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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman
GARY PIERCE
Commissioner
BRENDA BURNS
Commissioner
BOB BURNS
Commissioner
SUSAN BITTER SMITH
Commissioner

2013 OCT 29 P 4 25

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

OCT 29 2013

DOCKETED BY

**IN THE MATTER OF QWEST
CORPORATION'S PERFORMANCE
ASSURANCE PLAN**

DOCKET NO. T-01051B-03-0859

**NOTICE OF FILING MINNESOTA PUBLIC UTILITIES COMMISSION ORDER
APPROVING PERFORMANCE ASSURANCE PLAN MODIFICATIONS**

Qwest Corporation d/b/a CenturyLink QC ("CenturyLink")¹ files the attached Order entered by the Minnesota Public Utilities Commission in that Commission's Docket No. P-421/AM-13-733, on October 25, 2013 (the "Minnesota PUC Order"). CenturyLink requests that the Minnesota PUC Order be entered into this Docket in support of its Petition filed on August 27, 2013.

CenturyLink's August 27, 2013 Petition requests changes to the Qwest Performance Assurance Plan (PAP) and Performance Indicator Definitions (PIDs) for Arizona, consistent with a settlement agreement between CenturyLink QC and a number of CLECs in a settlement in a state regulatory proceeding in Colorado (the "Colorado Settlement"). Pursuant to the Colorado

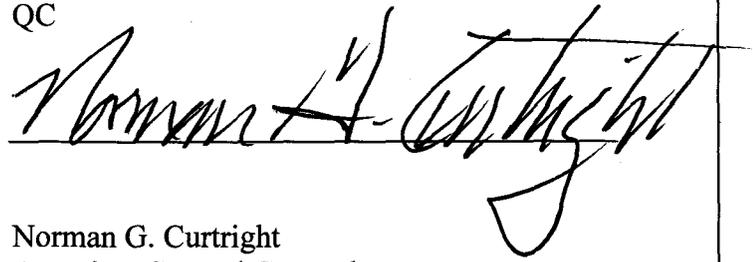
¹ Prior to April 1, 2011, Qwest Corporation did business as Qwest.

1 Settlement, which was approved by the Colorado Public Utilities Commission, the parties agreed
2 to seek approval of the PAP and PID changes in the other Qwest states, resulting in the August
3 27, 2013 filing made in this Docket and in similar petitions filed with other state regulatory
4 commissions.

5 On August 20, 2013, CenturyLink filed a petition with the Minnesota Public Utilities
6 Commission to modify the Minnesota PAP and PIDs consistent with the Colorado Settlement.
7 On August 26, 2013 the Minnesota PUC issued a Notice Soliciting Comments on CenturyLink's
8 Petition. No party filed comments or expressed opposition to the Minnesota Petition. The
9 Minnesota Public Utilities Commission approved CenturyLink's petition by entry of the
10 Minnesota PUC Order (Exhibit A hereto), on October 25, 2013.

11
12 RESPECTFULLY SUBMITTED, this 29th day of October, 2013.

13 QWEST CORPORATION dba CENTURYLINK
14 QC

15 
16

17 Norman G. Curtright
18 Associate General Counsel
19 20 E. Thomas Road, 1st Floor
20 Phoenix, Arizona 85012
21 Telephone: (602) 630-2187
22
23
24
25

1 ORIGINAL and thirteen (13) copies filed
this 29th day of October, 2013, with:

2 Docket Control
3 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
4 Phoenix, Arizona 85007

5
6 Copy of the foregoing sent via e-mail and
U.S. Mail this 29th day of October, 2013, to:

7 Steve M. Olea, Director
8 Utilities Division
ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
Phoenix, Arizona 85007

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION
COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

11 Comcast Phone of Arizona, LLC
Attn: Lisa Moglia
12 One Comcast Center
Philadelphia PA 19103

Katherine Mudge
Director, Regulatory Affairs & Litigation
MegaPath Corporation
1835-B Kramer LN., Ste.100
Austin, Texas 78758

14 Ms Rochelle Jones
tw telecom
15 Senior Vice President, Regulatory
10475 Park Meadows Drive
16 Littleton, CO 80124

Joan Burke
Law Office of Joan S. Burke
1650 N. First Ave.
Phoenix, AZ 85003

17 Karen L. Clauson
Vice President, Law & Policy
18 Integra Telecom
6160 Golden Hills Dr.
19 Golden Valley, MN 55416-1020

McLeodUSA Telecommunications
Services, LLC
Attn: Stephanie D. Marsh
4001 N. Rodney Parham
Little Rock AR 72212

20 Cox Arizona Telcom, L.L.C.
C/O Accounting Department
21 1500 W Deer Valley Rd.
Phoenix AZ 85027

Michael W. Patten
Roshka De Wulf & Patten, PLc
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, AZ 85004

