

ORDER NO. 02-855

ENTERED DEC 10 2002

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1065

In the Matter of Qwest Corporation's Petition)
for Acceptance of PO-20 for Inclusion in the) ORDER
Qwest Performance Assurance Plan.)

DISPOSITION: AMENDMENT TO STATEMENT PERMITTED TO
GO INTO EFFECT.

On October 10, 2002, Qwest Corporation (Qwest), filed a Memorandum in Support of Qwest Corporation's Petition for Acceptance of PO-20 for Inclusion in the Qwest Performance Assurance Plan (Qwest Memorandum) and a Petition for Acceptance of PO-20 for Inclusion in the Qwest Performance Assurance Plan (Qwest Petition) with the Public Utility Commission of Oregon (Commission). On November 14, 2002, AT&T Communications of the Pacific Northwest, Inc., and AT&T Local Services on behalf of TCG Oregon (AT&T) filed Comments Regarding PO-20 (AT&T Comments) which also referred to and relied upon the substance of material filed both by itself and WorldCom, Inc. in proceedings in other jurisdictions.

Background. As part of the process for Qwest to be granted approval to enter the interLATA telecommunications market in its 14 state region, Qwest and competitive local exchange carriers (CLECs) negotiated definitions and standards for approximately 53 Performance Indicator Definitions (PIDs). The PIDs define measurements of how well Qwest provides network elements and services to CLECs. The Qwest Performance Assurance Plan (QPAP) specifies payments Qwest will be obligated to make to CLECs and to the states when Qwest fails to meet the standards for 37 of the PIDs. The PIDs and the QPAP are integral parts of Qwest's Statement of Generally Available Terms (SGAT) and are set forth in Exhibits B and K thereto. The QPAP becomes effective upon Qwest's receipt of the Federal Communications Commission's (FCC's) authority to provide interLATA services in Oregon.

The SGAT is currently being examined in docket UM 973 and has been modified on many previous occasions. In our Order No. 02-731, issued October 23, 2002, with respect to the latest amendment to the SGAT, we stated:

As with the original SGAT submission and the first, second, third fourth, fifth and sixth amendments, we neither endorse nor approve of the substance of this new amendment, while, at the same time, we allow the amendment to take effect. These circumstances are not changed by our actions in the Final Recommendation Report of the Commission in docket UM 823. After the FCC has completed action on Qwest’s 271 application, we will schedule further proceedings in this and other dockets to consider the SGAT’s entire substance for compliance with our rules and policies and the furtherance of competition and the public interest in Oregon. Since competitive local exchange carriers (CLECs) are able to negotiate interconnection agreements regardless of the availability of an SGAT, they will not be prejudiced by our action.

While Qwest has filed 271 applications with the FCC for a number of other states within its service region, it has not yet filed its Oregon application.

Discussion. This docket deals with a PID that was not negotiated among Qwest and the CLECs, but was based on comments from the FCC staff and a commitment made to them by Qwest to develop an additional PID, PO-20, and file a request in each state to have that PID included in the QPAP. PO-20 is a “Tier 2” measurement, one whose sub-par performance will require payments to a state fund rather than to the affected CLECs. The proposed payment structure is as follows:

| Measurement | Performance | State Payment | 14 State Payment |
|---|-------------|---------------|------------------|
| Resale POTS/UNE-POTS, ¹ Unbundled loops (Analog and non-loaded 2-wire) | 1% or Lower | \$ 500 | \$ 7,000 |
| “ | >1% to 3% | \$2,500 | \$ 35,000 |
| “ | >3% to 5% | \$5,000 | \$ 70,000 |
| “ | >5% | \$7,500 | \$105,000 |

For Unbundled loops (Analog and non-loaded 2-wire) the payments are the same as for Resale POTS/UNE POTS.

¹ “POTS” is an acronym, meaning “Plain Old Telephone Service” (what has been historically thought of as telephone service). “UNE” is an acronym for “Unbundled Network Element.”

The measurement standard for PO-20 is 95% and the performance deviations in the table are from that standard, e.g., a performance level of 93% constitutes a 2% deviation.

The objections of AT&T to including the PO-20 standard may be summarized as follows:

- PO-20 should have been developed in a collaborative process and not unilaterally offered by Qwest.
- PO-20 compares the LSR (local service request) with a service order (an internal Qwest document) and not with post-provisioning results.
- The new PID only looks at two network elements rather than the several elements that are generally ordered by CLECs.
- Only eleven data fields are examined and the results are therefore too limiting; more fields should be examined.
- The automated checking process will reject erroneous service orders; consequently, checking related fields will produce higher results than if other fields were checked, thereby distorting the process in Qwest's favor.
- Qwest's internal procedures related to PO-20 are not adequately spelled out.
- The proposed payments are too low.
- The Commission should require Qwest to develop procedures to measure all LSRs for PO-20 purposes, not just a sample.
- The benchmark standard should be 98%, not 95%.

According to research by the Commission staff (Staff), Qwest has filed petitions regarding the PO-20 PID in twelve states; three have denied the petition and three have accepted it for inclusion in the state's QPAP. Among them, the Washington Utilities and Transportation Commission accepted the PO-20, subject to "intensive review and possible changes."

Decision. AT&T raises legitimate concerns worthy of examination. The only question is in what context the issues ought best be considered. The first approach would be for us to review the PO-20 PID as part of the SGAT review in docket UM 973. The alternative would be as part of the six-month review process set out in Section 16 of the QPAP, where Qwest, the CLECs and state commissions participate in a common review of the performance measurements. That process will occur every six months, beginning six months after Qwest's first Section 271 approval of one of the states. Staff suggests that either forum be available to Qwest and any intervening parties. We agree.

ORDER

IT IS ORDERED that pursuant to OAR 860-016-0040(2), the Petition and Memorandum filed on October 10, 2002 is GRANTED to permit the addition of PO-20 to the QPAP filed by Qwest Corporation. Performance Indicator Definition PO-20 is permitted to go into effect subject to further review in docket UM 973 and the review process set forth in the Qwest Performance Assurance Plan.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.