

ORIGINAL



0000022893

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL  
Chairman

JIM IRVIN  
Commissioner

MARC SPITZER  
Commissioner

Arizona Corporation Commission  
**DOCKETED**

JUL 06 2001

2001 JUL -6 P 4: 4

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKETED BY 

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

*0238*  
Docket No. T-00000A-97-238

**QWEST'S SUBMISSION OF  
REVISED PERFORMANCE  
ASSURANCE PLAN**

As a result of negotiations and consensus with various CLECs participating in the Regional Oversight Committee Post Entry Performance Plan collaborative ("ROC PEPP"), Qwest has made changes to the Performance Assurance Plan ("PAP") that it is proposing to the participating ROC states. Qwest is willing to modify its Arizona proposed PAP to incorporate those changes. With this filing, Qwest is providing a redlined version of the Arizona QPAP, incorporating the changes as identified in this pleading.<sup>1</sup>

**1. Statistical Agreement:** As was the case in the Arizona PAP workshops, the Competitive Local Exchange Carriers ("CLEC") in the ROC PEPP collaborative objected to the inclusion of the K-Table and asked that consideration be given to Type II error. However, in the ROC PEPP collaborative certain CLECs and Qwest achieved a consensus upon an alternative statistical approach that balanced the concerns of Qwest with respect to Type I error and the concerns of CLECs with respect to Type II error. As a part of that agreement, Qwest eliminated the K-Table from the Qwest PAP. In its place, a 1.04 critical value will be used for statistical testing of specified parity sub-measurements when CLEC volumes are 10 or less. The specified sub-measurements are those for LIS trunks, and for UDITS, resale, and unbundled loops at the DS1 and DS3 product level. The following measurements are impacted:

<sup>1</sup> Qwest is making this filing as a result of the Arizona Corporation Commission's Staff's request that the offers made in Qwest's Reply Brief filed on May 24, 2001 be formally proposed in the form of an amended PAP.

- OP-3, Installation Commitments Met
- OP-4, Installation Intervals
- OP-5, New Service Installation Quality
- OP-6, Delayed Days
- MR-5, All Troubles Cleared within 4 Hours
- MR-7, Repair Repeat Report Rate
- MR-9, Trouble Rate

Additionally, the 1.04 critical value will not be used to determine consecutive month misses (i.e., escalation of per occurrence payment amounts for consecutive month misses). In its place, a 1.645 critical value would be used. And, where the specified performance measurements disaggregate into zone 1 and zone 2, the zones shall be combined for purposes of statistical testing.

All other statistical testing of parity performance measurements would use a 1.645 or higher critical value, depending upon the magnitude of the CLEC volume for the performance measurement being tested.

The following table summarizes the application of the critical values:

CLEC volume (Sample size)	LIS Trunks, UDITs, Resale, UBL-DS1 and DS-3	All Other
1-10	1.04*	1.645
11-150	1.645	1.645
151-300	2.0	2.0
301-600	2.7	2.7
601-3000	3.7	3.7
3001 and above	4.3	4.3

The CLECs participating in the statistical agreement are AT&T, McLeod, New Edge, XO, and Covad. WorldCom and Z-Tel declined to participate.

Qwest proposes that the ROC PEPP statistical agreement be adopted in the Arizona PAP as resolution of issue PAP-4.

**2. Tier 1 and Tier 2 Classification of Performance Measurements:** State commission staff members participating in the ROC PEPP collaborative stated that they would prefer higher Tier 1 payments and lower Tier 2 payments. Accordingly, Qwest agreed to increase payment levels to CLECs by increasing the classification of the Tier 1 measurements OP-8, OP-13a, MR-3, MR-5, and MR-6a, 6b, 6c from “medium” to “high” and decreasing the classification of the Tier 2 measurements OP-3, OP-4, OP-5, OP-6, MR-7, and MR-8 from “high” to “medium.” Qwest proposes that its proposal be adopted in the Arizona PAP as resolution of issues PAP-9.

**3. Step Down Function:** CLECs in the ROC PEPP collaborative expressed concern that the escalation of the per occurrence payment for consecutive month misses reverted immediately upon one month of conforming service performance to its starting amount. The CLECs desired that the per occurrence payment amount decelerate in the same manner that it accelerated, i.e., one month at a time.<sup>2</sup> Qwest and the CLECs agreed to such a procedure that is described as follows.

The escalation of payments for consecutive months of non-compliant service will be matched month for month with de-escalation of payments. For example, if Qwest misses a standard for 4 consecutive months, it will make payments that escalate from month 1 to month 4 as shown in Table 2 of the QPAP. If, in the next month, Qwest meets the standard, Qwest makes no payment. A payment “indicator” de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 2 because that is where the payment “indicator” presently sits. If Qwest misses again the following month, it will make a payment that escalates back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon conforming service sufficient to move the payment “indicator” back to the month 1 level.

Qwest proposes that the ROC PEPP agreement be incorporated into the Arizona QPAP as resolution of issue PAP-13.

---

<sup>2</sup> In the Arizona PAP collaborative, this concept was coined “sticky duration.”

**4. New Payment Structure for GA-1, GA-2, GA-3, GA-4, GA-6, PO-1, MR-2, and OP-2:** CLECs at the ROC PEPP asked that a payment structure be developed for the region wide performance measurements, GA-1, GA-2, GA-3, GA-4, GA-6, PO-1, MR-2 and OP-2, in which payment was on a “per measure” basis and such that the payment amount increased when performance deviated further from standard. Qwest agreed and proposed the following, which the CLECs accepted.

For the performance measurements GA-1, GA-2, GA-3, GA-4, GA-6, PO-1, MR-2 and OP-2, Qwest will make a Tier-2 payment based upon monthly performance results according to the following schedule:

Measure	Performance	State Payment	14 State Payment
GA-1,2,3,4,6	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$10,000	\$140,000
	>3% to 5%	\$20,000	\$280,000
	>5%	\$30,000	\$420,000
PO-1	2 sec. or less	\$1,000	\$14,000
	>2 sec. to 5 sec.	\$5,000	\$70,000
	>5 sec. to 10 sec.	\$10,000	\$140,000
	>10 sec.	\$15,000	\$210,000
OP-2/MR-2	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$5,000	\$70,000
	>3% to 5%	\$10,000	\$140,000
	>5%	\$15,000	\$210,000

For purposes of these payments, GA-1 has three sub-measurements: GA-1A, GA-1B, and GA-1C. PO-1 shall have two sub-measurements: PO-1A and PO-1B. PO-1A and PO-1B shall have their transaction types aggregated together.

Qwest proposes that the ROC PEPP agreement be adopted in the Arizona PAP as part of the resolution of PAP-10.

**5. Performance Measurements PO-6 and PO-7; PO-8 and PO-9:** In the Arizona PAP collaborative, the CLECs proposed that both PO-6 and PO-7 be included in the PAP. In the ROC PEPP collaborative, the CLECs agreed to include PO-6 and PO-7 as a “family” in which

PO-6a and PO-7a, PO-6b and PO-7b, and PO-6c and PO-7c are formed as three families. Within each family, the two-family sub-measurements share a single payment opportunity, with the sub-measurement having the higher payment being made. This family approach to consensus building has already been adopted in the Arizona PAP with respect to OP-3, OP-4, and OP-6. In the ROC PEPP collaborative, Qwest agreed to include both PO-8 and PO-9 in the QPAP. Qwest proposes that PO-8 and PO-9 also be included in the Arizona PAP, thereby resolving all remaining issues in PAP-1.

**6. Per Measurement Caps:** In the ROC PEPP collaborative, Qwest agreed to remove the per measurements caps from PO-1, PO-3, PO-7, and NI-1, retaining the caps on BI-1, BI-3, and BI-4. Qwest proposes that the same agreement be incorporated into the Arizona PAP, thereby resolving this issue in PAP-5.

**7. Collocation:** In the ROC PEPP collaborative, the CLECs asked that the payment amounts for missed collocation jobs be increased and include escalation for longer delays. The CLECs proposed such payment structure that they claimed had been adopted by the Michigan Commission. The CLEC payment proposal would operate upon the individual collocation request, and would be in lieu of incorporating CP-1, CP-2, CP-3, and CP-4 into the Arizona PAP. Subsequent to the May ROC PEPP workshop, Qwest made a proposal to CLECs, but has not obtained a thorough response. Qwest has not changed its Performance Assurance Plan to incorporate this proposal.

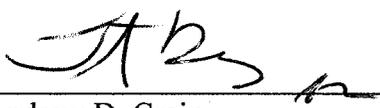
**8. Reporting Deadline:** In section 14.0, Qwest incorporated the agreement reached in the Arizona PAP workshops related to due dates for filing results reports. This provision had inadvertently been left out of the last PAP. Qwest also incorporated the \$500.00 fee for late reporting which in its Opening Brief, Qwest stated its willingness to include in the PAP. The latter provision should resolve PAP-15.

