

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

Case No. PU-06-58

**NOTICE OF STIPULATION REGARDING CERTAIN
PERFORMANCE INDICATOR DEFINITIONS AND
QWEST PERFORMANCE ASSURANCE PLAN PROVISIONS
AND JOINT MOTION TO APPROVE SAME ON BEHALF
OF THE STIPULATING PARTIES**

Qwest Corporation (“Qwest”) on behalf of itself, DIECA Communications, Inc. d/b/a Covad Communications Company (“Covad”), US Link, Inc. d/b/a TDS Metrocom (“TDS Metrocom”) and McLeodUSA Telecommunications Services, Inc. (“McLeodUSA”) (collectively, the “Stipulating Parties” and each individually a “Party”)¹ submits the Stipulation Regarding Certain Performance Indicator Definitions and Qwest Performance Assurance Plan Provisions (“2007 Stipulation”). The Stipulating Parties respectfully recommend that the Commission approve the 2007 Stipulation, apply the agreed upon changes to the Qwest Performance Assurance Plan (“PAP”), to any interconnection agreements containing the PAP and allow the Performance Indicator Definitions (“PIDs”) modifications to go into effect.

Procedural History

1. On February 22, 2006, the Commission issued a Notice of 6-month Review pursuant to section 16.1 of the PAP and identifying various dockets that contained proposed revisions to the PAP which would be included in the review.

¹ Eschelon Telecom, Inc. is an additional Stipulating Party, however, is not certified in North Dakota as a CLEC and therefore does not join in the motion.

2. MCImetro Access Transmission Services LLC (“MCI”) filed comments supporting approval and adoption of the revisions to the performance measurements and the PAP; on May 24, 2006, the Commission allowed MCI to intervene.
3. On July 26, 2006, the Commission issued a second Notice of Opportunity in the proceeding indicating that the Commission had joined a multi-state audit of Qwest’s PAP and was incorporating that audit case (PU-05-399) in this proceeding.
4. After the Commission provided further notice of an informal hearing on the matter, Qwest presented a summary of the pending changes and its comments on January 10, 2007. Because of other anticipated changes and discussions with CLECs regarding the PAP and PIDs, Qwest requested that this proceeding be continued.
5. On January 24, 2007, the Commission issued an order approving the pending changes from PU-05-584 to the PAP and continued this proceeding. 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.

History of New Changes to the PID and PAP

6. This submission results from discussions that took place between May 23, 2006 and May 17, 2007 between certain CLECs and Qwest. The participants identified and agreed upon a number of modifications to the PIDs and PAPs that would be generally fair, aid efficiency and continue to provide payments to CLECs should Qwest’s performance so require. The Stipulating Parties’ agreement has been documented in the 2007 Stipulation attached as Exhibit 1.
7. All of these changes were discussed by the participants in one or more of the sessions. Qwest provided notice of the opportunity to participate in the process as well as the issues presented for discussion to each CLEC in its fourteen states; 19 CLECs in the region elected to continue to receive notification of updates and meetings while seven regularly participated.
8. The Stipulating Parties recommend that the Stipulation be approved by the Commission and the changes implemented in each of the fourteen states in Qwest’s local region. *2007 Stipulation*, page 1.
9. In a separate filing (June 14, 2007), Qwest recently withdrew its Statement of Generally Available Terms and Conditions (“SGAT”) except as to Exhibit B, the PID. Retaining Exhibit B, which contains measurements applicable in the 14 local states. Retaining Exhibit B provides the Commission with a mechanism to both become aware of non-PAP impacting PID changes that can not be managed through the PAP and foster regional consistency. Regional consistency provides support for more efficient joint reviews or audits.

10. Nonetheless, as stated in that filing, Qwest continues to make the PID and PAP available to CLECs until such time as the PAP is withdrawn or otherwise eliminated. Thus, as has been the case historically, when a CLEC elects to have the terms of the PAP apply to its CLEC business with Qwest, the PAP is incorporated into its interconnection agreement as Exhibit K and utilizes the most current version of the PID (Exhibit B) as the measurements through which PAP results are calculated.
11. The Commission continues to retain its authority under Section 16 of the PAP to order changes if the PAP is not in the public interest and to apply changes occurring during the 6-month review to apply to agreements between Qwest and CLECs containing the PAP.
12. A comprehensive redline version of the PAP changes contemplated by the 2007 Stipulation for application in this 6-month review is attached as Exhibit 2. The clean version incorporating the agreed upon changes is attached as Exhibit 3.
13. The impacted PIDs of the current Exhibit B to the SGAT. A comprehensive redline of the PID is attached as Exhibit 4. A clean version of the PID incorporating the agreed upon changes is attached as Exhibit 5.
14. The Stipulating Parties have reviewed the proposed changes to both documents and agree that they appropriately delineate both the agreement and appropriate administrative changes, and that the 2007 Stipulation should be approved.
15. The Stipulating Parties believe that the 2007 Stipulation provides a fair resolution and is in the public interest. *See 2007 Stipulation*, page 1.
16. The Stipulating Parties seek to have the Commission approve the Stipulation and implement the described changes without further hearing. *2007 Stipulation*, page 2.
17. Each of the other Stipulating Parties, i.e. Eschelon, Covad, TDS Metrocom and McLeodUSA, has authorized Qwest to file the 2007 Stipulation and jointly requests with Qwest the applicable changes be implemented in North Dakota through this 6-month review docket.

