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# BEFORE THE ARIZONA CORPORATION COMMISSION

**WILLIAM A. MUNDEL**
**Chairman**

**JAMES M. IRVIN**
**Commissioner**

**MARC SPITZER**
**Commissioner**

Arizona Corporation Commission
DOCKETED
APR 0 5 2001
DOCKETED BY

**IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH § 271 OF THE TELECOMMUNICATIONS ACT OF 1996**

**Docket No. T-00000A-97-0238**

## COMMENTS OF WORLDCOM, INC. REGARDING QWEST CORPORATION'S PERFORMANCE ASSURANCE PLAN

WorldCom, Inc., on behalf of its regulated subsidiaries, ("WCom") submits these comments addressing Qwest's performance assurance plan ("PAP") which were discussed in workshops held April 2 and 3, 2001. Attached to this pleading as Exhibit A are WCom's comments.

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DATED this 5th day of April, 2001.

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EXHIBIT A

## PAP 1 – PERFORMANCE MEASURES

A. Inclusion Of Additional PIDs Agreed To In The ROC

One issue that needs to be discussed is whether Qwest intends to include the additional performance measures that they have agreed to include in the ROC PAP workshops. WCom supports the inclusion of these measures in an effort to make them consistent across plans. Also, these measures are obviously important to the CLEC community as a whole. The fact stands that many CLECS including the smaller DLECs have not been able to participate in AZ do to limited resources and the inability to provide coverage in multiple workshops. So, including them in this process seems like the right thing to do. These measures include GA-3/4/6.

The ROC is also negotiating the inclusion of PO-9. WCom supports including both PO-8 and Po-9 in the PAP as they do measure different performance. PO-9 measurement measures the quality of the process and the PO-8 measurement measures the timeliness of the process. PO-9 Timely Jeopardy Notices measures how well Qwest does in providing CLECs with advance notice that it will miss a commitment date. The desired performance is that a high percentage of orders where Qwest has missed the commitment date will have received a jeopardy notice prior to the miss. The higher the percentage of missed commitments that receive a jeopardy notice prior to the due date, the higher the perceived quality of Qwest's notification process. The PO-8 Jeopardy Notice Interval measurement is a timeliness measurement. For those instances when Qwest does send a jeopardy notice, it tracks how far in advance of the due date the notice is sent. In the case jeopardy notices, the farther in advance of the due date the notice is sent, the more timely the notice is considered to be.

B. PO-6: Work Completion Timeliness

WCom, continues to support that both the PO-6 and PO-7 be included in the PAP. The work completion notice (PO-6) and billing completion notice (PO-7) serve different purposes and both should be included in any performance plan. The work completion notice is needed to ensure that a CLEC knows as soon as possible that Qwest has completed an installation. The work completion notice permits CLECs to be informed about order status when its customers call on or shortly after the due date of the order. The billing completion notice informs the CLEC as to the day that Qwest will cease billing the customer. That date also lets the CLEC know on which date it can begin billing the customer. A missing or untimely billing completion notice can result in a customer being double billed. WCom supports the need for PO-6 to be sent back to the TAG for a discussion of the appropriate standard and that it should no longer be considered a diagnostic measurement.

C. MR-6: Mean Time To Restore

WCom continues to support that the plan should contain all three measurements. MR-3, MR-5, and MR-6 are all intended to track different performance. In the March ROC workshop parties agreed to the following proposal. WCom would support in AZ as well.

| | | | | |
|---|---|---|---|---|
| (separate) | Non Design - | MR-3 a,b,c | and | MR-6 a,b,c |
| | Design - | MR-3 d,e | and | MR-5 a,b |

D. OP-6: Delayed Days

WCom, continues to support that the plan should contain all three measurements. OP-3, OP-4 and OP-6 are all intended to track different performance and drive different behavior. OP-3 is a measure of how well Qwest does in meeting its commitments, regardless of what the commitment date may be. The desired Qwest behavior driven by this measure is to "meet their commitments". The OP-4 measure helps protect against the undesired Qwest behavior of giving very long commitment dates. If Qwest is giving CLECs very long commitment dates as a means of ensuring its OP-3 results are high, this behavior will be detected in the OP-4 measure in that the average CLEC installation interval will appear longer than similarly situated retail customers. The OP-6 measure tracks how long it takes after the due date for Qwest to complete an installation for which it missed the original due date. The OP-6 measure drives the desired Qwest behavior of "if Qwest misses a commitment date, it still should complete that installation as quickly as possible."