**8. Clarifying Changes to sections 13 and 16:** Qwest has also provided slight modifications to the Limitations, Reporting, and Review sections to conform to ROC proposed

language in those sections.<sup>3</sup> Qwest believes that these changes are appropriate in order to clarify or reflect the proper meaning of the provisions. For example, in 13.3 Qwest added the force majeure language from the definitions section of the SGAT. Qwest added language in section 13.6 to clarify the intent of the PAP to operate as a whole. The change in the last sentence of section 16.0 reflects the fact that changes to the SGAT in the six month review period should not require consent of all participating CLECs. Changes as a result of the six-month review period must be voluntarily incorporated into the SGAT by Qwest.

RESPECTFULLY SUBMITTED this 6th day of July, 2001.

Qwest Corporation

By:   
Andrew D. Crain  
Charles W. Steese  
Lynn A. Stang  
Qwest Corporation  
1801 California Street, Suite 4900  
Denver, CO 80202  
(303) 672-2926

Timothy Berg  
FENNEMORE CRAIG, P.C.  
3003 North Central, Suite 2600  
Phoenix, Arizona 85012-2913  
(602) 916-5421  
(602) 916-5999 (fax)  
*Attorneys for Qwest Corporation*

---

<sup>3</sup> While these provisions were not the subjects of any ROC PEPP agreement with CLECs, they should not be considered controversial changes.

**ORIGINAL and 10 copies of the foregoing filed  
this 6th day of July 2001 with:**

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington St.  
Phoenix, AZ 85007

**COPY of the foregoing hand-delivered  
This 6<sup>th</sup> day of July, 2001, to:**

Maureen A. Scott  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington St.  
Phoenix, AZ 85007

Deborah Scott, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington St.  
Phoenix, AZ 85007

Lyn Farmer, Chief Administrative Law Judge  
Hearing Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington  
Phoenix, AZ 85007

**COPY of the foregoing mailed and/  
or e-mailed  
this 6th day of July, 2001, to:**

Steven H. Kukta  
Darren S. Weingard  
Sprint Communications Company, LP  
1850 Gateway Drive, 7<sup>th</sup> floor  
San Mateo, CA 94404-2567

Thomas Campbell  
Lewis & Roca  
40 N. Central Ave.  
Phoenix, AZ 85004

Joan S. Burke  
Osborn Maledon, P.A.  
2929 N. Central Ave., 21<sup>st</sup> Floor  
PO Box 36379  
Phoenix, AZ 85067-6379

///  
///

Thomas F. Dixon  
Karen L. Clausen  
MCI Telecommunications Corp.  
707 17<sup>th</sup> Street # 3900  
Denver, CO 80202

Scott S. Wakefield  
Residential Utility Consumer Office  
2828 North Central Ave., Suite 1200  
Phoenix, AZ 85004

Michael M. Grant  
Gallagher & Kennedy  
2600 N. Central Ave.  
Phoenix, AZ 85004-3020

Michael Patten  
Brown & Bain  
2901 N. Central Ave.  
Phoenix, AZ 85012

Bradley Carroll, Esq.  
Cox Arizona Telcom, LLC  
1550 West Deer Valley Rd.  
Phoenix, AZ 85027

Daniel Waggoner  
Davis, Wright & Tremaine  
2600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101-1688

Richard S. Wolters  
Maria Arias-Chapleau  
AT&T Law Department  
1875 Lawrence Street # 1575  
Denver, CO 80202

David Kaufman  
e.spire Communications, Inc.  
343 W. Manhattan Street  
Santa Fe, NM 87501

Alaine Miller  
NEXTLINK Communications, Inc.  
500 108<sup>th</sup> Ave. NE, Suite 2200  
Bellevue, WA 98004

Diane Bacon, Legislative Director  
Communications Workers of America  
5818 N. 7<sup>th</sup> St., Suite 206  
Phoenix, Arizona 85014-5811

///

Nigel Bates  
Electric Lightwave, Inc.  
4400 NE 77<sup>th</sup> Ave.  
Vancouver, WA 98662

Philip A. Doherty  
545 South Prospect Street, Suite 22  
Burlington, VT 05401

W. Hagood Bellinger  
5312 Trowbridge Drive  
Dunwoody, GA 30338

Joyce Hundley  
U.S. Dept. of Justice  
Antitrust Division  
1401 H Street, NW, # 8000  
Washington, DC 20530

Andrew O. Isar  
Telecommunications Resellers Association  
4312 92nd Ave., NW  
Gig Harbor, WA 98335

Raymond S. Heyman  
Randall H. Warner  
Two Arizona Center  
400 North 5<sup>th</sup> Street, Suite 1000  
Phoenix, AZ 85004-3906

Craig Marks  
Citizens Utilities Company  
2901 North Central Avenue, Suite 1660  
Phoenix, Arizona 85012

Douglas Hsiao  
Rhythms Links, Inc.  
6933 Revere Parkway  
Englewood, CO 80112

Mark Dioguardi  
Tiffany and Bosco, PA  
500 Dial Tower  
1850 N. Central Avenue  
Phoenix, AZ 85004

Thomas L. Mumaw  
Snell & Wilmer  
One Arizona Center  
Phoenix, AZ 85004-0001

///

///

Richard Rindler  
Morton J. Posner  
Swider & Berlin  
3000 K Street, NW, Suite 300  
Washington, DC 20007

Charles Kallenbach  
American Communications Services, Inc.  
131 National Business Parkway  
Annapolis Junction, Maryland

Patricia Van Midde  
Assistant Vice President  
AT&T  
111 West Monroe  
Suite 1201  
Phoenix, AZ 85003

Gena Doyscher  
Global Crossing Services, Inc.  
1221 Nicollet Mall  
Minneapolis, MN 55403-2420

Karen L. Clauson  
Eschelon Telecom, Inc.  
730 Second Avenue South, Suite 1200  
Minneapolis, MN 55402

Mark N. Rogers  
Excell Agent Services, LLC  
2175 W. 14<sup>th</sup> Street  
Tempe, AZ 85281

Janet Livengood  
Regional Vice President  
Z-Tel Communications, Inc.  
601 S. Harbor Island Blvd.  
Tampa, FL 33602

Jonathan E. Curtis  
Michael B. Hazzard  
Kelly Drye & Warren, LLP  
1200 19<sup>th</sup> Street, NW, Fifth Floor  
Washington, DC 20036

Lindall Nipps  
Allegiance Telecom, Inc.  
845 Camino Sur  
Palm Springs, CA 92262

///  
///

Andrea P. Harris  
Sr. Manager, Reg.  
Allegiance Telecom, Inc.  
PO Box 2610  
Dublin, CA 94568

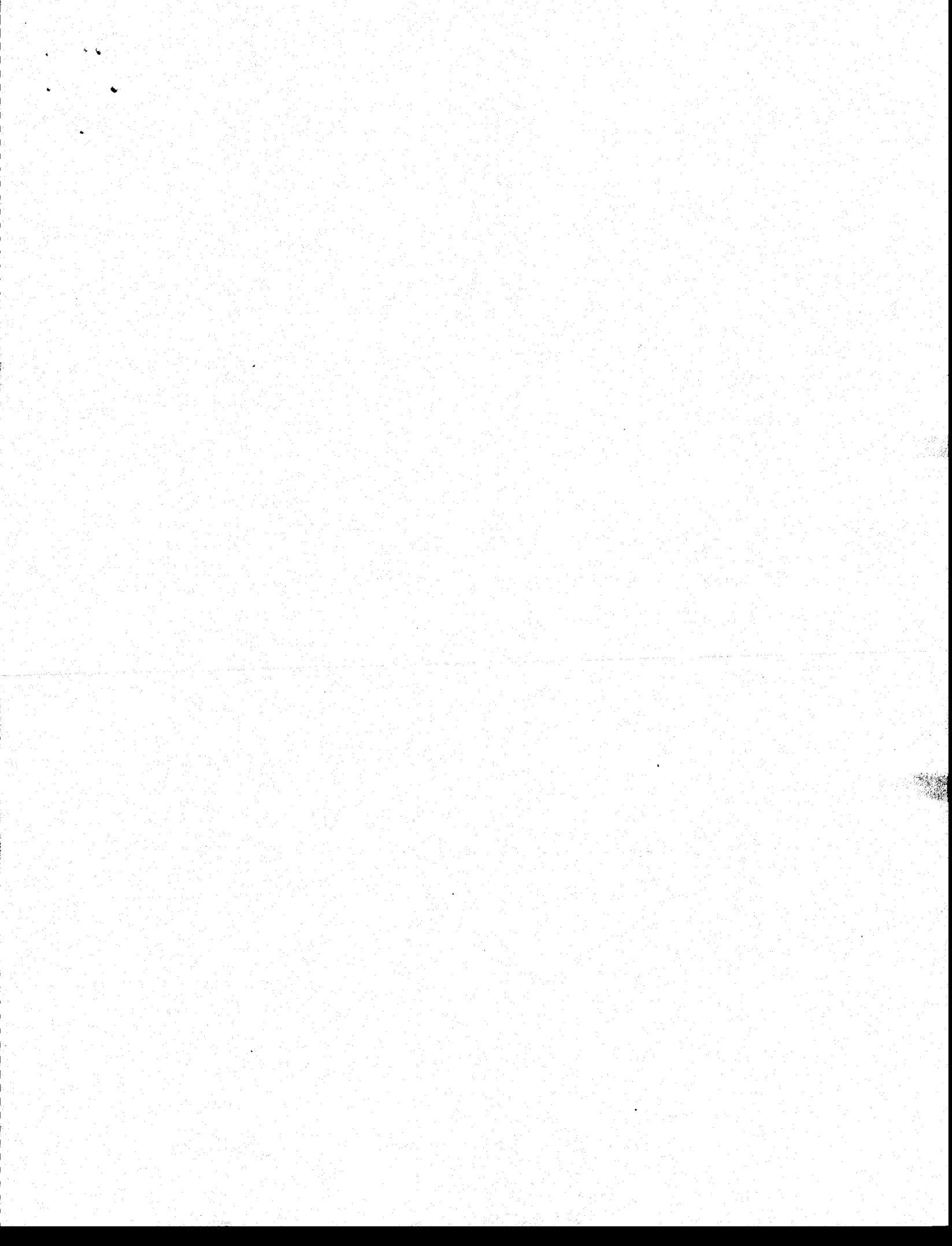
Gary L. Lane, Esq.  
6902 East 1<sup>st</sup> Street, Suite 201  
Scottsdale, AZ 85251

J. David Tate  
Senior Counsel  
SBC Telecom, Inc.  
5800 Northeast Parkway, Suite 125  
San Antonio, Texas 78249

Todd C. Wiley  
Gallagher & Kennedy  
2575 E. Camelback Rd.  
Phoenix, AZ 85016

Karen McElroy

PHX/JHERRON/1202050.1/67817.150



## THE QWEST ARIZONA PERFORMANCE ASSURANCE PLAN

### 1.0 Introduction

In conjunction with its application to the Arizona Corporation Commission for recommendation for approval under Section 271 of the Telecommunications Act of 1996 (the "Act") to offer in-region long distance service, Qwest Corporation ("Qwest") proposes the following Performance Assurance Plan ("PAP"). Qwest is committed to continued compliance with its Section 271 obligations. As proof of that commitment, Qwest is prepared to voluntarily enter into this post-271 approval monitoring and enforcement mechanism, as outlined below, as a demonstration of its commitment to continue to satisfy Section 271 of the Act.

The Qwest PAP mirrors the performance assurance plan approved by the Federal Communications Commission ("FCC") for Southwest Bell Telephone Company-Texas.<sup>1</sup> Qwest believes that controversy can be avoided and the resources of the Commission and the Company could best be utilized by avoiding a drawn out process of creating a performance assurance plan from scratch. Therefore, Qwest took the extraordinary step of duplicating key elements of the approved Texas plan.

The FCC has recognized that performance assurance plans may vary widely from state to state, but that the key elements of any plan should fall within a "zone of reasonableness" such that the plans provide incentives sufficient to foster on-going satisfaction of 271 requirements.<sup>2</sup> Rather than "reinvent" key elements, the Qwest PAP adopts the Texas enforcement plan structure, including its statistical tables and payment schedules. Furthermore, the Qwest PAP puts at risk 36% of the Company's "net revenues" derived from local exchange services.

### 2.0 Plan Structure

The Qwest PAP is a two-tiered, self-executing remedy plan. The plan is developed to provide individual CLECs with Tier-1 payments if Qwest does not provide parity between the service it provides to the CLEC and that which it provides to its retail customers, or if Qwest fails to meet applicable benchmarks. In addition, the PAP provides Qwest with additional incentives to satisfy parity and benchmark standards by requiring Qwest to make Tier-2 payments--

---

<sup>1</sup> *In the Matter of the Application by SBC Communications, Inc.*, CC Docket No. 00-65, Memorandum Opinion and Order, June 30, 2000. Subsequently, the FCC approved similar enforcement plans as part of 271 approvals granted for SBC-Kansas and Oklahoma. See *In the Matter of the Joint Application of SBC Communications, Inc.*, CC Docket No. 00-217, Memorandum Opinion and Order, January 19, 2001.

<sup>2</sup> *Id.*, para. 423.

payments to State Funds established by the State Commissions--if Qwest fails to meet parity and benchmark standards on an aggregate CLEC basis. Tier-2 payments are over and above the Tier-1 payments made to individual CLECs.<sup>3</sup>

In the Qwest PAP, performance measurements are given different weightings to reflect relative importance by the designations of High, Medium, and Low. Payment is generally on a per occurrence basis, i.e., a set dollar payment times the number of non-conforming service events. For the performance measurements which do not lend themselves to per occurrence payment, payment is on a per measurement basis, i.e., a set dollar payment. The level of payment also depends upon the number of consecutive months of non-conforming performance, i.e., an escalating payment the longer the duration of non-conforming performance.

The parity standard is met when the service Qwest provides to CLECs is equivalent to that which it provides to its retail customers. Statistically, parity exists when performance results for the CLEC and for the Qwest retail analogue result in a Z-value that is no greater than the Critical Z-values listed in the Critical Z-Statistical Table in section 5.0.<sup>4</sup> The Qwest PAP relies upon statistical scoring to determine whether any difference between CLEC and Qwest performance results is significant, that is, not attributable to simple random variation.

For performance measurements that have no Qwest retail analogue, agreed upon benchmarks are used. Benchmarks are evaluated using a "stare and compare" method. For example, if the benchmark is 95% or better, Qwest performance results must be at least 95% to meet the benchmark. ~~When sample sizes are less than 100, percentage benchmark values will be adjusted to round the allowable number of misses to the next higher integer. For example, in the event of a 95% benchmark, the number of misses is 5% times the sample size, rounded up to the nearest integer. Percentage benchmarks will be adjusted to round the allowable number of misses up or down to the closest integer, except when the sample size is 5 or less, in which case the rounding will be up to the nearest integer. For example, for a 90% benchmark, the number of allowable misses is 10% times the sample size, rounded to the nearest integer. If the sample size is eight observations, (10% \* 8 = 0.8) is rounded to 1, one miss would be permitted, and the effective benchmark would be 88% (1-1/8).~~

### 3.0 Performance Measurements

<sup>3</sup> It is anticipated that each state fund will be established concurrently with the FCC's approval of the respective State's 271 application.

<sup>4</sup> The standard Z-test is based on normal statistical theory. If the sample size is large enough, the sample mean will follow a known normal distribution that is dependent on the variance of the data and on the sample size. A sample size of 30 is generally considered sufficient, although the required minimum sample size is dependent on the statistical skewness of the data being sampled. The assumption of a normal distribution is what allows the Z-test. When the sample size becomes too small, the distribution of the sample mean is no longer normal and the Z-test may not be reliable. In that event, other methods, as described below, may be appropriate.

The Qwest PAP incorporates performance measurements that will ensure Qwest's service performance to competitors can be measured and monitored so that any degradation of the agreed upon level of service is detected and corrected. CLECs operating in Qwest's region offer services through several modes, including resale, interconnection, and the purchase of unbundled network elements. The performance measurements incorporated into the Qwest PAP are broad based enough to cover all the modes of entry.

Performance measurements have been developed in the 271 collaborative workshops. Each of the measurements have been given a precise definition, called a Performance Indicator Definition ("PID"), that includes specification of the unit of measure, the data to be utilized in the measurement, and the standard. The standard may be a parity comparison of CLEC service performance with the Qwest retail analogue. When no retail analogue exists, the standard is a benchmark. The PIDs have been agreed to among Qwest, the CLECs, and participating State Commission staff members.

The performance measurements incorporated into the Qwest PAP are shown in Attachment 1. Similar to the approved Texas plan, the measurements are designated as Tier-1, Tier-2, or both Tier-1 and Tier-2. The measurements are also given a High, Medium, or Low designation, reflective of relative importance. Of the 46 measurements that the parties have agreed to in the Arizona PID workshops, Qwest incorporates 32 of the measurements into the PAP.<sup>5</sup>

#### 4.0 Statistical Measurement

Qwest proposes the use of a statistical test, namely the modified "Z-test," for evaluating the difference between two means (i.e., Qwest and CLEC service or repair intervals) or two percentages (e.g., Qwest and CLEC proportions), to determine whether a parity condition exists between the results for Qwest and the CLEC(s). The modified Z-tests are applicable if the number of data points are greater than 30 for a given measurement. For testing measurements for which the number of data points are 30 or less, Qwest may use a permutation test to determine the statistical significance of the difference between Qwest and CLEC(s).

Qwest will be in conformance when the monthly performance results for parity measurements (whether in the form of means, percents, or proportions and at the equivalent level of disaggregation) are such that the calculated Z test statistics are not greater than the Critical Z-values. Critical Z-values are listed in Table 1, section 5.0. Qwest will be in conformance with benchmark measurements when the monthly performance result equals or exceeds the benchmark if a higher value means better performance, and when the monthly performance result equals or is less than the benchmark if a lower value means better performance.

