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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF QWEST CORPORATION'S PERFORMANCE ASSURANCE PLAN

DOCKET NO. T-01051B-03-0859

QWEST CORPORATION'S RESPONSE TO PROCEDURAL ORDER

Qwest Corporation ("Qwest") submits the following response to the Procedural Order entered June 18, 2004 ("Procedural Order"), relating to the first six-month review of Qwest's Performance Assurance Plan ("PAP"). The Procedural Order asks interested parties to comment on (1) the scope of the proceeding for the six-month review; (2) a list of issues which should be addressed in the review; (3) how such proceeding should be conducted and whether a hearing is necessary; (4) similar proceedings conducted in other states which might be helpful in structuring the Arizona proceeding; and (5) any other issues deemed relevant by the parties.

I. Scope of Proceeding

On June 5, 2002, in Decision No. 64888, the Arizona Corporation Commission ("Commission") approved Qwest's PAP ("QPAP Order"). Section 16.0 of the PAP is a

1 negotiated, litigated¹ and carefully crafted provision that serves as a roadmap for this
2 proceeding.

3 The scope of the six-month review proceeding is defined by the PAP itself, in
4 Section 16.0, which provides as follows:

5 16.0 Every six (6) months Qwest, CLECs and Commission shall
6 review the performance measurements to determine whether measurements
7 should be added, deleted, or modified; whether the applicable benchmark
8 standards should be modified or replaced by parity standards; and whether to
9 move a classification of a measure to High, Medium, or Low or Tier-1 to
10 Tier-2. Criteria for review of performance measurements, other than for
11 possible reclassification, shall be whether there exists an omission or failure
12 to capture intended performance, and whether there is duplication or another
13 measurement. The first six-month period will begin upon the FCC's
14 approval of Qwest's 271 application for the state of Arizona. Staff shall
15 seek the mutual consent of the parties to any proposed changes.
16 Notwithstanding the limitations set forth above, Qwest acknowledges that
17 the Commission reserves the right to modify the PAP including, but not
18 limited to performance measurements, penalty amounts, escalation factors,
19 audit procedures and reevaluation of confidence levels, at any time as it sees
20 fit and deems necessary upon Commission Order after notice and hearing.

21 Absent mutual consent by Qwest and the CLECs, or a case opened by the
22

23 ¹ The Commission considered Section 16.0 in its Decision No.
24 64888, at ¶ 143-148 and ordered that the Section be modified to
25 provide for Commission ability to modify the PAP after notice and
26 opportunity for a hearing. The last sentence of Section 16.0
quoted in the text below was added in response to the
Commission's order.

1 Commission after notice and hearing, the six-month review is the only way for the PAP to
2 be amended. The matters that may be brought under the six-month review by Qwest or the
3 CLECs are limited to the following: (1) whether measurements should be added, deleted,
4 or modified; (2) whether the applicable benchmark standards should be modified or
5 replaced by parity standards; and (3) whether to move a classification of a measure to
6 High, Medium, or Low or Tier 1 or between Tier 1 and Tier 2. (These matters are referred
7 to subsequently and collectively as “Six-Month Review Proposals”).

8 The QPAP Order also provides that the “Commission should have the ability to
9 review and modify all the terms of the PAP, and not be limited to performance measures;
10 this would include, but not be limited to penalty amounts, escalation factors, audit
11 procedures and re-evaluation of confidence levels.”² Importantly, however, absent mutual
12 consent, the Commission may only modify the PAP after notice and opportunity for a
13 hearing.³ (Matters which are to be adjudicated under this process are referred to
14 subsequently and collectively as “Matters for Hearing”).

15 **II. Standard of Review**

16 The standard for review of performance measurements is likewise spelled out in
17 Section 16.0. That standard is “whether there exists an omission or failure to capture
18 intended performance, and whether there is duplication of another measurement.” Thus, if
19 measurements are sought to be added, the party seeking the addition bears the burden of
20 proving the original intended performance of the PAP, and that the existing measurements
21 fail to “capture” that intended performance. Qwest believes that this standard of review
22 applies to any performance measurement matter, whether it is a Six-Month Review Matter
23 or a Matter for Hearing.

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25 ² QPAP Order, lines 19-25, para. 148.

26 ³ Ibid.

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III. Procedure

Section 16.0 states that “Staff shall seek the mutual consent of the parties to any proposed changes.” Thus, if parties wish to make Six Month Review Proposals (i.e., add or delete measurements, amend applicable benchmark standards to a parity standard, or move a measurement to another classification or tier), the process laid out by the PAP contemplates that the interested parties in the six-month review will make proposals, and then Staff will facilitate a process by which the CLECs and Qwest may review each other’s proposed changes.

Qwest believes that Staff may accomplish its responsibility by receiving proposals from the parties for changes to performance measures, developing a description of the parties’ respective proposals, and circulating the proposals between and among the interested parties in a “paper” process. Qwest does not believe that workshops will be necessary at the initial stages in order to ascertain whether mutual consent can be reached with respect to these types of proposals.

If mutual consent is not reached, however, the Commission may review and examine the matter by treating it as a Matter for Hearing. In that case, the parties should be afforded notice, the opportunity to file written testimony, appropriate discovery, cross examination of witnesses, and written and / or oral argument.

IV. Issues

Qwest proposes two issues to be addressed.

A. Line Splitting—Standard for MR-3, 4, 6 and 8, and the OP-5 PIDs

With respect to Line Splitting , Qwest proposes that the standard to be used for this product for the MR-3, 4, 6, and 8 and the OP-5 PIDs should be parity with the Qwest DSL retail product.

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B. PO-20

1. How will PO-20 be incorporated into Exhibit B?

On June 24, 2004, Qwest filed an amended Exhibit B which added the revised PO-20. With respect to the Arizona PAP, Qwest proposes to add the revised PO-20 to Exhibit K once the Six-Month Review Proposals related to PO-20 are decided at the end of the six-month review.

2. What Tier should be assigned to this new PID?

Qwest proposes that the expanded PO-20 should be assigned to Tier 1 Low, and should not be assigned any Tier 2 level.

3. Should Qwest be allowed a "burn in" period?

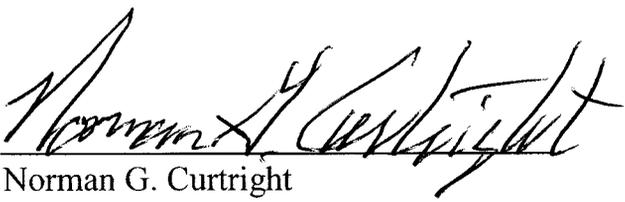
Qwest proposes that it have up to ninety (90) days for each phase of the implementation of PO-20 during which the measurement stabilizes and Qwest validates the reporting

C. OP-5A, New Service Quality

To bring Exhibit K into alignment with the OP-5 definition filed in the August 29, 2003 Exhibit B filing, Qwest proposes that Subpart A of OP-5, New Service Quality, replace OP-5 in Exhibit K with a designation of Tier 1 High and Tier 2 Medium.

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RESPECTFULLY SUBMITTED, this 7th day of July, 2004.

By: 

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