Two different proposals where discussed in the March ROC workshop and parties agreed to the following proposal:

| | | | |
|---|---|---|---|
| 3a | [4a | 6-1] | [Trigger is higher penalty between OP-4 and OP-6] |
| 3b | [4b | 6-2] | |
| 3c | [4c | 6-3] | |
| 3d | [4d | 6-4] | |
| 3e | [4e | 6-5] | |

E. Collocation Measures

Again, Qwest has agreed to include all Collocation measures. However, as discussed these measures will need to be re-looked at per FCC's newly imposed requirements.

## PAP 2 - INCLUSION OF CHANGE MANAGEMENT MEASURES

Qwest has stated numerous times that they will propose change management measurements for the PIDs that will be utilized for the PAP. This includes Qwest's promise in the February workshop that they would at least provide a reasonable date as to when this will be provided. However, Qwest has yet to bring forth either a proposal for including these measures or even a reasonable date as to when they will produce such a proposal. Again, WCom request a firm date as to when Qwest will provide proposed change management measurements for the PIDs that will be utilized for the PAP.

## PAP 3 - ROOT CAUSE ANALYSIS

As discussed in previous workshops a two-consecutive month standard was adopted for root cause analysis after the six-month review in Texas. While accepting other modifications to the Texas Plan implemented after the six-month review, Qwest has not incorporated the two-consecutive month standard into its plan. Repeated (or severe) failure seems to be a reasonable trigger for further investigation in the form of a root cause analysis. WCom, concurs that as long as all the parties agree that root cause analysis can be triggered, the Commission should be able to weigh the various positions and establish a reasonable trigger. WCom, supports the proposal submitted by Z-Tel in their 1/29/01 comments. A root cause analysis would be performed for any measure that misses three consecutive months (at any level) or two consecutive months at a mean difference of 25% or above. In addition the Commission should formally establish its right to initiate a root cause analysis under circumstances it deems warrant further investigation.

## PAP 4 – APPROPRIATENESS OF THE K-TABLE

As previously stated Qwest's proposed use of the K Table is conceptually flawed and allows for excessive forgivenesses. Qwest's use of the K Table ignores the statistical underpinnings that determine the "appropriate" number of forgivenesses, and inflate the number of forgivenesses they demand with no obvious basis whatsoever. Random variation and its associated forgivenesses exploit Type I error but ignore the possibility of Type II error. This would lead to Qwest not having to pay any penalty when they are actually providing CLECs with discriminatory service levels. Again, WCom proposes that the best approach is to reject the K Table in its entirety. However, WCom would support the Balanced Exclusion Table presented by Z-Tel in the February workshop. The Balanced Exclusion Table computes the appropriate number of exclusions given Qwest per month for Type I error and considers both Type I and Type II error. Again, if the commission decides not to reject the k table and not to use a Balanced Exclusion Table (including both type I and type II errors) then it should consider limits on sample sizes, z score levels, or means differences that should not be forgiven. No repeated failure for a measure should be forgiven as the repetition makes it unlikely that the failure was random.

## PAP 5 – CAPS

WCom continues to propose an initial review threshold of 44%. This is based on the post-271 remedial actions of the FCC and New York Public Service Commission that raised the total remedies for Verizon (Bell Atlantic) New York poor performance to 44% of net revenue. If and when the review threshold is reached, the Commission would then have the opportunity to apply additional remedies. Again, WCom does not propose a remedy cap because a cap can reduce the effectiveness of the remedy plan with no offsetting benefits. A firm cap makes it easier for Qwest to judge whether the costs and benefits of not fixing the problem outweigh the remedies at risk. The review threshold approach makes it harder for Qwest to quantify its risks, yet still protects Qwest with the commission's judgment about what remedy level is reasonable in light of the specific circumstances involved.