22

23

24

25

1 Rex Knowles
XO Communications, Inc.
2 7050 Union Park Ave., Suite 400
Midvale, UT 84047

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Reed Peterson

Exhibit A

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David Boyd
Nancy Lange
J. Dennis O'Brien
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Jason D. Topp
CenturyLink
200 South 5th Street, Room 2200
Minneapolis, MN 55402

SERVICE DATE: October 25, 2013

DOCKET NO. P-421/AM-13-733

In the Matter of Qwest Corporation d/b/a CenturyLink QC's Petition for Modification of Minnesota Performance Assurance Plan to Make it Consistent with Settlement Agreement

The above entitled matter has been considered by the Commission and the following disposition made:

Approved the redesigned MPAP and PIDs and deemed all interconnection agreements that currently contain the MPAP and PIDs be modified to incorporate these revisions, without the need for further filings or approvals, effective January 1, 2014.

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



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85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
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September 26, 2013

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Qwest Corporation d/b/a CenturyLink QC's Petition for Modification of Minnesota Performance Assurance Plan to Make it Consistent with Settlement Agreement (CenturyLink's Petition)
Docket No. P421/AM-13-733

Dear Dr. Haar:

Attached are the Comments of the Minnesota Department of Commerce (Department) in the above referenced matter. Should you or Commission staff have any questions regarding these comments, please contact me at 651 539-1880.

Sincerely,

/s/ BONNIE J. JOHNSON
Telecommunications Analyst

BJ/ja
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P421/AM-13-733

I. BACKGROUND

A. HISTORICAL BACKGROUND

The Federal Telecommunications Act of 1996 (the Act) generally prohibited an incumbent Regional Bell Operating Company (RBOC) such as Qwest Corporation (Qwest) from providing interLATA long distance services within the service area in which the RBOC is the incumbent local service provider. (See 47 U.S.C. § 271(a)). The Act's § 271 provided for an RBOC to petition the Federal Communications Commission (FCC) for permission to enter the interLATA long distance market in its service area (state) if certain requirements were fulfilled in that state. These requirements established whether the RBOC had irreversibly opened its local service markets to competition.

Qwest's Minnesota Performance Assurance Plan (MPAP) arose from the FCC's requirement that the RBOC provide a plan to protect against "backsliding," (i.e., to ensure that once opened, the local service markets would remain open *after* a grant of authority to provide in-region interLATA service). The MPAP is a self-effectuating performance assurance plan and was evaluated by the Minnesota Public Utilities Commission (Commission) initially in Docket No. P421/AM-01-1376 (the MPAP Docket) as part of the Commission's Section 271(d)(2)(B)¹ responsibility to provide guidance to the FCC in its determination of whether to grant or deny Qwest's request to provide interLATA service within Minnesota.

¹ Section 271(d)(2)(B) provides that "[b]efore making any determination under this subsection, the [Federal Communications] Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

On July 29, 2002, in the MPAP docket, the Commission issued an Order provisionally approving an MPAP² submitted by Qwest and setting a further procedural schedule.

On November 26, 2002, the Commission issued an Order on Reconsideration Amending the Performance Assurance Plan. Qwest submitted revised plans on February 18, 2003 and April 8, 2003, and submitted a final compliance filing, incorporating all changes ordered by the Commission, on April 30, 2003. While the Commission did not act to approve the April 30, 2003 PAP filing, Qwest submitted the April 30, 2003 PAP filing to the FCC for consideration in WC Docket No. 03-90.³ The FCC subsequently released its order granting Qwest interLATA in-region long distance authority in Minnesota on June 26, 2003.⁴ The MPAP went into effect on August 1, 2003.

The Commission has previously approved modifications to the MPAP since the effective date of August 1, 2003.⁵ Since the MPAP went into effect, Qwest has made seven filings to its MPAP.⁶ All of these filings were made by Qwest under Docket No. P 421/CI-01-1374, "In the Matter of Qwest's Statement of Generally Available Terms (SGAT) pursuant to Section 252(f) of the Telecommunications Act of 1996." SGAT is a statement of generally available terms that Qwest offers to CLECs as part of an interconnection agreement. Currently the MPAP and PIDs are included as Exhibits B & K in Qwest's (aka Qwest Corporation dba CenturyLink QC (CenturyLink)) negotiations template.

On June 17, 2013, the Colorado Public Utilities Commission (CPUC) approved a settlement that was negotiated between CenturyLink and several CLECs with respect to modifying the PAP and PIDs (Settlement Agreement).⁷ As an integral part of the Settlement Agreement, participating competitive local exchange carriers ("CLECs") and CenturyLink agreed that the redesigned PAP and PIDs in Colorado should be proposed for adoption in the 13 other CenturyLink Regional

² The Commission approved a plan, at that time, with terms identical to the Colorado Performance Assurance Plan (CPAP) approved by the Colorado Public Utilities Commission. (the CPAP).

