

Decision No. R04-0996-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-424T

IN THE MATTER OF THE THIRD SIX-MONTH REVIEW OF QWEST CORPORATION'S
COLORADO PERFORMANCE ASSURANCE PLAN.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING PREHEARING CONFERENCE,
LISTING ISSUES FOR DISCUSSION, AND
REQUIRING PARTIES TO PROVIDE DOCUMENTS**

Mailed Date: August 25, 2004

I. STATEMENT

1. On June 4, 2004, Staff of the Commission (Staff) filed its Third Six-Month Review Report of Qwest Corporation's Colorado Performance Assurance Plan (Staff Report). Qwest Corporation (Qwest), Eschelon Telecom, Inc., DIECA Communications, Inc., doing business as Covad Communications Company, and MCI, Inc., on behalf of its regulated subsidiaries, filed comments on the Staff Report. The Staff Report and the comments were filed in Docket No. 02M-259T, *In the Matter of Qwest Corporation's Colorado Performance Assurance Plan*.

2. In Decision No. C04-0931 the Commission, *inter alia*, set for hearing before an administrative law judge (ALJ) nine issues from the Staff Report. The undersigned ALJ is assigned to hearing this matter.

3. By Decision No. C04-0932, the Commission opened this docket for the express purpose of hearing and deciding the contested issues raised by the Staff Report and the comments on that report. As pertinent here, the Commission stated, at ¶¶ 3 and 4, that:

[3.] Participants in Docket No. 02M-259T are deemed to be participants in Docket No. 04M-424T and need not enter appearances. The certificate of service for this new docket shall be the certificate of service from Docket No. 02M-259T. In Docket No. 04M-424T, the Commission takes administrative notice of the entire record in Docket No. 02M-259T.

[4.] All filings pertaining to the issues set for hearing by Decision No. C04-0931 shall be made in this new docket.

4. It is necessary to schedule a hearing and to establish a procedural schedule in this proceeding. A prehearing conference will be held on September 9, 2004. The provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and of Rule 4 CCR 723-1-79(b)(4) govern this prehearing conference.

5. The parties must be prepared to discuss at the prehearing conference: (a) date by which the Staff will file its direct testimony and exhibits;¹ (b) date by which the other parties will file their answer testimony and exhibits; (c) date by which the Staff will file its rebuttal testimony and exhibits;² (d) date by which the parties will file their corrected testimony and exhibits; (e) date by which each party will file its prehearing motions; (f) hearing dates; and (g) date by which post-hearing statements of position will be due (assuming the parties wish to file such statements) and whether response should be permitted. In addition, the parties must be prepared to discuss the process by which materials filed in Docket No. 02M-259T, of which the

¹ The parties should be prepared to discuss whether parties which support the Staff Report should file their testimony and exhibits on the same date as the Staff files its testimony and exhibits in order to provide other parties notice and an opportunity to respond.

² The parties should be prepared to discuss whether parties which support the Staff Report should be permitted to file rebuttal testimony and exhibits and, if so, whether they should file on the same date as the Staff files its rebuttal testimony and exhibits.

Commission has taken administrative notice in this proceeding, will be made available in this docket.³ Further, the parties should be prepared to discuss discovery procedures and deadlines and any special provisions for service of testimony and exhibits and of discovery. Moreover, the parties should review, and be prepared to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Finally, the parties may raise any issues.

6. Insofar as the ALJ is aware, there is no statutory requirement, rule requirement, or Colorado Performance Assurance Plan requirement governing the time within which the Commission must issue its decision in this matter. The parties are invited to address any such time limit known to them and to state their views (including support) on the issue of the time frame within which the Commission ought to issue its decision in this matter.

7. The ALJ expects the parties to consult prior to the prehearing conference with respect to the listed matters. The parties are encouraged to present, if possible, a procedural schedule and hearing dates which are satisfactory to the parties.

8. Staff will be ordered to provide, on or before September 3, 2004, a complete copy of its Third Six-Month Review Report of Qwest Corporation's Colorado Performance Assurance Plan (including any confidential material) to the ALJ. In addition, each party which filed comments, or a response to, on the Third Six-Month Review Report of Qwest Corporation's Colorado Performance Assurance Plan will be ordered to provide, on or before September 3, 2004, a complete copy of its comments (including any confidential material) directly to the ALJ.

³ Because the ALJ has no information about materials filed in Docket No. 02M-259T, access to specific referenced materials will be necessary for her to understand the position and argument of any party relying on materials filed in the older proceeding.

II. ORDER

A. It Is Ordered That:

1. A prehearing conference in this docket is scheduled as follows:

DATE: September 9, 2004

TIME: 10:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

2. The parties shall follow the procedures, and shall be prepared to discuss the matters, as set forth above.

3. Staff of the Commission shall provide, on or before September 3, 2004, a complete copy of its Third Six-Month Review Report of Qwest Corporation's Colorado Performance Assurance Plan (including all confidential material) to the Administrative Law Judge.

4. Each party which filed comments on, or a response to, the Third Six-Month Review Report of Qwest Corporation's Colorado Performance Assurance Plan shall provide, on or before September 3, 2004, a complete copy of its comments (including all confidential material) directly to the Administrative Law Judge.

5. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge