

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: WELDON STUTZMAN
DEPUTY ATTORNEY GENERAL

DATE: OCTOBER 27, 2010

SUBJECT: CASE NO. QWE-T-08-04
QWEST CORPORATION'S AMENDED PETITION TO REMOVE
PERFORMANCE ASSURANCE PLAN; MOTION TO APPROVE
CHANGES

On July 30, 2010, Qwest Corporation filed an Amended Petition that “supersedes the pending portion of Qwest’s Petition filed herein on May 2, 2008, in which Qwest sought permission to withdraw its Statement of Generally Available Terms and Conditions (SGAT).” Amended Petition, p. 2. In Order No. 30750, issued March 17, 2009, the Commission granted Qwest’s request to withdraw the SGAT, but left open consideration of Qwest’s proposal to also withdraw its Performance Assurance Plan (QPAP) and associated performance indicator definitions (PIDs) that were part of the SGAT. The QPAP, normally part of interconnection agreements between Qwest and other telecommunication providers, gives assurance that Qwest will provide fair and reliable access to its network.

In its Amended Petition, Qwest proposes a new Performance Assurance Plan (QPAP II) that Qwest states will provide economic incentive to Qwest to provide non-discriminatory service to competitive local exchange carriers (CLECs) as required under the federal Telecommunications Act of 1996. According to Qwest’s Amended Petition, QPAP II streamlines the measurements used to determine service levels, removes measurements that are currently in the PIDs but are not in the current QPAP, and moves some measurements into categories that continue to track the information for possible future reinstatement of the measurements. The proposed QPAP II also streamlines product categories by combining the

reporting for similar products or processes into one product category and removing products that have very low activity levels. Amended Petition, pp. 11-12.

On October 8, 2010, Qwest filed a Motion to Approve QPAP changes. Qwest's Motion is based on a Stipulation the Company filed on October 4 stating the parties had reached an agreement regarding three specific changes to Qwest's QPAP. Qwest's Motion identifies the three changes for approval by the Commission as (1) removal of the service known as "unbundled network element – platform (POTS)" or "UNE-P (POTS)," (2) changing the form of computer-to-computer interface used by CLECs from Electronic Data Interchange (EDI) to Extensible Markup Language, and (3) removal of the Tier 2 payment provisions. The Stipulation filed by the parties on October 4, 2010, states that Staff and Intervenors do not oppose Qwest's proposal that the unbundled network element – platform be removed from the Idaho PAP, and that the Staff and Intervenors support Qwest's proposal to modify the form of computer-to-computer interface used by CLECs from Electronic Data Interchange to Extensible Markup Language. Finally, the Stipulation states that Staff and Intervenors do not oppose Qwest's proposal to remove Tier 2 payment provisions from the QPAP.

The QPAP currently provides for Qwest to make payments to CLECs if it fails to meet specific performance standards (Tier 1 payments) and to make payments to a fund administered by the Commission if additional specific standards or benchmarks are not met (Tier 2 payments). Tier 2 payments are made to a Special Fund account and to a Discretionary Fund account. The Special Fund is to be used for QPAP administrative expenses and oversight activities. More specifically, the Special Fund was used for audits in 2005 and 2007, as well as the more thorough review completed by Liberty Consulting in 2009 that is part of this case. Since 2003 when the Special Fund was opened, approximately \$16,300 has been used for administration and audit activities. The current balance in the Special Fund is \$34,713.14.

Qwest also established the Discretionary Fund in 2003, and its stated purpose "shall be limited to competitive neutral Idaho telecommunications initiatives" as determined by the Commission. The fund was established with \$14,000, and has grown to a current balance of \$56,698. To date the Commission has not approved a use for any Discretionary Funds.

Staff recommends the Commission grant Qwest's Motion to Approve Changes to its QPAP as stated in the Stipulation.

COMMISSION DECISION

Should the Commission grant Qwest's Motion to Approve the three discreet changes to the QPAP as identified by the Stipulation of the parties filed on October 4, 2010?

A handwritten signature in black ink, appearing to read 'W Stutzman', written over a horizontal line.

Weldon Stutzman
Deputy Attorney General

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