³ In the Matter of Qwest Communications International Application Pursuant to section 271 of the Communications Act of 1934 for Authority to Provide In-region, InterLATA Services Originating in Minnesota, WC Docket 03-90.

⁴ Id.

⁵ Notably, on February 14, 2008, in Docket P421/AM-01-1376 and Docket P421/AM-00-849⁵ the Commission issued an order modifying certain aspects of the MPAP and PIDs after a stipulation was agreed to by Qwest and several CLECs. The Commission agreed to permit Qwest to apply the agreed-upon changes to the MPAP and PIDs to any interconnection agreements containing the MPAP without further filings or approvals.

⁶ October 30, 2003; June 30, 2004; August 5, 2004; September 13, 2004; November 30, 2004; August 15, 2005; and June 22, 2007.

⁷ The settlement agreement involved CenturyLink QC and Colorado affiliates of Comcast (Comcast Phone of Colorado, LLC); Covad (MegaPath Corporation fka DIECA Communications Inc. dba Covad Communications Company), tw telecom (tw telecom of Colorado, Inc); Integra (Eschelon Telecom of Colorado Inc., doing business as Integra Telecom) and the staff of the Colorado Public Utilities Commission.

Bell Operation company (RBOC) states, including Minnesota.⁸ The CLECs that were parties to the Colorado Settlement either directly, or through an affiliate, are CLECs in Minnesota.

Several other CLECs participated in the Colorado PAP proceeding, but did not sign the Settlement Agreement. These CLECs include Access Point, Inc., Liberty Bell Telecom, McLeodUSA Telecommunications Services, Inc. dba PAETEC Business Services (now Windstream), and XO Communications Services, Inc. None of the participants opposed the Colorado Settlement, or expressed concerns with the modifications.⁹ All of these CLECs also have ICAs in Minnesota.

B. PROCEDURAL BACKGROUND

On August 20, 2013, CenturyLink filed a petition to modify the Minnesota Performance Assurance Plan to make it consistent with the Settlement Agreement. Specifically, on page 6 of its petition, CenturyLink requests that the Commission:

- 1) Approve the redesigned MPAP and Performance Indicator Definitions (PIDs) with an effective date of January 1, 2014, and;
- 2) Deem all interconnection agreements that currently contain the MPAP and PIDs be modified to incorporate these revisions, without the need for further filings or approvals, effective January 1, 2014.

On August 26, 2013, the Minnesota Public Utilities Commission issued a Notice Soliciting Comments on CenturyLink's Petition.

On September 19, 2013, as the result of conversations with the Department of Commerce, CenturyLink filed corrections to pages 13 and 15 of Exhibit K, containing the terms of the MPAP.

II. STATEMENT OF ISSUES

1. Whether the Commission should approve the redesigned MPAP and PIDs with an effective date of January 1, 2014.

⁸ Other state dockets include, Utah in Docket No. 13-049-1; Idaho Docket No. QWE-T-13-05; and Arizona Docket No. T-01051B-03-0859.

⁹ The modifications were also approved by the Utah Commission on September 4, 2013 in Docket No. 13-049-15. No CLEC, including the CLECs that participated in the Colorado proceeding, filed comments expressing concerns with the modifications in the Utah proceeding.

2. Whether the Commission should deem all interconnection agreements that currently contain the MPAP and PIDs are modified to incorporate these revisions, without the need for further filings or approvals, effective January 1, 2014.

III. STATEMENT OF LAW

The MPAP includes the following provisions:

18.6 The Commission retains the right to add topics and criteria to the six month review, retains the ability to order changes if the MPAP is not in the public interest, and retains the ability to hear any disputes regarding the six-month review. The Commission may conduct joint reviews with other states. Any changes in the six month review pursuant to this section shall apply to and modify this agreement between CenturyLink QC and CLEC.

18.6.1 Nothing in this MPAP constitutes a waiver of either parties' rights to challenge changes made to this plan by the Commission.

18.7 If any agreement on adding, modifying or deleting performance measurements are reached between CenturyLink QC and CLECs participating in an industry Regional Oversight Committee (ROC) PID administration forum, those agreements shall be incorporated into the MPAP and modify the agreement between CLEC and CenturyLink QC at any time those agreements are submitted to and approved by the Commission, whether before or after the six-month review.

IV. ANALYSIS

A. *CENTURYLINK'S PETITION*

CenturyLink requests that the existing MPAP and PIDs be replaced with the PAP and PIDs that were recently approved by the CPUC. Exhibit W of the CenturyLink petition provides a detailed overview of the modifications which include discontinuation of certain PIDs,¹⁰ PIDs that will be retained for reporting only,¹¹ and system-agnostic changes which make PID language

¹⁰ See Exhibit W, p. 4, footnote 3 for a list of PIDs that will be discontinued.

