

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Qwest Performance Assurance Plan
Investigation**

Case No. PU-06-58

ORDER

January 24, 2007

Preliminary Statement

This proceeding is a review of Qwest Corporation's (Qwest) Performance Assurance Plan (PAP). PAP section 16.1 provides for a review every six months. Participants of the review include Qwest, competitive local exchange companies (CLECs), and the Commission.

The purpose of the review is to determine whether performance measurements should be added to, deleted from, or modified; whether benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a performance measurement to High, Medium, or Low or Tier 1 to Tier 2. Any changes to the PAP as a result of the 6-month review will apply to and modify interconnection agreements between Qwest and CLECs that have incorporated the PAP.

On February 22, 2006 the Commission issued a Notice of 6-month Review indicating that proposed revisions to performance measurements that had been filed in Case Nos. PU-04-500, PU-04-632, and PU-05-583 and proposed revisions to the PAP had been filed in Case Nos. PU-04-501, PU-04-631, and PU-05-584 would be included in the 6-month review.

The issues in this proceeding include:

1. Whether there exists an omission or failure of existing performance measures to capture intended performance.
2. Whether there is duplication of another performance measurement.
3. Whether such omission, failure, or duplication of a performance measure justifies the addition, modification, or removal of a performance measure.
4. Whether any benchmark standards should be modified or replaced by parity standards.
5. Whether the actual volume of data points have been less or greater than anticipated and, if so, whether there is justification for the reclassification of a performance measurement.

On May 9, 2006 MCImetro Access Transmission Services LLC (MCImetro) filed a Petition to Intervene and filed comments. MCImetro's comments support approval and adoption of the revisions to performance measurements and revisions to the PAP subject to this proceeding.

On July 26, 2006 the Commission issued a second Notice of Opportunity in this proceeding indicating that the Commission had joined a multi-state audit of Qwest's PAP concerning 2004 performance results reporting and penalty payments, Case No. PU-05-399. Rather than duplicating the work of an ongoing Colorado PAP audit, the scope of the 13-state audit was limited to seven performance measures but the audit did review the payments associated with all performance measures. The multi-state audit report listed 21 issues with Qwest's methods, procedures, or calculations for North Dakota that may have affected Qwest's reported performance results or payments. The Commission has incorporated Case No. PU-05-399 in this proceeding.

The Commission's November 22, 2006 Notice of Informal Hearing scheduled an informal hearing for January 10, 2007. The hearing was held as scheduled.

At the hearing, Qwest was asked to provide the following:

1. An executive summary of the proposals in PU-04-500, PU-04-632, PU-05-583, PU-04-501, PU-04-631, and PU-05-584.
2. An executive summary of each of the 13-state PAP audit findings, Case No. PU-05-399; Qwest's response or recommendation to each finding; and the status concerning resolution of each finding.
3. In its May 10, 2006 comments, Qwest proposed that many issues resolved by the Colorado 3rd Year Review would apply to the North Dakota PAP and should be included in the ND 6-month PAP review. The Commission requested a summary of those Colorado PAP issues by Qwest or any other party, and responses or recommendations on those issues, the status concerning resolution of those issues in the Colorado 3rd Year Review, and the status of the discussion of these issues through Qwest's PID Management Process (PMP).
4. Whether PAP changes that may result from the 13-state audit or the Colorado 3rd Year Review will supersede any of the proposals in PU-04-500, PU-04-632, PU-05-583, PU-04-501, PU-04-631, and PU-05-584 and require prior adoption of the proposals in PU-04-500, PU-04-632, PU-05-583, PU-04-501, PU-04-631, and PU-05-584.
5. A detailed list of proposed changes to the North Dakota PAP at this time.
6. The need for and timing of a formal hearing in this proceeding.

Qwest requested that the Commission approve the PAP revisions filed in Case No. PU-05-584, incorporated into this proceeding, to be effective the first full month following the Commission's order. Qwest stated that no Commission action is necessary concerning the PAP revisions proposed in Case Nos. PU-04-501 and PU-04-631 since those revisions are superseded by the revisions contained in Case No. PU-05-584.

Qwest stated that no Commission action is necessary in Case Nos. PU-04-500, PU-04-632, and PU-05-583 concerning proposed revisions to performance measurements.

Qwest also requested that the Commission continue this proceeding for a few months in anticipation of new revisions to the PAP that may result from a multi-state Regional Oversight Committee audit or a Colorado PAP review.

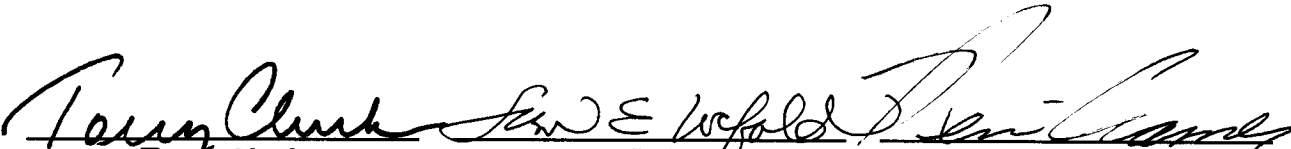
Qwest does not believe a formal hearing is needed but reserves its right to request a hearing should circumstances change.

Order

The Commission orders:

1. The Performance Assurance Plan revisions filed in Case No. PU-05-584 are approved effective beginning February 2007.
2. The Commission will take no future action in Case Nos. PU-04-500, PU-04-501, PU-04-631, PU-04-632, and PU-05-583.
3. Case No. PU-06-58 is continued.

PUBLIC SERVICE COMMISSION


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