The following is the formula for determining parity using the Z test:

---

<sup>5</sup> Of the 14 PIDs not included in Qwest's PAP, 10 are diagnostic or parity by design. As such, it is not appropriate to include them in a performance assurance plan.

$$z = \text{DIFF} / \sigma_{\text{DIFF}}$$

Where:

$$\text{DIFF} = M_{\text{Qwest}} - M_{\text{CLEC}}$$

$$M_{\text{QWEST}} = \text{Qwest average or proportion}$$

$$M_{\text{CLEC}} = \text{CLEC average or proportion}$$

$$\sigma_{\text{DIFF}} = \text{SQRT} [\sigma^2_{\text{Qwest}} (1/n_{\text{CLEC}} + 1/n_{\text{Qwest}})]$$

$$\sigma^2_{\text{Qwest}} = \text{Calculated variance for Qwest}$$

$$n_{\text{Qwest}} = \text{number of observations or samples used in Qwest measurement}$$

$$n_{\text{CLEC}} = \text{number of observations or samples used in CLEC measurement}$$

The Z tests will be applied to reported parity measurements that contain more than 30 data points.

In calculating the difference between Qwest and CLEC performance, the above formulae apply when a larger Qwest value indicates a better level of performance. In cases where a smaller Qwest value indicates a higher level of performance, the order is reversed, i.e.,  $M_{\text{CLEC}} - M_{\text{QWEST}}$ .

For parity measurements where the performance delivered to CLEC(s) is compared to Qwest performance and for which the number of data points is 30 or less, Qwest will apply a permutation test to test for statistical significance. Permutation analysis will be applied to calculate the z statistic using the following logic:

Calculate the z statistic for the actual arrangement of the data

Pool and mix the CLEC and Qwest data sets

Perform the following 1000 times:

- Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set ( $n_{\text{CLEC}}$ ) and one reflecting the remaining data points, and one reflecting the remaining data points, (which is equal to the size of the original Qwest data set or  $n_{\text{QWEST}}$ ).

Compute and store the Z-test score ( $Z_s$ ) for this sample.

Count the number of times the Z statistic for a permutation of the data is greater than the actual Z statistic

Compute the fraction of permutations for which the statistic for the rearranged data is greater than the statistic for the actual samples

If the fraction is greater than  $\alpha$ , the significance level of the test, the hypothesis of no difference is not rejected, and the test is passed.

**5.0 Critical Z-value and K value**

The Critical Z-value and K value table seeks to account for statistical error arising from the natural variation in the performance results and is. Together, the Critical Z-value and K value result in an adjustment for these statistical errors. The following table will be used to determine the Critical Z-value and the K value that is referred to in section 6.0. In each instance, it is key are based on the monthly business of the CLEC for the particular total number of performance measurements for which statistical testing is being performed that are applicable to a CLEC in a particular month.

**TABLE 1: CRITICAL Z-VALUE AND K VALUE**

<u>CLEC volume (Sample size)</u>	<u>LIS Trunks, UDITs, Resale, UBL-DS1 and DS-3</u>	<u>All Other</u>
<u>1-10</u>	<u>1.04*</u>	<u>1.645</u>
<u>11-150</u>	<u>1.645</u>	<u>1.645</u>
<u>151-300</u>	<u>2.0</u>	<u>2.0</u>
<u>301-600</u>	<u>2.7</u>	<u>2.7</u>
<u>601-3000</u>	<u>3.7</u>	<u>3.7</u>
<u>3001 and above</u>	<u>4.3</u>	<u>4.3</u>

\* The 1.04 applies for individual month testing for performance measurements<sup>6</sup> involving LIS trunks and DS1 and DS3 that are UDITs, Resale, or Unbundled Loops. For purposes of determining consecutive month misses, 1.645 shall be used. Where performance measurements disaggregate to zone 1 and zone 2, the zones shall be combined for purposes of statistical testing.

<u>Total Number of CLEC Performance Measurements</u>	<u>K Values</u>	<u>Critical Z Value</u>
<u>1</u>	<u>0</u>	<u>1.645</u>
<u>2</u>	<u>0</u>	<u>1.955</u>
<u>3</u>	<u>0</u>	<u>2.122</u>
<u>4</u>	<u>0</u>	<u>2.235</u>
<u>5</u>	<u>0</u>	<u>2.319</u>
<u>6</u>	<u>0</u>	<u>2.387</u>
<u>7</u>	<u>0</u>	<u>2.442</u>
<u>8</u>	<u>1</u>	<u>1.682</u>
<u>9</u>	<u>1</u>	<u>1.739</u>
<u>10-19</u>	<u>1</u>	<u>1.974</u>
<u>20-29</u>	<u>2</u>	<u>1.832</u>
<u>30-39</u>	<u>3</u>	<u>1.752</u>
<u>40-49</u>	<u>4</u>	<u>1.698</u>

<sup>6 6</sup> The performance measurements are OP-3d/e, OP-4d/e, OP-5, OP-6-4/5, MR-5a/b, MR-7d/e, and MR-8.

50-59	5	1.66
60-69	5	1.74
70-79	6	1.7
80-89	7	1.669
90-99	7	1.722
100-109	8	1.691
110-119	9	1.666
120-139	10	1.664
140-159	11	1.677
160-179	12	1.687
180-199	14	1.653
200-249	15	1.662
250-299	19	1.658
300-399	23	1.668
400-499	29	1.662
500-599	35	1.656
600-699	41	1.651
700-799	47	1.646
800-899	52	1.653
900-999	58	1.648
1000 and above	Calculated for Type 1 Error Probability of 5%	Calculated for Type 1 Error Probability of 5%

## 6.0 Tier-1 Payments to CLECs

Tier-1 payments to CLECs relate solely to the performance measurements designated as Tier-1 on Attachment 1. The payment amount for non-conforming service varies depending upon the designation of performance measurements as High, Medium, and Low and the duration of the non-conforming service condition as described below. For purposes of calculating the amount of payments, the Tier 1 performance measurements are categorized as High, Medium, and Low. The amount of payments for non-conforming service varies depending upon the High, Medium, and Low designations and upon the duration of the non-conforming condition, as described below. "Non-conforming" service is defined in section 4.0.

**6.1 Determination of Non-conforming Measurements:** The number of performance measurements that are determined to be "non-conforming" and, therefore, eligible for Tier-1 payments, are limited according to the K-value and Critical Z-value shown in Table 1, section 5.0. The Critical Z-values are becomes the statistical standard that determines for each CLEC performance measurement whether Qwest has met parity. The K-value determines the number of measurements that are excluded from the payment calculation described in section 8.0. The K-value and Critical Z-value is selected are determined from Table 1 according to the monthly CLEC volume for by totaling the number of performance measurements applicable to a CLEC during a month where the sample size is 10 or greater. For instance, if the CLEC sample size for that month is 100, the critical Z value is 1.645 for the statistical testing of that parity performance measurement. total number of measurements that capture the service provided by Qwest to a CLEC in a particular month was 100, the K value would be 8 and the Critical Z value would be 1.68.

6.2 Determination of the Amount of Payment: Tier-1 payments to CLECs, except as provided for in section 10.0, are calculated and paid monthly based on the number of performance measurements exceeding the Critical Z-value and the K-value. Payments will be made on either a per occurrence or per measurement basis, depending upon the performance measurement, using the dollar amounts specified in Table 2 below. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low and escalate depending upon the number of consecutive months for which Qwest has not met the standard for the particular measurement.

The escalation of payments for consecutive months of non-compliant service will be matched month for month with de-escalation of payments. For example, if Qwest has 4 consecutive monthly "misses" it will make payments that escalate from month 1 to month 4 as shown in Table 2. If, in the next month, service meets the standard, Qwest makes no payment. A payment "indicator" de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 2 because that is where the payment "indicator" presently sits. If Qwest misses again the following month, it will make a payment that escalates back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon compliant service sufficient to move the payment "indicator" back to the month 1 level.

For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Occurrence Payments With a Cap," payment to a CLEC in a single month shall not exceed the amount listed in Table 2 below for the "Per Measurement" category. For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Measure Payments," payment to a CLEC will be the amount set forth in Table 2 below under the section labeled "per measure."

~~6.3 The performance measurements listed below will not be excluded from the CLEC payment calculation in the application of k values as provided in section 8.0, if Qwest performance results have been non-conforming in the previous two consecutive months. K-values will again apply when Qwest achieves two consecutive months of conformance performance results.~~

- ~~PO-5 (FOCs on time), unbundled loops~~
- ~~OP-3 (Installation Commitments Met), analog unbundled loops, LIS trunks~~
- ~~OP-4 (Installation Interval), ADSL qualified loops~~
- ~~OP-5 (New Service Installation Quality), UNE-P (POTS), analog unbundled loops~~
- ~~MR-7 (Repair Repeat Report Rate), analog unbundled loops~~
- ~~MR-8 (Trouble Rate), analog unbundled loops~~
- ~~NI-1 (Trunk Blocking), LIS trunks~~
- ~~CP-2A-1 (Installation Commitments Met), virtual, physical caged, shared collocation~~

**TABLE 2: TIER-1 PAYMENTS TO CLECs**

Per occurrence Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following

						month
High	\$150	\$250	\$500	\$600	\$700	\$800
Medium	\$ 75	\$150	\$300	\$400	\$500	\$600
Low	\$ 25	\$ 50	\$100	\$200	\$300	\$400

Per Measure/Cap						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000
Medium	\$10,000	\$20,000	\$30,000	\$ 40,000	\$ 50,000	\$ 60,000
Low	\$ 5,000	\$10,000	\$15,000	\$ 20,000	\$ 25,000	\$ 30,000

**7.0 Tier-2 Payments to State Funds**

Payments to State Funds established by the State Regulatory Commissions under Tier-2 of the Qwest PAP provide additional incentive to correct on-going non-conformance. The payments are limited to the performance measurements designated in section 7.3 for Tier 2 per measure payments and on Attachment 1 for per occurrence measurements ~~as Tier 2 on Attachment 1~~ and which have at least 10 data points each month for the period payments are being calculated. Similar to the Tier-1 structure, Tier-2 measurements are categorized as High, Medium, and Low and the amount of payments for non-conformance varies according to this categorization.

**7.1 Determination of Non-conforming Measurements:** The determination of non-conformance will be based upon the aggregate of all CLEC data for each Tier-2 performance measurement. "Non-conforming" service is defined in section 4.0. The number of performance measurements determined to be "non-conforming" and, therefore, eligible for Tier-2 payments, is limited according to the Critical Z-value shown in Table 1, section 5.0. ~~The Critical Z-value is determined from Table 1 by totaling the number of performance measurements applicable to any CLEC during a month where the sample size is 10 or greater.~~ The Critical Z-value becomes the statistical standard that determines for each performance measurement whether Qwest has met parity.

**7.2 Determination of the Amount of Payment:** Except as provided in section 7.3, Tier-2 payments are calculated and paid monthly based on the number of performance measurements exceeding the Critical Z-value for three consecutive months. Payment will be made on either a per occurrence or per measurement basis, whichever is applicable to the performance measurement, using the dollar amounts specified in Table 3 or Table 4 below. Except as provided in section 7.3, ~~t~~The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low.

For those Tier-2 measurements listed on Attachment 2 as "Performance Measurements Subject to Per Occurrence Payments With a Cap," payment to a State Fund in a single month shall not exceed the amount listed in Table 3 for the "Per Measurement" category.

For those Tier-2 measurements listed in Attachment 2 as “Performance Measurements Subject to Per Measurement Payment,” payment to a State Fund will be the amount set forth in Table 3 under the section labeled “per measure”.

**TABLE 3: TIER-2 PAYMENTS TO STATE FUNDS**

Per occurrence	
Measurement Group	
High	\$500
Medium	\$300
Low	\$200

Per Measurement/Cap	
Measurement Group	
High	\$75,000
Medium	\$30,000
Low	\$20,000

**7.3 Performance Measurements Subject to Per Measurement Payment:** The following Tier-2 performance measurements have their performance results measured on a region wide (14 state) basis. Failure to meet the performance standard, therefore, will result in a per measure payment in each of the Owest in-region 14 states adopting this PAP. The performance measurements are:

- GA-1: Gateway Availability - IMA-GUI
- GA-2: Gateway Availability - IMA-EDI
- GA-3: Gateway Availability – EB-TA
- GA-4: System Availability – EXACT
- GA-6: Gateway Availability – GUI-Repair
- PO-1: Pre-Order/Order Response Times
- OP-2: Call Answered within Twenty Seconds – Interconnect Provisioning Center
- MR-2: Calls Answered within Twenty Seconds – Interconnect Repair Center

GA-1 has three sub-measurements: GA-1A, GA-1B, and GA-1C. PO-1 shall have two sub-measurements: PO-1A and PO-1B. PO-1A and PO-1B shall have their transaction types aggregated together.

For these measures, Owest will make a Tier-2 payment based upon monthly performance results according to Table 4: Tier-2 Per Measure Payments to State Funds.

**TABLE 4: TIER-2 PER MEASURE PAYMENTS TO STATE FUNDS**

Measure	Performance	State Payment	14 State Payment
GA-1,2,3,4,6	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$10,000	\$140,000
	>3% to 5%	\$20,000	\$280,000
	>5%	\$30,000	\$420,000
PO-1	2 sec. or less	\$1,000	\$14,000
	>2 sec. to 5 sec.	\$5,000	\$70,000

	>5 sec. to 10 sec.	\$10,000	\$140,000
	>10 sec.	\$15,000	\$210,000
<u>OP-2/MR-2</u>	<u>1% or lower</u>	<u>\$1,000</u>	<u>\$14,000</u>
	>1% to 3%	\$5,000	\$70,000
	>3% to 5%	\$10,000	\$140,000
	>5%	\$15,000	\$210,000

7.4 Use of Tier-2 Funds: Qwest payments to the State Funds will be used for any purpose that relates to the Qwest service territory that may be determined by the State Commission.

~~7.3 Use of the Funds: Qwest payments to the State Funds shall be used to reimburse customers' share of fees to extend telephone service within Qwest's service territory, to extend Qwest telephone service into adjacent, unassigned service territory, and for any other purposes that relates to the Qwest service territory that may be determined by the State Commission.~~

**TABLE 3: TIER 2 PAYMENTS TO STATE FUNDS**

Per occurrence

Measurement Group	
High	— \$500
Medium	— \$300
Low	— \$200

Per Measurement/Cap

Measurement Group	
High	— \$75,000
Medium	— \$30,000
Low	— \$20,000

**8.0 Step by Step Calculation of Tier-1 Payments to CLECs**

The following describes step-by-step the calculation of Tier-1 payments. The calculation will be performed monthly for each CLEC.

**8.1 Application of the Critical ZK Values Exclusions:**

For each CLEC, identify the determine the total number of Tier-1 parity performance measurements that measure the service provided by Qwest for the month in question and the Critical Z-value from Table 1 in section 5.0 that shall be used for purposes of statistical testing for each particular performance measurement.<sup>7</sup> Apply the statistical testing procedures

<sup>7</sup> For the purpose of determining the K-value and Critical Z-values, each disaggregated category of a performance measurement is treated as a separate sub-measurement. The Critical Z value to be applied is determined by the CLEC volume at each level of disaggregation or sub-measurement with a minimum sample

described in section 4.0, that measure the service provided by Qwest for the month in question. From Table 1 in section 5.0, determine for each CLEC the K value and Critical Z value to be used below.

For each CLEC, identify the Tier 1 performance measurements with a minimum sample size of 10 that Qwest's service performance is "non-conforming" for the month in question, using the Critical Z value.

For the performance measurements that are identified as non-conforming, group the measurements according to the High, Medium, and Low categories shown on Attachment 1.

Within each High, Medium, and Low group, sort the performance measurements in ascending order based on the number of data points or transactions used to develop the performance measurement result (e.g., service orders, collocation requests, installations, trouble reports).

Exclude the first "K" measurements designated as Low, starting with the performance measurement that has the fewest number of underlying data points. If the number of performance measurements in the Low category is less than "K," repeat the process next with the Medium category and then the High category until a total of "K" performance measurements have been excluded. If all Low, Medium and High measurements are excluded by this process, then those measurements with sample sizes less than 10 may be excluded until "K" measurements are reached. (For example, if the K value is 6 and there are 7 Low measurements, 1 Medium, and 1 High, the 6 Low measurements with the smallest sample sizes are excluded from the calculation of payments to the CLEC.) The remaining "non-conforming" performance measurements, if any, are used to calculate Tier 1 payments to each CLEC.

The following qualifications apply to the general rule of excluding performance measurements as described above. A performance measurement, for which the payment is on a per measure basis, will not be excluded unless the amount of that measure's payment is less than the payment that would result for each remaining measure. A performance measurement, whose payment is on a per occurrence basis subject to a cap, will be excluded whenever the cap is reached and the payments for the remaining measurements are greater than the amount of the cap.

## 8.2 Performance Measurements for which Payment is Per Occurrence:

The following describes the calculation of Tier-1 payments to CLECs in which payment is based upon a per occurrence dollar amount.

### 8.2.1 Performance Measurements that are Averages or Means:

---

size of 10 counts as "one" measure. For instance, a performance measurement that is disaggregated into 10 products, each further disaggregated into two geographic areas would count as "20" measurements.

Step 1: For each performance measurement, calculate the average or the mean that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

Step 2: Calculate the percentage differences between the actual averages and the calculated averages. The calculation is  $\% \text{ diff} = (\text{CLEC result} - \text{Calculated Value}) / \text{Calculated Value}$ . The percent difference will be capped at a maximum of 100%.<sup>8</sup>

Step 3: For each performance measurement, multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amounts taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

#### **8.2.2 Performance Measurements that are Percentages:**

Step 1: For each performance measurement, calculate the percentage that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z statistic for the measure. (For benchmark measurements, use the benchmark value.)

