Washington Commission in Docket No. UT-043007. Qwest indicates that the Washington Stipulation was filed in that state as the result of matters settled in its six-month review of its performance assurance plan. Qwest states that it has agreed to make the terms of that Stipulation

available to competitive local exchange carriers (CLECs) that opt into the performance assurance plan in its 14-state local service region, and therefore makes this instant filing in Colorado.

3. Specifically, in the Washington Stipulation, Qwest agreed to publish, on its website, beginning with September 2004 data, a state payment report by major PID category similar to the report already filed with the Colorado Commission. Qwest states that it will also make available to individual CLECs data showing payments at the PID/Product submeasure level, including a total of the payments for the State of Colorado for each submeasure and/or product. Qwest indicates that these changes do not require a change in language for either Exhibit B or K.

4. The second proposed change taken from the Washington Stipulation is to the standard for line splitting. Qwest has agreed that this standard, where not already in effect, shall be Qwest DSL. Where it was not already in effect or otherwise agreed upon, this parity standard shall be applied beginning with the September 2004 performance data. This change in standard requires a change to the language in Exhibit B as well as the CPAP.

5. The third proposed change from the Washington Stipulation is that Qwest will begin reporting loop splitting on a diagnostic basis when a CLEC orders that product for three consecutive months in the state. Proposed Exhibit B includes changes to PIDs PO-5, OP-3, through OP-6, OP-15, and MR-3, 4, 6, 7, and 8. Since these changes merely implement diagnostic reporting for certain measures, no changes were proposed for the CPAP.

6. The final proposed change from the Washington Stipulation is to include xDSL-I capable loops in the CPAP in the OP and MR PIDs at the standards set forth in the proposed version of Exhibit B. The PIDs affected are: OP-3, OP-4, OP-5A, OP-5B, OP-5R, OP-5T, OP-6, MR-3, MR-4, MR-6, MR-8, and MR-10.

7. Qwest requests these changes be approved and that the Commission deem all existing interconnection agreements be modified without need for further filings.

8. It is unclear to this Commission what exactly Qwest is proposing with its first change. Qwest states that the new report will be similar to what is currently reported in Colorado, but it does not explain how it will be different from what we see now. Without this information or a comparison of the current report verses the new proposed report, we are not inclined to allow this change. This Commission has not received any complaints from competitors concerning the format or manner in which competitors collect their monthly performance and payment reports. We see no reason to allow this change without knowing exactly what the change will be. Therefore, we deny at this time Qwest's request to alter the monthly state payment reports.

9. 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 Colorado's performance assurance plan.¹ While many competitors active in CPAP proceedings in Colorado signed the Washington Stipulation, AT&T Communications of the Mountain States, Inc., is not a signatory to the Washington Stipulation, but is an active participant in Docket No. 04M-424T.

¹ We note that Qwest did not indicate whether the Washington Commission approved this Stipulation, in full or in part. Further, the Stipulation at page 1 states that "the WUTC Staff has not joined the Stipulation and has filed testimony that is in material disagreement with at least one proposed disposition in the Stipulation."

10. 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. That filing will afford parties and the Commission the opportunity to investigate the changes further and put the information concerning the changes and their effects in the record. Currently, this Commission does not have information before it to determine whether the changes requested are appropriate for Colorado. Therefore, we deny Qwest's request to make these changes to the CPAP. However, since no party filed responses in opposition to Qwest's Notice of Modification, we allow Qwest to make the changes proposed to Exhibit B. We recognize Qwest's goal of maintaining consistency in Exhibit B throughout its 14-state region, and this allowance will facilitate that goal.

II. ORDER

A. The Commission Orders That:

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

2. All existing interconnection agreements that currently contain Exhibit B are deemed modified in accordance with the updated Exhibits B without need for further filings.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 6, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners