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2004 MAR 11 P 2:01  
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Arizona Corporation Commission  
**DOCKETED**  
MAR 11 2004

DOCKETED BY

IN THE MATTER OF QWEST  
CORPORATION'S FILING AMENDED  
RENEWED PRICE REGULATION PLAN.

DOCKET NO. T-01051B-03-0454

IN THE MATTER OF THE  
INVESTIGATION OF THE COST OF  
TELECOMMUNICATIONS ACCESS.

DOCKET NO. T-00000D-00-0672

**QWEST CORPORATION'S  
RESPONSE TO AT&T'S MOTION  
FOR JOINDER**

Qwest Corporation ("Qwest") hereby responds to and opposes the Motion for Joinder of Persons Needed for Just Adjudication filed by AT&T of the Mountain States, Inc. ("AT&T") on February 27, 2004.

It is not necessary to join either Qwest Communications Corporation ("QCC") or Qwest LD Corporation ("QLDC") to achieve a just adjudication in this case. *See* Rule 19, Ariz.R.Civ.P.<sup>1</sup> Under Arizona law, the test for joining a necessary or indispensable party is whether the absent party's interest in the controversy is such that no final judgment or decree could be entered, doing justice between the parties actually before the tribunal and without injuriously affecting the rights of others not brought in the action. *See Town of Gila Bend v. Walled Lake Door Co.*, 107 Ariz. 545, 549, 490 P.2d 551, 555

<sup>1</sup> Similarly, the standard for granting intervention in a Commission docket is to permit only those persons or entities that are directly and substantially affected by the proceedings. Arizona Administrative Code ("A.A.C.") R14-3-105.

1 (1971); *Douglas Investment Company v. C.E. Van Ness*, 105 Ariz. 541, 547, 468 P.2d  
2 568, 574 (1970). *See also, Salt River Valley Water Users' Association v. Giglio*, 113  
3 Ariz. 190, 197-98, 549 P.2d 162, 169-70 (1976). Neither QCC nor QLDC's absence as  
4 *parties* from Qwest's case meets this test.

5       The purpose of this docket is to set just and reasonable rates for Qwest in a manner  
6 that comports with the requirements of the Arizona Constitution. This includes whether  
7 Qwest's current or proposed intrastate access charges meet this requirement (within the  
8 context of its entire case), or whether the Commission should adopt the charges sought by  
9 AT&T or other parties. AT&T has repeatedly asserted that its primary interest in this  
10 docket is to ask the Commission to lower Qwest's intrastate access rates. *See, e.g.,*  
11 Prehearing Conference, Reporter's Transcript of Proceedings at 18-19 (February 23,  
12 2004). To state the obvious, those intrastate access rates are Qwest's, and not QCC's or  
13 QLDC's rates. Consequently, any such rate relief can be accorded among those already  
14 parties, even in the absence of QCC or QLDC. In fact, complete rate relief can only be  
15 obtained from Qwest itself. The Commission can clearly adjust Qwest's intrastate access  
16 rates in a manner it finds to be just and reasonable, and which considers AT&T's  
17 concerns, without adding QCC or QLDC as parties.

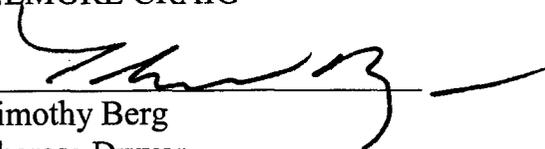
18       Neither Title 40, Ariz.Rev.Stats., the Commission's Affiliated Interest Rules, or  
19 A.A.C. R14-2-103—the Commission's rule defining the filing requirements—support  
20 mandating the involuntary inclusion of the separate corporate affiliates of a public service  
21 corporation in such cases. Qwest, QCC and QLDC are independent and distinct  
22 corporations; in fact, QCC and QLDC are separate affiliates of Qwest as required under  
23 Section 272 of the Telecommunications Act of 1996. As noted by AT&T, QCC and  
24 QLDC hold separate certificates of convenience and necessity as long distance carriers in  
25 Arizona. "The concept of a corporation as a separate entity is a legal fact, not a fiction."  
26 *Deutsche Credit Corp. v. Case Power & Equip. Co.*, 179 Ariz. 155, 160, 876 P.2d 1190,

1 1195 (App. 1995). This docket addresses the rates of Qwest, the entity that entered into  
2 the Price Cap Plan, and not the rates of QCC or QLDC. The intrastate access rates  
3 presently charged by Qwest and information relating to how Qwest implements those  
4 rates may be obtained from Qwest, and will be provided as part of it's A.A.C. R14-2-103  
5 filing. If AT&T wants to challenge the rates charged by QCC and QLDC, it should file a  
6 complaint against those entities (as well as all other carriers charging similar rates)<sup>2</sup>  
7 rather than trying to inject this issue as a means of inappropriately expanding this case.

8 In actual fact, AT&T seeks the joinder of QCC and QLDC simply so that it may  
9 more easily conduct discovery on these entities. This is not an adequate basis for  
10 asserting joinder. AT&T discovery rights and interest are amply protected in this docket  
11 by the means set forth in the Commission's rules for discovery on nonparties.

12 RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of March, 2004.

13 FENNEMORE CRAIG

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<sup>2</sup> If this docket is intended to address whether other carriers are charging intrastate access rates below what AT&T believes their costs to be, then joining only QCC and QLDC will not address this issue and is potentially discriminatory. All other carriers charging similar rates must be joined as well.

1 ORIGINAL and 15 copies hand-delivered for  
filing this 11<sup>th</sup> day of March, 2004 to:

2 Docket Control  
3 ARIZONA CORPORATION COMMISSION  
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5 COPY of the foregoing delivered  
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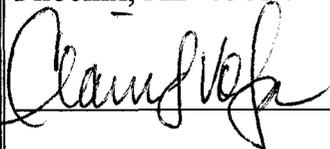
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23 Westport, CT 06880
- 24 Archtel, Inc.  
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6 Citizens Communications Co. of Arizona  
4 Triad Center, Suite 200  
7 Salt Lake City, UT 84180
- 8 Citizens Telecommunications Co. of the White Mountains, Inc.  
4 Triad Center, Ste. 200  
9 Salt Lake City, UT 84180
- 10 Comm South Companies, Inc.  
2909 N. Buckner Blvd., Ste. 200  
11 Dallas, TX 75228
- 12 Copper Valley Telephone, Inc.  
PO Box 970  
13 Willcox, AZ 85644
- 14 Digital Services Corp.  
211 N. Union Street, Ste. 300  
15 Alexandria, VA 22314
- 16 Electric Lightwave, Inc.  
4 Triad Center, Ste. 200  
17 Salt Lake City, UT 84180
- 18 Eschelon Telecom of Arizona, Inc.  
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19 Minneapolis, MN 55402
- 20 Ernest Communications, Inc.  
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21 Norcross, GA 30071
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180 South Clinton  
23 Rochester, NY 14646
- 24 Global Crossing Telemanagement, Inc.  
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- 19 Nextlink Long Distance Svcs.  
20 3930 E. Watkins, Ste. 200  
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22 3802 Rosencrans, Ste. 485  
San Diego, CA 92110
- 23 One Point Communications  
24 Two Conway Park  
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- 1 Opex Communications, Inc.  
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- 2 Elk Grove Village, IL 60007
- 3 Pac-West Telecomm, Inc.  
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- 4 Stockton, CA 95207
- 5 The Phone Company/Network Services of New Hope  
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- 6 New Hope, PA 18938
- 7 Rio Virgin Telephone Co.  
Rio Virgin Telephone and Cablevision
- 8 PO Box 189
- 9 Estacada, OR 97023-000
- 10 Rhythm Links, Inc.  
9100 E. Mineral Circle
- 11 Englewood, CO 80112
- 12 San Carlos Apache Telecommunications Utility, Inc.  
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- 13 245 S. Hill  
Globe, AZ 85502
- 14 Single Billing Services, Inc.  
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- 15 El Monte, CA 91731
- 16 South Central Utah Telephone Association, Inc.  
PO Box 226
- 17 Escalante, UT 84726-000
- 18 Southwestern Telephone Co., Inc.  
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- 19 Madison, WI 53705-0158
- 20 Special Accounts Billing Group  
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- 21 Inverness, IL 60067
- 22 Sprint Communications Company, L.P.  
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- 11 Western CLEC Corporation  
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