Step 2: Calculate the difference between the actual percentages for the CLEC and the calculated percentages.

Step 3: For each performance measurement, multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

#### **8.2.3 Performance Measurements that are Ratios or Proportions:**

Step 1: For each performance measurement, calculate the ratio that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

Step 2: Calculate the absolute difference between the actual rate for the CLEC and the calculated rate.

Step 3: For each performance measurement, multiply the total number of data points by the difference calculated in the previous step and the per occurrence dollar amount taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

---

<sup>8</sup> In all calculations of percent differences in sections 8.0 and 9.0, the calculated percent differences is capped at 100%.

**8.3 Performance Measurements for which Payment is Per Measure:** For each performance measurement that Qwest fails to meet the standard, the payment to the CLEC is the dollar amount shown on the "per measure" portion of the Tier-1 Payment Table.

## **9.0 Step by Step Calculation of Tier-2 Payments**

The following describes step by step the calculation of Tier-2 payments. The calculation will be performed monthly using the aggregate CLEC performance results. All Tier-2 payments will be made to a designated state fund.

Determine the total number of Tier-2 performance measurements<sup>9</sup> that measure the service provided by Qwest to all CLECs for the month in question. ~~From Table 1 in section 5.0, determine the Critical Z-value to be used below.~~

Identify the Tier-2 performance measurement for which Qwest's service performance is non-conforming for the month in question, using the Critical Z-values from Table 1 in Section 5.0.

For each performance measurement that is identified as non-conforming, determine if the non-conformance has continued for three consecutive months and if there are at least 10 data points each month. If it has, a Tier-2 payment will be calculated as described below and will continue in each succeeding month until Qwest's performance meets the applicable standard. For example, Tier-2 payments will continue on a "rolling three month" basis, one payment for the average number of occurrences for months 1-3, one payment for the average number of occurrences for months 2-4, one payment for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

### **9.1 Performance Measurements for which Payment is Per Occurrence:**

The following describes the calculation of Tier-2 payments to the State Fund in which payment is based upon a per occurrence dollar amount.

#### **9.1.1 Performance Measurements that are Averages or Means:**

Step 1: Calculate the monthly average or the mean for each performance measurement that would yield the Critical Z-value for each month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

<sup>9</sup> For the purpose of determining the Critical Z-values, each disaggregated category of a performance measurement is treated as a separate sub-measurement. The Critical Z-value to be applied is determined by the CLEC volume at each level of disaggregation or sub-measurement. ~~For the purpose of determining the Critical Z-value, each disaggregated category of a performance measurement with a minimum sample size of 10 counts as "one" measure. For instance, a performance measurement that is disaggregated into 10 products, each further disaggregated into two geographic areas would count as "20" measurements.~~

Step 2: Calculate the percentage difference between the actual averages and the calculated averages for each month. The calculation for parity measurements is  $\% \text{ diff} = (\text{actual average} - \text{calculated average}) / \text{calculated average}$ . The percent difference will be capped at a maximum of 100%.

Step 3: For each performance measurement, multiply the total number of data points each month by the percentage calculated in the previous step. Calculate the average for three months (rounded to the nearest integer) and multiply the result by the per occurrence dollar amount taken from the Tier-2 Payment Table to determine the payment to the State Fund for each non-conforming performance measurement.

#### 9.1.2 Performance Measurements that are Percentages:

Step 1: For each performance measurement, calculate the monthly percentage that would yield the Critical Z-value for each month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

Step 2: Calculate the difference between the actual percentages and the calculated percentages for each of the three non-conforming months. The calculation for parity measurement is  $\text{diff} = \text{CLEC result} - \text{calculated percentage}$ . This formula is applicable where a high value is indicative of poor performance. The formula is reversed where high performance is indicative of good performance.

Step 3: For each performance measurement, multiply the total number of data points for each month by the difference in percentage calculated in the previous step. Calculate the average for three months (rounded to the nearest integer) and multiply the result by the per occurrence dollar amounts taken from the Tier-2 Payment Table to determine the payment to the State Fund for each non-conforming performance measurement.

#### 9.1.3 Performance Measurements that are Ratios or Proportions:

Step 1: For each performance measurement, calculate the ratio that would yield the Critical Z-value for each month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

Step 2: Calculate the difference between the actual rate for the CLEC and the calculated rate for each month of the non-conforming three-month period. The calculation is  $\text{diff} = (\text{CLEC rate} - \text{calculated rate})$ . This formula is applicable where a high value is indicative of poor performance. The formula is reversed where high performance is indicative of good performance.

Step 3: For each performance measurement, multiply the total number of data points by the difference calculated in the previous step for each month. Calculate the average for three months (rounded to the nearest integer) and multiply the result by the per occurrence dollar

amounts taken from the Tier-2 Payment Table to determine the payment to the State Fund for each non-conforming performance measurement.

#### 9.2 Performance Measurements that Payment is Per Measure:

For each performance measurement that Qwest fails to meet the standard, the payment to the State Fund is the dollar amount shown on the "per measure" portion of the Tier-2 Payment Table.

#### 10.0 Low Volume, Developing Markets

In the event aggregate monthly volumes of CLECs participating in the PAP are more than 10, but less than 100, Qwest will make Tier-1 payments to CLECs if during a month Qwest fails to meet the parity or benchmark standard for the qualifying performance sub-measurements listed below. The qualifying sub-measurements are the UNE-P (POTS), megabit resale, and ADSL qualified loop product disaggregation of OP-3, OP-4, OP-5, MR-3, MR-5, MR-7, and MR-8.

The determination of whether Qwest has met the parity or benchmark standards will be made using aggregate volumes of CLECs participating in the PAP. In the event Qwest does not meet the applicable performance standards, a total payment to affected CLECs will be determined in accordance with the high, medium, low designation for each performance measurement (see Attachment 1) and as described in section 8.0, except that CLEC aggregate volumes will be used. In the event the calculated total payment amount to CLECs is less than \$5,000, a minimum payment of \$5,000 shall be made. The resulting total payment amount to CLECs will be apportioned to the individual affected CLECs based upon each CLEC's relative share of the number of total service misses.

At the 6-month reviews, Qwest will consider adding to the above list of performance sub-measurements new product disaggregation that represents new modes of CLEC entry into developing markets.

~~K value exclusions will not be applied to the performance sub-measurements covered by this section. However, the sub-measurements covered by this section will be included in the determination of the k values and critical Z values.~~

If the aggregate monthly CLEC volume is greater than 100, the provisions of this section shall not apply to the qualifying performance sub-measurement.

#### 11.0 Payment

Payments to CLECs or the State Fund shall be made one month following the due date of the performance measurement report for the month for which payment is being made.

Payment to CLECs will be made via bill credits. To the extent that a monthly payment owed to a CLEC under this PAP exceeds the amount owed to Qwest by the CLEC on a monthly bill, Qwest will issue a check or wire transfer to the CLEC in the amount of the overage. Payment to the State Fund will be made via check or wire transfer.

## 12.0 Cap on Tier-1 and Tier-2 Payments

There shall be a cap on the total payments by Qwest during a calendar year. The cap amount for Arizona shall be 36% of the "net revenues" as defined in the FCC's order approving the Bell Atlantic-New York 271 application and affirmed in the FCC order approving the Southwest Bell Telephone-Texas 271 application.<sup>10</sup> The cap shall be recalculated each year based upon the prior year's Arizona ARMIS results, adjusted to reflect the most current depreciation rates approved by the Arizona Corporation Commission. Qwest shall submit to the Commission the calculation of each year's cap no later than 30 days after submission of ARMIS results to the FCC. CLEC agrees that this amount constitutes a maximum annual cap which will apply to the aggregate total of Tier-1 liquidated damages (including any such damages paid pursuant to this Agreement, any other Arizona interconnection agreement, or any other payments made for the same or analogous performance under any other contract, order or rule) and Tier-2 assessments or payments made by Qwest for the same or analogous performance under another contract, order or rule.

The cap applies to the aggregate of Tier-1 payments to CLECs, including payments made pursuant to any other alternative performance obligations pursuant to an interconnection agreement with a CLEC, Tier-2 payments to State Funds, and any other payments required by State Commissions pursuant to service quality rules, orders or other agreements that relate to the same or analogous service.

A monthly cap will be determined by dividing the amount of the annual cap by twelve. The monthly cap shall be calculated by applying all payments or credits made by Qwest under this PAP as well as all payments made or credits applied for wholesale service performance pursuant to interconnection agreements, state rules or orders. To the extent in any given month the monthly cap (i.e., the annual cap divided by 12) is not reached, the subsequent month's cap will be increased by an amount equal to the unpaid portion of the previous month's cap.

In the event the annual cap is reached within a calendar year and Qwest continues to deliver non-conforming performance during the same year to any CLEC or to all CLECs, the Commission may recommend to the FCC that Qwest should cease offering in-region interLATA services to new customers.

