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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

2004 MAR 15 A 8:40

DOCKETED

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

AZ CORP COMMISSION  
DOCUMENT CONTROL

MAR 15 2004

DOCKETED BY *AM*

IN THE MATTER OF QWEST CORPORATION'S  
FILING OF 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

PROCEDURAL ORDER

BY THE COMMISSION:

On July 1, 2003, Qwest Corporation ("Qwest") filed the Qwest Renewed Price Regulation Plan in accordance with the provisions of the Second Revised Settlement Agreement approved in Decision No. 63487 on March 30, 2001.

By Procedural Order dated November 17, 2003, the Commission determined that Phase I of the Access Charge Docket, which addresses Qwest's access charges, should be considered in conjunction with the Price Cap Plan Docket.

On February 10, 2004, the Arizona Corporation Commission ("Commission") issued Decision No. 66772 in the Price Cap Plan Docket. In Decision No. 66772, the Commission ordered Qwest to adjust Basket 1 prices based on the Price Cap Index for the third year of the Plan on April 1, 2004; to reduce switched access charges by \$5 million effective April 1, 2004; and to comply with the filing requirements of A.A.C. R14-2-103. The Order directed the Hearing Division to schedule a Procedural Conference for the purpose of setting a procedural schedule.

The Hearing Division convened a Procedural Conference on February 23, 2004, as required under Decision No. 66772. At that time, Qwest proposed a procedural schedule that would require Staff and Intervenors to file direct testimony 60 days after Staff found that Qwest's filing under R14-2-103 was sufficient. Under this initial proposal, Qwest would file rebuttal testimony 30 days later;

1 Staff and Intervenors would file surrebuttal testimony 15 days later; Qwest would file rejoinder  
 2 testimony 17 days later; and the hearing would be held approximately 10 days after that. Based on its  
 3 being able to comply with Staff's request for the information required under R14-2-103 in mid-May  
 4 2004, it was Qwest's goal to have a hearing in the fall of 2004 and a final Decision in late 2004 or  
 5 early 2005.

6 In general, at the February 2004 Procedural Conference, the CLECs in attendance had only  
 7 minor suggested modifications to Qwest's proposed schedule. Staff and RUCO, however, both  
 8 expressed a need for more than 60 days following a sufficiency finding to conduct their analysis and  
 9 prepare testimony. Because Qwest and Staff had not had an opportunity to discuss the scope of the  
 10 R14-2-103 filing, and the parties had not had much time to consider Qwest's proposed schedule, it  
 11 was agreed that another Procedural Conference, after the parties had an opportunity to discuss  
 12 Qwest's filing obligation, would be beneficial.

13 On March 8, 2004, the Hearing Division convened another Procedural Conference to discuss  
 14 scheduling. The parties reported that they had reached agreement for the most part on Qwest's filing  
 15 obligation under R14-2-103, but that they had not been able to agree on a procedural schedule. Staff  
 16 proposed the following schedule:

17	Staff to determine sufficiency	30 days after Qwest filing <sup>1</sup>
18	Staff and Intervenors to file direct testimony	180 days after sufficiency
19	Qwest Rebuttal	210 days after sufficiency
20	Staff and Intervenor Surrebuttal	231 days after sufficiency
21	Qwest Rejoinder	245 days after sufficiency
22	Hearing	252 days after sufficiency

23 Qwest proposed the following:

24	Staff to determine sufficiency	30 days after Qwest filing
25	Staff and Intervenors to file direct testimony	60 days after sufficiency
26	Qwest Rebuttal	90 days after sufficiency

28 <sup>1</sup> The parties believe that Qwest will be able to make its filing under R14-2-103 by the end of May 2004.

1	Staff and Intervenor Surrebuttal	111 days after sufficiency
2	Qwest Rejoinder	118 days after sufficiency
3	Hearing	132 days after sufficiency

4 Staff's schedule is based on the time requirements expressed in R14-2-103. RUCO joined  
5 with Staff's proposed schedule. According to Staff and RUCO, the analysis they must perform in  
6 analyzing the proposed renewed Price Cap Plan is comparable to that of a rate case, and thus, they  
7 require a comparable time to make recommendations. Even though by filing its restated financial  
8 statements in January 2004, Qwest has complied with the stated requirements of the Settlement  
9 Agreement, Staff notes that Qwest has agreed to update the test year to December 31, 2003 for its  
10 R14-2-103 filing. Thus, to date, the parties have not heretofore had access to a significant portion of  
11 the relevant financial information.

