

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 21, 2007**

REGULAR _____ CONSENT X EFFECTIVE DATE August 26, 2007

DATE: August 13, 2007

TO: Public Utility Commission

FROM: Celeste Hari

THROUGH: Lee Sparling, Dave Booth, and Kay Marinos

SUBJECT: QWEST CORPORATION: (Docket No. UM 973) Requests approval of the Statement of Generally Available Terms and Conditions (SGAT), Nineteenth Revision, filed June 26, 2007.

STAFF RECOMMENDATION:

Staff recommends the Commission allow Qwest Corporation's (Qwest's) amended Statement of Generally Available Terms and Conditions, Nineteenth Revision, to go into effect without approval and subject to investigation.

DISCUSSION:

On June 26, 2007, Qwest filed the nineteenth revision of its SGAT. The original SGAT was filed in April 2000, pursuant to Section 252(f) of the Telecommunications Act of 1996 (the Act).

The SGAT is Qwest's offer to competitive local exchange carriers (CLECs) of terms, conditions and prices for interconnection, collocation, unbundled network elements and telecommunications services available for resale. The Commission allowed the original SGAT to take effect without approval and subject to investigation. See Order No. 00-327¹. From November 2000 to January 2005, Qwest filed eighteen revisions to its SGAT. The Commission allowed those revisions to take effect without approval and

¹ The Commission issued Order No. 00-327 in Docket UM 973, a proceeding established to investigate Qwest's SGAT. The Commission decided that initially it would review the SGAT in Docket UM 823. The latter proceeding was the investigation of Qwest's compliance with Section 271 requirement for entry into the in-region, interLATA toll market. In Docket UM 823, the Commission determined that Qwest satisfied Section 271 requirements. Now the Commission will continue to investigate the SGAT in Docket UM 973 before giving final approval.

subject to investigation. The nineteenth revision was filed on June 26, 2007, along with a description of the changes included in the filing. The filing included all exhibits, A through M, to the SGAT, along with red-lined versions of Exhibits B and K. The changes associated with this filing are limited to Exhibits B and K. Exhibit B contains the Performance Indicator Definitions (PIDs) and Exhibit K contains the Quality Performance Assurance Plan (QPAP or PAP). The PAP defines payments Qwest makes to CLECs (Tier 1 payments) and to the states (Tier 2 payments) when its performance does not meet the standards defined by the PIDs in Exhibit B. The Commission must decide the status of this latest version of Qwest's SGAT pursuant to Section 252(f) of the Act and Commission rules.

Federal Law: Section 252(f) of the Act provides that a Bell operating company, such as Qwest, may file with a state commission a statement of terms and conditions that the company offers competitors. Section 252(f) gives the Commission three procedural options: (1) It can complete its review within 60 days, and determine whether the SGAT complies with both federal and state law; (2) It can ask Qwest to agree to an extension of the 60-day review period in order to allow sufficient time to complete its review and reach a determination; or (3) It can allow the SGAT to go into effect, without approval or rejection, and continue to review the SGAT after it is in effect.

Section 252(f) also states that submission or approval of an SGAT shall not relieve a Bell operating company of its duty to negotiate terms and conditions of an agreement required by Section 252 of the Act.

Commission Rules: OAR 860-016-0040 sets the Commission process for SGAT filings. The rule follows Section 252(f) of the Act. The rule provides that persons may file comments concerning an SGAT within 30 days of the date it is filed. Also, the rule states that the Commission will review the SGAT filing within 60 days, and "either reject it or permit it to go into effect." The submitting carrier can extend the review period beyond 60 days by agreeing to an extension. In addition, the Commission "may continue to review the statement after it has gone into effect."

The notice of Qwest's June 26, 2007, filing was posted on the PUC website for comment. No comments were received.

Comments of Qwest: In the filing Qwest requested that the Commission allow the revisions to Exhibits B and K of the SGAT to go into effect no later than 60 days after the June 26, 2007, submission date.

This filing is a result of collaborative work sessions between Qwest and participating CLECs held between May 23, 2006, and May 17, 2007. Staff members of all states

affected by the changes were notified of the Qwest/CLEC discussions. Qwest provided notice and opportunity to participate in the work sessions to each CLEC certified in its 14 state local service region. Of those notified, 19 CLECs elected to be notified of all proceedings and six regularly participated in the process. The terms and conditions of the stipulation include items that apply to all of Qwest's fourteen state region and additional terms and conditions that apply to Oregon but not necessarily the rest of the region. The revised Oregon SGAT will be made available to all CLECs that opt-in to the SGAT in Oregon.

The changes that pertain to Oregon are:

- a. Eliminate resale DSL from the 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").
- d. Update PO-20 to reflect it is fully implemented by making PID and PAP revision specified in the stipulation.
- e. Remove the PIDs specified in the stipulation from PAP payment mechanisms to the extent they currently are included in a specific state's PAP, subject to a Reinstatement/Removal process, and also add a root cause analysis provision.
- f. Add exclusion to MR-6 PID that allows No Trouble Found and Test Okay 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.
- h. Add one allowable miss provision to the PAP for individual CLEC results when the CLEC aggregate results have met the standard.
- i. Revise the PAP to change the flat minimum payment amount of \$2000 with a tiered minimum payment approach that establishes a relationship between the monthly PAP payment and the required minimum payment amount.
- j. Remove the following list of product disaggregations from all applicable OP and MR PIDs and in the PAP: Resale Centrex, Resale Centrex 21, Resale DSO, 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.

- k. Eliminate the six-month cap on Tier 1 escalation payment amounts in the PAP so that payment will continue to increase in the event the payment level indicator increases beyond payment "level 6."

In addition to the above changes, Qwest also removed references to MR-12 from the PAP. This is an administrative change based on the fact that the MR-12 PID was eliminated prior to the initial approval of the PAP, but references remained in the PAP text.

Comments of Staff: The changes in the PIDs in Exhibit B and the corresponding changes in the PAP in Exhibit K reflect, in part, changes due to the TRRO Order, which removed certain unbundled network elements. It is prudent to update the SGAT to reflect these changes. It is likely that the SGAT will continue to evolve as the regulations and requirements change at the State and Federal levels. The administrative change is reasonable based on the fact that the reference to MR-12 in the PAP is unnecessary and perhaps confusing when there is no corresponding item in the PID.

Staff has no objection to the changes described by Qwest which are reflected in Exhibits B and K.

It should not be construed that the Commission is approving Qwest's SGAT here. As with the past SGAT filings, staff recommends the Commission allow the latest version to take effect without approval. To comply with the 60 day deadline in Section 252(f)(3) of the Act, the Commission must act on the filing by August 26, 2007. Allowing the SGAT to go into effect will not prejudice the position of CLECs, since they will be able to negotiate interconnection agreements with Qwest regardless of the availability of any SGAT.

PROPOSED COMMISSION MOTION:

The nineteenth revision of Qwest's SGAT be allowed to go into effect without approval and subject to further investigation.