

Decision No. C04-1075

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.

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

Mailed Date: September 9, 2004

Adopted Date: August 25, 2004

I. BY THE COMMISSION

A. Statement

1. On August 18, 2004, Qwest Corporation (Qwest) filed an Application for Rehearing, Reargument, or Reconsideration (RRR) of Decision No. C04-0859 concerning the audit to be conducted of MR-8 Unbundled (UBL) DS1 loops. In that decision, we ordered the Independent Auditor to include an analysis of MR-8 UBL-DS1 in his annual audit.

2. Qwest states in its RRR Application that it appears from the order that the Commission's decision to have the Independent Auditor include the analysis of MR-8 in the annual audit was an effort to determine the cause of Qwest's perceived deficient performance. Qwest does not have an objection to this analysis being performed. The purpose of the RRR Application is to request clarification on how the Independent Auditor should be paid for this work, *i.e.*, through the Special Fund or from Qwest directly.

3. Qwest states that it believes § 14.14 of the Colorado Performance Assurance Plan (CPAP) should be the determinative section to refer to in this situation. Section 14.14 states, "[t]he Commission reserves the right to choose to conduct an audit itself, with the assistance of

an outside Auditor if it chooses. Such an audit shall be paid for through the Special Fund.” As a result, Qwest seeks clarification that the Independent Auditor’s review of MR-8 UBL DS1 should be paid for through the Special Fund.

4. We clarify for Qwest that any work done by the Independent Auditor as a result of our Decision No. C04-0859 may be paid for with the monies in the Special Fund. This audit, as ordered, is a result of the Commission’s concern with Qwest’s poor performance and the Independent Monitor’s assertion that more information is needed to ascertain the cause of the problem. We agree that in this circumstance, the language in § 14.14 of the CPAP governs.

5. It is our expectation and order, however, that any invoice from the Independent Auditor for the analysis of MR-8 UBL DS-1 will be work above and beyond the work that may have already been performed on this measure for the annual audit. As stated in § 14.6, Qwest is required to pay for the first three annual audits directly. This fact does not change with this decision.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation’s Application for Rehearing, Reargument, or Reconsideration is granted, consistent with the above discussion.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 25, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER CARL MILLER NOT
PARTICIPATING.