12 The CLECs, represented by AT&T and Worldcom, and the Department of Defense, support  
13 Qwest's proposed schedule because they believe the Commission must act more quickly than Staff  
14 proposes with respect to access charge reform. Qwest argued that the Settlement Agreement that  
15 resulted in the Price Cap Plan, and which the Commission approved in Decision No. 63487,  
16 contemplates nine months between Qwest's filing financial information called for under the  
17 Settlement Agreement and a new Price Cap Plan. Qwest was also concerned that under Decision No.  
18 66772, it is required to make additional reductions in access charges on April 1, 2004 and could be  
19 required to further reduce Basket 1 rates if a modified plan is not in place by April 1, 2005.

20 Although we are concerned that Staff and RUCO have sufficient time to conduct a thorough  
21 analysis of Qwest's filing, we believe that under the circumstances of this case, it is important to the  
22 public interest, and not unreasonable, to attempt to conduct a hearing on Qwest's renewed Price Cap  
23 Plan more quickly than Staff proposes. We do not believe that Staff is responsible in any way for the  
24 delay in this matter, but believe that in adopting price cap regulation in 2001, one of the things the  
25 Commission intended was to establish procedures to act on modifications to the regulation plan more  
26 quickly and with greater flexibility than under traditional rate regulation. Our ability to be flexible is  
27 somewhat constrained by the holding in US West v. Ariz. Corp. Comm'n, 201 Ariz. 242, 34 P.2d 351  
28 (2001), which requires a finding of fair value when we approve rates, but we do not believe that

1 holding necessarily requires a full rate case each time we modify the Price Cap Plan. On the other  
 2 hand, Qwest's proposal to give Staff and RUCO only 60 days after a finding of sufficiency to file  
 3 their direct testimony, does not allow adequate time for a thorough analysis. Staff and RUCO usually  
 4 pursue broader issues than the CLECs, and it is not unreasonable that they may require additional  
 5 time to analyze Qwest's filing. Consequently, we adopt the following schedule:

6	Staff to determine sufficiency	30 days after Qwest filing
7	Staff and Intervenors to file direct testimony	120 days after sufficiency
8	Qwest Rebuttal	150 days after sufficiency
9	Staff and Intervenor Surrebuttal	171 days after sufficiency
10	Qwest Rejoinder	185 days after sufficiency
11	Hearing	195 days after sufficiency

12 Consistent with our earlier Procedural Order, we encourage the parties to engage in whatever  
 13 discovery that they believe can be conducted in advance of Qwest's future R14-2-103 filing.

14 IT IS THEREFORE ORDERED that following Qwest's filing of data and direct testimony  
 15 pursuant to R14-2-103, Staff shall have 30 days to determine whether the information is sufficient.  
 16 Upon Staff's determination of sufficiency, the Hearing Division will issue a Procedural Order that  
 17 will set a hearing date and pre-filed testimony deadlines consistent with the timeline adopted above,  
 18 as well as the form of notice Qwest shall provide regarding the hearing in this matter.

19 IT IS FURTHER ORDERED that parties to the Access Charge Docket, who have not  
 20 intervened in the Renewed Price Cap Plan Docket, and who wish to remain on the distribution list for  
 21 Phase 1 of the Access Charge proceeding, which specifically addresses Qwest's access charges, shall  
 22 file a request to remain on the distribution list. A party's failure to file such request will result in that  
 23 party not receiving future filings in the combined Price Cap Plan/ Access Charge Phase I dockets.

24 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
 25 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

26 DATED this 15 day of March, 2004.

27   
 28 JANE L. RODDA  
 ADMINISTRATIVE LAW JUDGE

1  
2 Copy of the foregoing mailed/delivered  
this 15 day of March, 2004, to:

3 TIMOTHY BERG  
4 TERESA DWYER  
5 DARCY RENFRO  
6 FENNEMORE CRAIG, P.C.  
7 3003 NORTH CENTRAL AVE., SUITE 2600  
8 PHOENIX, ARIZONA 85012-2913  
9 ATTORNEYS FOR QWEST CORPORATION

10 TODD LUNDY  
11 QWEST LAW DEPARTMENT  
12 1801 CALIFORNIA STREET  
13 DENVER, COLORADO 80202

14 SCOTT S. WAKEFIELD, CHIEF COUNSEL  
15 RUCO  
16 1110 WEST WASHINGTON, SUITE 220  
17 PHOENIX, ARIZONA 85007

18 RICHARD S. WOLTERS  
19 AT&T LAW DEPARTMENT  
20 1875 LAWRENCE STREET, SUITE 1503  
21 DENVER, CO 80202

22 JOAN S. BURKE  
23 OSBORN MALEDON, P.A.  
24 2929 NORTH CENTRAL AVENUE, SUITE 2100  
25 PHOENIX, ARIZONA 85012-2794  
26 ATTORNEYS FOR AT&T