## PAP 6 – PROPOSED PAP CHANGES

### 6a - CAP rolls forward

Again, WCom opposes the use of any fixed caps. The Qwest plan is further weakened by the imposition of caps on the per-occurrence payments (in addition to the overall plan cap). To the extent that per-occurrence payments amount to an appreciable amount, a per-measurement cap would reduce the impact to Qwest. The reason for rejecting a remedy cap is because a cap can reduce the effectiveness of the remedy plan with no offsetting benefits. WCom opposes per measure or monthly caps that ensure the full force of even a capped plan are never reached because the available monies do not carry over into subsequent months. If monthly caps should be imposed any unused monthly balance must keep rolling forward beyond just the subsequent month.

### 6b - Per Occurrence Minimum Penalty

The problem with discriminating against small order counts is that they will never produce much in the way of remedy payments. However, this discrimination may not have small consequences and may be a potent impediment to competition. A simple solution is to incorporate a minimum remedy. In the spirit of compromise, WCom would accept the minimum penalty level of $2,500 with no restrictions on sample size or products as set out in Z-Tel's February proposal. This assumes inclusion of the duration and severity factors to allow for payments to adjust to the appropriate effective level.

### 6c - Increase duration payment after 6th month

It is unclear why Qwest would be ok with escalating payments but limited these escalating payments to 6 months. Repeated non-conformance indicates that payment levels are still too low to ensure parity or benchmark performance. By using duration and severity factors, the payments will continue to increase, incenting Qwest to provide conforming performance. Duration and severity factors allow for payments to adjust to the appropriate effective level. It would no longer be effective, if we allowed payments to stop escalating after the sixth month as in Qwest's plan. A cap of this nature would reduce the effectiveness of the remedy plan with no offsetting benefits. Stopping escalating payments after 6 months makes it easier for Qwest to judge whether the costs and benefits of not fixing the problem outweigh the remedies at risk and severely reduces the effectiveness of having escalating payments.

**6d - Direct payment**

WCom continues to support our request that payments to CLECs should be made by check by the end of the month following the data report (e.g. June data, reported in July, remedies paid by August 31). If Qwest fails to remit a consequence payment by the due date, then it should be liable for accrued interest for every day that the payment is late. An invoice would accompany the payment explaining the calculation of each submetric missed (base and any minimum, magnitude or duration remedies would be specified). Payment by check is necessary in order to ensure certain payment and is easier for the CLECs to administer and track. Bill credits are inappropriate because they are not easily traceable back to a specific CLEC account for credit, are less visible and hence less motivating to Qwest executives, and are hard to track when Qwest billing is erratic or subject to numerous billing disputes. Remedies for prior periods also can potentially be greater than the bill for a given month. If direct payments are to be used if the payment amount is greater than CLEC bill and for Tier 2 payments, why design two entire payment systems?

## PAP 8 - SIMULATION

As discussed in the ROC workshop held in March, WCom is willing share its data under a non-disclosure agreement so that parties can run simulations.

## PAP 9 - RANKING OF MEASURES

Again, WCom continues to view the process of ranking or weighting the PIDs to be very subjective and thus arbitrary. Instead we should let the market naturally determine which measures are most important. Any attempt at ranking or weighting measurements would result in CLECs being pitted against each other to ensure their important measures end up in the proper category and weighting structure. Ranking measures forces parties to down play certain measures when all measures selected by CLECs are important. It also allows Qwest to apply their resources just on what may be determined as "significant," ignoring performance areas covered by lower level payments for those metrics determined to have "lower significance". It is also difficult to rank measures since the priority may actually lie at the sub-measure level.

## PAP 10 - SEVERITY FACTOR

Again, Qwest's plan does not adequately take into account the severity of poor performance. WCom, continues to support the use of severity factors payments to escalate as the level of non-conformance increases. Severe or repeated non-conformance indicates that payment levels are too low to ensure parity or benchmark performance. By using severity and duration factors, the payments will continue to increase, incenting Qwest to provide the required conforming performance. WCom, support's Z-Tel's proposal for increasing remedies for severity and duration.

## PAP 11 - AUDIT PROCESS

Again, Qwest must support a comprehensive third-party audit of its reporting procedures and reportable data to ensure accurate and reliable data reporting. Any performance incentive plan must include requirements for periodic audits to ensure that Qwest continues to produce reliable data on its performance to CLECs and to itself. The audit should ensure that Qwest's reporting procedures are sound and that data collection and reporting are timely, accurate, and complete. Qwest would include all systems, processes and procedures associated with the production and reporting of performance measurement results. The audit will validate that all systems, methods, and procedures for reporting performance measures are consistent with the business rules, method of calculation, reporting structures, disaggregation and measurable standards of the PID. This would include conducting interviews with employees around documentation and training especially related to accurate coding of data and not just whether they used or excluded the code (right or wrong) in the metric being examined. The audit would continue until the auditor has verified they have produced the desired results.