## 13.0 Limitations

---

<sup>10</sup> Federal Communications Commission, CC Docket No. 99-404, Memorandum Opinion and Order, December 22, 1999, Para. 436 and footnote 1332; Federal Communications Commission, CC Docket No. 00-65, Memorandum Opinion and Order, June 30, 2000, Para 424.

**13.1** Qwest's PAP shall not become available in Arizona unless and until Qwest receives effective section 271 authority from the FCC for the State of Arizona.

**13.2** Qwest will not be liable for Tier-1 payments to a specific CLEC in an FCC approved state until the Commission has approved an interconnection agreement between the CLEC and Qwest that adopts the provisions of this PAP.

**13.3** Qwest shall not be obligated to make Tier-1 or Tier-2 payments for any measurement if and to the extent that non-conformance for that measurement was the result of any of the following: 1) a Force Majeure event, including but not limited to acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers, periods of emergency, catastrophe, natural disaster, severe storms, or other events beyond Qwest's control; 2) an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with Qwest or under the Act or State law; an act or omission by a CLEC that is in bad faith<sup>11</sup>; or 3) non-Qwest problems associated with third-party systems or equipment, which could not have been avoided by Qwest in the exercise of reasonable diligence, provided, however, that this third party exclusion will not be raised more than three times within a calendar year. Qwest will not be excused from Tier-1 or Tier-2 payments on any other grounds, except as described in paragraphs 13.6, 13.7, and 13.8. Qwest will have the burden to demonstrate that its non-conformance with the performance measurement was excused on one of the grounds described in this PAP.

**13.4** Qwest's agreement to implement these enforcement terms, and specifically its agreement to pay any "liquidated damages" or "assessments" hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating to the same performance. QWEST and CLEC agree that CLEC may not use: 1) the existence of this enforcement plan; or 2) Qwest's payment of Tier -1 "liquidated damages" or Tier-2 "assessments" as evidence that Qwest has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. Qwest's conduct underlying its performance measures, however are not made inadmissible by its terms. Any CLEC accepting this performance remedy plan agrees that Qwest's performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. Further, any liquidated damages payment by Qwest under these provisions is not hereby made inadmissible in any proceeding relating to the same conduct were Qwest seeks to offset the payment against any other damages a CLEC might recover.

---

<sup>11</sup> Examples of bad faith conduct include, but are not limited to: unreasonably holding service orders and/or applications, "dumping" orders or applications in unreasonable large batches, "dumping" orders or applications at or near the close of a business day, on a Friday evening or prior to a holiday, and failing to provide timely forecasts to Qwest for services or facilities when such forecasts are required to reasonably provide services or facilities.

The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether Qwest has met or continues to meet the requirements of section 271 of the Act.

**13.5** By incorporating these liquidated damages terms into the PAP, Qwest and CLECs accepting this PAP agree that proof of damages from any non-conforming performance measurement would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damages that may result from a non-conforming performance measurement. Qwest and CLEC further agree that payments made pursuant to this PAP are not intended to be a penalty. The application of the assessments and damages provided for herein is not intended to foreclose other noncontractual legal and non-contractual regulatory claims and remedies that may be available to a CLEC.

**13.6** CLEC is not entitled to remedies under both the PAP and under rules, orders, or other contracts, including interconnection agreements, arising from the same or analogous wholesale performance. Where alternative remedies for Qwest's wholesale performance are available under rules, orders, or other contracts, including interconnection agreements, CLEC will be limited to either the PAP remedies or the remedies available under rules, orders, or other contracts.

**13.6** This PAP contains a comprehensive set of performance measurements, statistical methodologies, and payment mechanisms that are designed to function together, and only together, as an integrated whole. -In the event that a CLEC agreeing to this PAP is awarded compensation for the same or analogous wholesale performance covered by this PAP, Qwest may offset the award with amounts paid under this PAP.

**13.7** Qwest shall not be liable for both Tier-2 payments and assessments or sanctions made for the same or analogous performance pursuant to any Commission order or service quality rules.

**13.8** Whenever a Qwest Tier-1 payment to an individual CLEC exceeds \$3 million in a month, or when all CLEC Tier-1 payments in any given month exceed the monthly cap (section 11.0), Qwest may commence a show cause proceeding. Upon timely commencement of the show cause proceeding, Qwest must pay the balance of payments owed in excess of the threshold amount into escrow, to be held by a third-party pending the outcome of the show cause proceeding. To invoke these escrow provisions, Qwest must file with the Commission, not later than the due date of the Tier-1 payments, an application to show cause why it should not be required to pay any amount in excess of the procedural threshold. Qwest will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to make the payments in excess of the applicable threshold amount. If Qwest reports non-conforming performance to a CLEC for three consecutive months on 20% or more of the measurements reported to the CLEC and has incurred no more than \$1 million in liability to the CLEC, the CLEC may commence a similar show cause proceeding. In any such proceeding the CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires Qwest to make payments in excess of the amount calculated pursuant to the terms of the PAP.

## 14.0 Reporting

14.1 Upon FCC 271 approval for a state, Qwest will provide CLECs which have approved interconnection agreements with Qwest a monthly report of Qwest's performance for the measurements identified in the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Qwest will collect, analyze, and report performance data for the measurements listed on Attachment 1 in accordance with the most recent version of the Service Performance Indicator Definitions (PID). Upon a CLEC's request, data files of the CLEC's raw data, or any subset thereof, will be transmitted, without charge, to the CLEC in a mutually acceptable format, protocol, and transmission medium.

14.2 Qwest will also provide the Commission a monthly report of aggregate CLEC performance results pursuant to the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. -Individual CLEC reports will also be available to the Commission upon request. Upon the Commission's request, data files of the CLEC raw data, or any subject thereof, will be transmitted, without charge, to the Commission in a mutually acceptable format, protocol, and transmission form. By accepting this PAP, each CLEC consents to Qwest providing that CLEC's report and raw data to State Commissions upon the Commission's request.

14.3 In the event that Qwest does not provide CLEC and the Commission with a monthly report by the last day of the month following the month for which performance results are being reported, Qwest will pay to the State a total of \$500 for each business day for which performance reports are due after the five business day grace period. This amount represents the total for missing any deadline, rather than a payment per report. Prior to the date of a payment for late reports, Qwest may file a request for waiver of the payment, which states the reasons for the waiver.

## 15.0 Audits/Investigations of Performance Results

15.1: Qwest will create a separate financial system which will take performance results as inputs and calculate payments according to the terms of the PAP. An independent audit of this financial system shall be initiated one year after the effective date of the PAP and a second audit shall be started no later than 18 months thereafter. The auditor will be chosen and paid for by Qwest. Alternatively, the Arizona Commission staff may choose to conduct this audit itself. The necessity of any subsequent audits of the financial system shall be considered in the six-month PAP reviews, based upon the experience of the first two audits. If as a result of the audit, it is determined that Qwest underpaid, Qwest will add bill credits to CLECs and/or make additional payments to the State to the extent that it underpaid. In the

event Qwest overpaid, future bill credits to CLECs and/or future payments to the State will be offset by the amount of the overage. All under and over payments will be credited with interest at the one year U. S. Treasury rate.

15.2: In the event of a disagreement between Qwest and the CLEC participating in this PAP as to any issue regarding the accuracy or integrity of data collected, generated, and reported pursuant to the PAP, Qwest and the CLEC shall first consult with one another and attempt in good faith to resolve the issue. If an issue is not resolved within 45 days after a request for consultation, the CLEC and Qwest may upon a demonstration of good cause (e.g., evidence of material errors or discrepancies) request an independent audit to be conducted, at the initiating party's expense. The scope of the audit will be limited to performance measurement data collection, data reporting processes, and calculation of performance results and payments for a specific performance measurement. An audit may not be commenced more than 12 months following the month in which the alleged inaccurate results were first reported.

If an audit identifies a material deficiency affecting results, the responsible party shall reimburse the other party for the expense of the third party auditor, assuming the responsible party was not the party initiating the audit. In the event the CLEC is found to be responsible for the deficiency, any overpayment made to the CLEC as a result of the deficiency shall be refunded to Qwest with interest and any affected portion of future payments will be suspended until the CLEC corrects the deficiency. In the event that Qwest is found to be responsible for the deficiency, Qwest will pay the CLEC the amount that would have been due under the PAP if not for the deficiency, including interest.

Neither CLEC nor Qwest may request more than two audits per calendar year for the entire Qwest in-region states. Each audit request shall be limited to no more than two performance measurements per audit. For purposes of these provisions, a performance measurement is a Performance Indicator Definition (PID), e.g., OP-3, Installation Commitments Met. CLEC agrees that Qwest shall not be required to conduct more than 3 audits at one time for its 14 in-region states, notwithstanding who has initiated the audit, and notwithstanding the provisions in this paragraph. This provision shall exclusively govern audits regarding performance measurements. Qwest agrees to inform Commission Staff and all CLECs of the results of an audit.