¹¹ See Exhibit W, p. 4, section B. Although these PIDs are not payment eligible, performance will continue to be reported.

invulnerable to replacements of systems being measured. The system-agnostic changes are significant given the moratorium on the requirement to offer legacy Qwest OSS systems for 30 months after the closing date of the merger is near.¹² The PIDs that remain payment eligible in the Settlement Agreement were PIDs that historically caused MPAP payments to CLECs by CenturyLink.

B. THE DEPARTMENT IS AWARE OF NO CONTROVERSY WITH THE REDESIGNED MPAP AND PIDS

The proposed PAP and PID revisions streamline the process of monitoring for CenturyLink while providing for a three-tiered, severity-level payment structure for CLECs impacted in the event that CenturyLink does not meet the terms of the MPAP. The Department has reviewed the modifications to the MPAP and PIDs, served information requests to CenturyLink and participated in calls with participants that negotiated the modifications to obtain clarification on certain changes. While CenturyLink's petition stated that there was "no opposition to the Colorado Settlement," it was not clear if there may have been CLEC concerns with the modifications. CenturyLink was asked through an information request if any CLECs expressed concerns with the modifications, to which CenturyLink responded that "Neither the settling parties nor other CLECs expressed concerns with the modifications or opposed the settlement."¹³ The Department also solicited feedback from one of the CLECs that participated in the Colorado proceeding¹⁴, but did not sign the Settlement Agreement, as to any concerns or objections regarding the modifications. The CLEC confirmed that its decision to not sign the Settlement Agreement was not due to concerns with the modifications.

CenturyLink has provided notice to all Minnesota CLECS that have ICAs containing the MPAP and PIDs via the service list that was provided with its petition. Centurylink also states, in its responses to Department information requests, that it "separately provided electronic notification to all CLECs with ICAs in Minnesota, informing them of the filing and providing access to the petition and documents filed."¹⁵ To the extent that CLECs file comments with objections or concerns in response to the Commission's Notice, the Department will supplement its comments.

¹² The closing date of the merger was 4/1/11. See <http://wholesale.centurylinkapps.com/cnla/announcements/2011/04/01/General/Announcements/Announcing-CenturyLink-and-Qwest-merger-April-1-2011/10471>

¹³ CenturyLink's September 6, 2013 response to the Department's August 27, 2013 Request No. 3.

¹⁴ This CLEC also has an ICA with CenturyLink in the state of Minnesota as CenturyLink points out on page 4, paragraph 13 of its petition.

¹⁵ CenturyLink response to Department IR #2.

C. THE COMMISSION MAY DEEM ALL INTERCONNECTION AGREEMENTS THAT CURRENTLY CONTAIN THE PAP AND PIDS BE MODIFIED TO INCORPORATE THESE REVISIONS, WITHOUT THE NEED FOR FURTHER FILINGS OR APPROVALS

Section 18.7 of the MPAP allows modifications to be incorporated into the agreements between CenturyLink and CLECs if an agreement on adding, modifying or deleting performance measurements is reached between CenturyLink QC and CLECs participating in an industry Regional Oversight Committee (ROC) PID administration forum.

In the instant case, the stipulation was reached as the result of a joint effort between CenturyLink and CLECs participating in a collaborative forum, and as noted above, the Commission has previously approved such modifications applicable to existing ICAs without requiring further filings or approvals.¹⁶

V. COMMISSION ALTERNATIVES

1. Approve the redesigned MPAP and PIDs, and deem all interconnection agreements that currently contain the MPAP and PIDs be modified to incorporate these revisions, without the need for further filings or approvals, effective January 1, 2014.
2. Approve the redesigned MPAP and PIDs and deem all interconnection agreements that currently contain the PAP and PIDs be modified to incorporate these revisions, without the need for further filings or approvals, effective January 1, 2014 with modifications that the Commission deems appropriate.
3. Deny CenturyLink's petition.

VI. RECOMMENDATION

To the extent that no CLEC objects to the CenturyLink petition, the Department recommends that the Commission adopt Alternative 1 and approve the redesigned MPAP and PIDs and deem all interconnection agreements that currently contain the MPAP and PIDs be modified to incorporate these revisions, without the need for further filings or approvals, effective January 1, 2014. If any CLEC files an objection or expresses a concern with the CenturyLink petition, the Department asks that it be permitted to submit further comments.

/ja

¹⁶ In the Matter of Qwest's Performance Assurance Plan, and In the Matter of Qwest's Wholesale Service Quality Standards, Docket Nos. P421/AM-01-1376 and P421/AM-00-849, *Order Approving Stipulation and Establishing a Comments and Reply Comment Period*, February 14, 2008.