In order for a PAP to be effective, it is critical performance measures that establish acceptable performance reporting requirements must be in place. A robust and independently audited performance measurement system is a prerequisite to an effective system of self-enforcing consequences. If Qwest is failing to maintain reliable reporting CLECs and States are unable to rely on this data to provide a meaningful system of determining whether or not Qwest is providing non-discriminatory services.

WCom proposes an initial comprehensive audit that would commence six (6) months after conclusion of the ROC OSS test. Additional audits would then be conducted annually or every twelve (12) months.

- The cost of these audits will be borne by Qwest.
- An independent third party auditor will perform the audit. The Commission, Qwest and the CLECs would select the third party auditor jointly. The audit process will be open to CLECs. Upon completion the annual audit shall be submitted to the Commission and distributed to CLECs.
- To the extent that Qwest is failing to maintain reliable and reconcilable reporting, consequences should ensue, up to and including placing Qwest's 271 approval on hold until Qwest has proven that it has permanently fixed the problem.

In addition to the annual audits, additional audits could be triggered by recommendation of the previous auditor for a follow-up audit, by the ACC staff, or by a CLEC request for a mini-audit (as described in plan submitted 9/25/00). This could include auditing of both metrics currently being covered or new since the last audit.

If the auditor cannot replicate a metric because of missing data elements or poor change control process for metric change implementation a remedy would be imposed and increase with the duration.

## PAP 12 - CATEGORIZE MEASUREMENT PAYMENTS INTO TIER 1/2

Again, proposes that Tier II remedies would be identical in structure to the Tier I remedies except that the aggregate CLEC data is used. The pooled CLEC is treated as any other CLEC, but all remedy dollars go directly to the State Treasury or Corporation Commission for administrative costs of the performance plan, including audits. In no case should Qwest benefit by receiving any funding from the state allocation. For those measures that Qwest is not currently able to back out CLEC specific data from CLEC aggregate data, WCom suggests that Tier 1 payments could be paid to CLECs based on some factor such as market share for those misses.

## PAP 13 – PAYMENT LEVELS

Severe or repeated non-conformance indicates that payment levels are too low to ensure parity or benchmark performance. By using severity and duration factors, the payments will continue to increase, incenting Qwest to provide conforming performance. Severity and duration factors allow for payments to adjust to the appropriate effective level. It would no longer be effective, if we allowed payments to return to their original base amount. It is important to show that Qwest has actually fixed the problem rather then a achieving a single one-month fix or a fluke. Therefore, WCom requires more than just one month of compliant performance before falling back to their original levels. CLECs has already reduced the number of consecutive months of compliant performance needed before falling back to the initial level from 3 months to 2 months.

Again, if repeated disparity is observed, the remedy amount is still not adequate to incent compliant performance. Therefore, if either the duration factors are invoked again, the highest factored payment needs to become the base penalty to be effective.

## PAP 14 - LIMITATIONS

As discussed in the February workshop, WCom accepts the proposed edits presented by Z-Tel, which Qwest is to review and respond to for the April workshop.

## OTHER

WCom propose that If performance data and associated reports are not available to the CLECs by the due dates, Qwest would be liable for payments of $5,000 to a state fund for every day past the due date for delivery of the reports and data. If performance data and reports are incomplete, or if previously reported data are revised, then the ILEC should be liable for payments of $1,000 to a state fund for every day past the due date for delivery of the original reports. If a CLEC cannot access its detailed data underlying Qwest's performance reports due to failures under the control of Qwest, then Qwest should pay the affected CLEC $1,000 per day (or portion thereof) until such data are made available. If Qwest fails to remit a consequence payment by the due date, then it should be liable for accrued interest for every day that the payment is late. Paying remedies for late or missing notices does not relieve Qwest of eventually reporting the missing data and paying any associated remedies with interest to affected carriers and/or the state fund.