Summary of New Agreed Upon Changes

18. The agreed upon revisions include several provisions that do not apply in some states; for convenience, a summary of the portions applicable to North Dakota are provided below.
19. Agreements Applicable to all 14 States
 - a. Eliminate resale DSL from PIDS and Modify PID and PAP references to Qwest DSL.

- b. Change the MR-11 PID title to “LNP Trouble Reports Cleared within Specified Timeframes.”
- c. Update the PID references to unbundled 2-wire non-loaded loop and unbundled ISDN capable loop disaggregations to reflect the retail analogue of ISDN BRI “(designed)”, which is how Qwest has historically measured these products.
- d. Update PO-20 to reflect it is fully implemented by making PID and PAP revisions specified in the 2007 Stipulation.
- e. Remove the PIDs specified in the 2007 Stipulation from PAP payment mechanisms to the extent they currently are included in a specific state’s PAP, subject to a Reinstatement/Removal process. Also, add a root cause analysis provision.
- f. Add exclusion to MR-6 PID that allows No Trouble Found (NTF) and Test Okay (TOK) trouble reports to be removed when the ticket’s duration is one hour or less.
- g. Change the standard for BI-3A PID to a 98% benchmark and add a provision to the PAP for the BI-3A PAP payment calculation, creating a tiered structure of per occurrence amounts and modifying the per measurement cap for the sub-measure.

20. Agreements Applicable to all States except CO

- a. Add one allowable miss provision to the PAP for individual CLEC results when the CLEC aggregate results have met the standard.
- b. Revise the PAP to change the flat minimum payment amounts of \$300/\$600 (MN) and \$2000 (the 12 remaining states) with a tiered minimum payment approach that establishes a relationship between the monthly PAP payment and the required minimum payment amount. In MN the monthly minimum payment approach and CLEC certification process is replaced by the annual minimum payment determination applicable to the other 12 states.
- c. Remove the following list of product disaggregations from all applicable OP and MR PIDs in the 13 state PAPs:

Resale Centrex, Resale Centrex 21, Resale DS0, E911/911 Trunks, Resale Frame Relay, Resale Basic ISDN, Resale Primary ISDN, Resale PBX, Sub-loop Unbundling, UNE-P POTS, UNE-P Centrex and UNE-P Centrex 21.

21. Agreements with impact in CO, ID, MN, ND, OR, UT and WA

- a. Eliminate six-month cap on Tier 1 escalation payment amounts in CO, ID, MN, ND, OR, UT and WA PAPs so that payments will continue to increase in the event the payment level indicator increases beyond payment level 6.

Additional Administrative Change

22. In addition to the agreed upon changes included in the 2007 Stipulation, Qwest also removed MR-12 from the PAP as illustrated in Exhibits 2 and 3, provided the other Stipulating Parties with the opportunity to review this deletion, and no comments, concerns or objections were noted. Qwest initiated the change because the MR-12 PID was eliminated prior to the initial approval of the PAP but references remained in the text through administrative error.

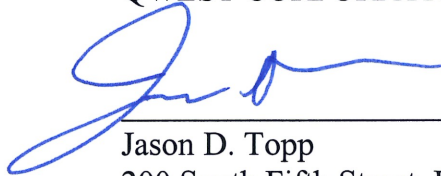
Information Regarding Changes Provided to CLECs in the 14 States

23. Qwest will also post a summary of all of the changes to its website and provide information regarding the anticipated PID and PAP changes by electronic mail.

Qwest, on behalf of itself and the Stipulating Parties, respectfully requests that the Commission approve the 2007 Stipulation describing proposed changes to the PAP and PID, apply the changes to any interconnection agreements containing the PAP and allow the PID to go into effect no later than 60 days after this submission in accordance with 47 U.S.C. § 252(f)(3).

Submitted this 22nd day of June, 2007.

QWEST CORPORATION



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