15.3: Qwest will investigate any second consecutive Tier-2 miss to determine the cause of the miss and to identify the action needed in order to meet the standard set forth in the performance measurements. To the extent an investigation determines that a CLEC was responsible in whole or in part for the Tier-2 misses, Qwest shall receive credit against future Tier-2 payments in an amount equal to the Tier-2 payments that should not have been made. The relevant portion of subsequent Tier-2 payments will not be owed until any responsible CLEC problems are corrected. For the purposes of this sub-section, Tier-1 performance measurements that have not been designated as Tier-2 will be aggregated and the aggregate results will be investigated pursuant to the terms of this Agreement.

## 16.0 Reviews

Every six (6) months, Qwest, CLECs, and the Commission shall review the performance measurements to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measure to High, Medium, or Low or Tier-1 to Tier-2. The criterion for reclassification of a measure shall be whether the actual volume of data points was less or greater than anticipated. Criteria for review of performance measurements, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. The first six-month period will begin upon the FCC's approval of Qwest's 271 application for that particular state. Any changes to existing performance measurements in this and this PAP shall not be made be without by Qwest's consent. mutual agreement of the parties.

Qwest will make the PAP available for CLEC interconnection agreements until such time as Qwest eliminates its Section 272 affiliate. At that time, the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary. However, in the event Qwest exits the interLATA market, that State PAP shall be rescinded immediately.

## 17.0 Voluntary Performance Assurance Plan

This plan represents Qwest's voluntary offer to provide performance assurance. Nothing in this plan or in any conclusion of non-conformance of Qwest's service performance with the standards defined in this plan shall be construed to be, of itself, non-conformance with the Act.

Attachment 1: Tier-1 and Tier-2 Performance Measurements Subject to Per Occurrence Payment

Performance Measurement		Tier-1 Payments			Tier-2 Payments		
		Low	Med	High	Low	Med	High
<b>PRE-ORDER/ORDERS</b>							
LSR Rejection Notice Interval	PO-3 <sup>a</sup>	X					
Firm Order Confirmations On Time	PO-5	X				X	
Work Completion Notification Timeliness	PO-6 <sup>b</sup>	X					
Billing Completion Notification Timeliness	PO-7 <sup>b</sup>	X					
Jeopardy Notice Interval	PO-8	X					
Timely Jeopardy Notices	PO-9	X					
<b>ORDERING AND PROVISIONING</b>							
Installation Commitments Met	OP-3 <sup>c</sup>			X		X	
Installation Intervals	OP-4 <sup>d</sup>			X		X	
New Service Installation Quality	OP-5			X		X	
Delayed Days	OP-6 <sup>c</sup>			X		X	
Number Portability Timeliness	OP-8			X		X	
Coordinated Cuts On Time – Unbundled Loops	OP-13a			X		X	
<b>MAINTENANCE AND REPAIR</b>							
Out of Service Cleared within 24 hours	MR-3			X			
All Troubles Cleared within 4 hours	MR-5			X			
Mean time to Restore	MR-6a,b,c			X			
Repair Repeat Report Rate	MR-7			X		X	
Trouble Rate	MR-8			X		X	
<b>BILLING</b>							
Time to Provide Recorded Usage Records	BI-1	X					X
Billing Accuracy-Adjustments for Errors	BI-3	X					
Billing Completeness	BI-4	X				X	
<b>NETWORK PERFORMANCE</b>							
Trunk Blocking	NI-1			X			X
NXX Code Activation	NP-1			X			X

a. PO-3 is limited to PO-3a-1, PO-3b-1, and PO-3c.

b. PO-6 is included with PO-7 as two “families:” PO-6a/PO-7a and PO-6b/PO-7b. Measurements within each family share a single payment opportunity with only the measurements with the highest payment being paid.

c. OP-3 is included as three “families:” OP-3a/3b, OP-3c, and OP-3d/e. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.

d. OP-4 is included with OP-6 as five “families:” OP-4a/OP-6-1, OP-4b/OP-6-2, OP-4c/OP-6-3, OP-4d/OP-6-4, and OP-4e/OP-6-5. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.

e. For purposes of the PAP, OP-6a and OP-6b will be combined and treated as one. The combined OP-6 breaks down to OP-6-1 (within MSA), OP-6-2 (outside MSA), OP-6-3 (no dispatch), OP-6-4 (zone 1), and OP-6-5 (zone 2).

Attachment 2: Performance Measurements Subject to Per Measure Caps

- Billing
    - Time to Provide Recorded Usage Records – BI-1 (Tier-1/Tier-2)
    - Billing Accuracy – Adjustments for Errors – BI-3 (Tier-1)
    - Billing Completeness – BI-4 (Tier-1/Tier-2)
- Attachment 1: Tier 1 and Tier 2 Performance Measurements

<b>GATEWAY AVAILABILITY</b>							
-Availability of IMA – IMA GUI	GA-1					-X	
-Gateway Availability – IMA EDI	GA-2					-X	
-Gateway Availability – EB-TA	GA-3					-X	
-Gateway Availability – EXACT	GA-4					-X	
-Gateway Availability – GUI Repair	GA-6					-X	
<b>PRE-ORDER/ORDERS</b>							
-Pre-Order/Order Response Time	PO-1						-X
-LSR Rejection Notice Interval	PO-3	-X					
-Firm Order Confirmations On Time	PO-5	-X					-X
-Billing Completion Notification Timeliness	PO-7	-X					
-Jeopardy Notice Interval	PO-8	-X					
<b>ORDERING AND PROVISIONING</b>							
-Calls Answered within Twenty Seconds	OP-2						-X
-Installation Commitments Met	OP-3 <sup>a</sup>				-X		-X
-Installation Intervals	OP-4 <sup>b</sup>				-X		-X
-New Service Installation Quality	OP-5				-X		-X
-Delayed Days	OP-6 <sup>c</sup>				-X		-X
-Number Portability Timeliness	OP-8			-X			-X
-Coordinated Cuts On Time – Unbundled Loops	OP-13a			-X			-X
<b>MAINTENANCE AND REPAIR</b>							
-Calls Answered within 20 seconds Intereconnect	MR-2						-X
-Out of Service Cleared within 24 hours	MR-3			-X			
-All Troubles Cleared within 4 hours	MR-5			-X			
-Mean time to Restore	MR-6a,b,e			-X			
-Repair Repeat Report Rate	MR-7				-X		-X
-Trouble Rate	MR-8				-X		-X
<b>BILLING</b>							
-Time to Provide Recorded Usage Records	BI-1	-X					-X
-Billing Accuracy Adjustments for Errors	BI-3	-X					
-Billing Completeness	BI-4	-X					-X
<b>NETWORK PERFORMANCE</b>							
-Trunk Blocking	NI-1				-X		-X
-NXX Code Activation	NP-1				-X		-X
<b>COLLOCATION</b>							
-Installation Interval	CP-1	-X					
-Installation Commitments Met	CP-2				-X		-X
-Feasibility Study Interval	CP-3	-X					
-Feasibility Study Commitments Met	CP-4	-X					

a. OP-3 is included as three "families:" OP-3a/3b, OP-3c, and OP-3d/e. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.

b. ~~OP 4 is included with OP 6 as five "families:" OP 4a/OP 6 1, OP 4b/OP 6 2, OP 4c/OP 6 3, OP 4d/OP 6 4, and OP 4e/OP 6 5. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.~~

e. ~~For purposes of the PAP, OP 6a and OP 6b will be combined and treated as one. The combined OP 6 breaks down to OP 6 1 (within MSA), OP 6 2 (outside MSA), OP 6 3 (no dispatch), OP 6 4 (zone 1), and OP 6 5 (zone 2).~~

## Attachment 2

## Performance Measurements Subject to Per Occurrence Payments With a Cap

- ~~Pre Order/Orders~~
- ~~Pre Order/Order Response Time PO 1 (Tier 2)~~
- ~~LSR Rejection Notice Interval PO 3 (Tier 1)~~
- ~~Billing Completion Notification Timeliness PO 7 (Tier 1)~~
- ~~Billing~~
- ~~Time to Provide Recorded Usage Records BI 1 (Tier 1/Tier 2)~~
- ~~Billing Accuracy Adjustments for Errors BI 3 (Tier 1)~~
- ~~Billing Completeness BI 4 (Tier 1/Tier 2)~~
- ~~Network Performance~~
- ~~Trunk Blocking NI 1 (Tier 1/Tier 2)~~

## Performance Measurements Subject to Per Measure Payments

- ~~Gateway Availability~~
- ~~Availability of IMA IMA GUI GA 1 (Tier 2)~~
- ~~Gateway Availability IMA EDI GA 2 (Tier 2)~~
- ~~Gateway Availability EB TA GA 3 (Tier 2)~~
- ~~Gateway Availability EXACT GA 4 (Tier 2)~~
- ~~Gateway Availability GUI Repair GA 6 (Tier 2)~~
- ~~Ordering & Provisioning~~
- ~~Calls Answered within Twenty Seconds OP 2 (Tier 2)~~
- ~~Maintenance & Repair~~
- ~~Calls Answered within Twenty Seconds MR 2 (Tier 2)~~