27 THOMAS F. DIXON  
28 WORLDCOM, INC.  
606 17<sup>TH</sup> STREET, 39<sup>TH</sup> FLOOR  
DENVER, COLORADO 80202

THOMAS H. CAMPBELL  
MICHAEL T. HALLAM  
LEWIS AND ROCA  
40 N. CENTRAL AVENUE  
PHOENIX, ARIZONA 85004  
ATTORNEYS FOR WORLDCOM, INC.

MICHAEL W. PATTEN  
ROSHKA HEYMAN & DEWULF PLC  
400 EAST VAN BUREN STREET, SUITE 800  
PHOENIX, ARIZONA 85004

MARK A. DINUNZIO  
COX ARIZONA TELCOM, LLC  
20401 NORTH 29<sup>TH</sup> AVENUE  
PHOENIX, ARIZONA 85027

PETER Q. NYCE JR.  
REGULATORY LAW OFFICE  
U.S. ARMY LITIGATION CENTER  
901 N. STUART STREET, SUITE 713  
ARLINGTON, VA 22203-1644

RICHARD LEE  
SNAVELY KING MAJOORS O'CONNOR & LEE,  
INC.  
1220 L STREET N.W., SUITE 410  
WASHINGTON, DC 20005

JON POSTON  
ACTS  
6733 EAST DALE LANE  
CAVE CREEK, AZ 85331

DEBORAH R. SCOTT  
ASSOCIATE GENERAL COUNSEL  
CITIZENS COMMUNICATIONS COMPANY  
2901 NORTH CENTRAL AVENUE, STE. 1660  
PHOENIX, AZ 85012

STEVEN W. CHEIFETZ  
ROBERT J. METLI  
CHEIFETZ & IANNITELLI, P.C.  
3238 NORTH 16<sup>TH</sup> STREET  
PHOENIX, AZ 85016

MARY B. TRIBBY  
RICHARD S. WOLTERS  
1875 LAWRENCE STREET, STE. 1575  
DENVER, CO 80202  
ATTORNEYS FOR AT&T COMMUNICATIONS

ACCIPITER COMMUNICATIONS INCORPORATED  
2238 WEST LONE CACTUS DR., SUITE 100  
PHOENIX, AZ 85027

ARIZONA TELEPHONE COMPANY  
PO BOX 5158  
MADISON, WI 53705-0158

CENTURYTEL OF THE SOUTHWEST, INC.  
CENTURYTEL  
P O BOX 4065  
MONROE LA 71211-4065

CURT HUTTSELL  
CITIZENS COMMUNICATIONS COMPANY OF  
ARIZONA  
4 TRIAD CENTER, SUITE 200  
SALT LAKE CITY, UT 84180

1 COPPER VALLEY TELEPHONE, INC.  
 PO BOX 970  
 2 WILLCOX AZ 85644-0000

3 MIDVALE TELEPHONE EXCHANGE  
 PO BOX 7  
 4 MIDVALE ID 83645-0000

5 NAVAJO COMMUNICATIONS COMPANY, INC.  
 4 TRIAD CENTER, SUITE 200  
 6 SALT LAKE CITY, UT 84180

7 QWEST CORPORATION  
 3033 N 3RD STREET ROOM 1010  
 8 PHOENIX AZ 85012

9 RIO VIRGIN TELEPHONE COMPANY  
 RIO VIRGIN TELEPHONE & CABLEVISION  
 PO BOX 189  
 10 ESTACADA, OR 97023-0000

11 SOUTH CENTRAL UTAH TELEPHONE  
 ASSOCIATION, INC.  
 PO BOX 226  
 12 ESCALANTE UT 84726-0000

13 SOUTHWESTERN TELEPHONE CO, INC.  
 PO BOX 5158  
 14 MADISON, WI 53705-0158

15 TABLE TOP TELEPHONE COMPANY, INC.  
 600 N SECOND AVENUE  
 16 AJO, AZ 85321-0000

17 VALLEY TELEPHONE COOPERATIVE INC.  
 752 E MALLEY STREET P O BOX 970  
 18 WILLCOX AZ 85644

19 VERIZON CALIFORNIA INC.  
 ONE VERIZON WAY - CA500GCF  
 20 THOUSAND OAKS CA 91362-3811

21 GREGORY HOFFMAN  
 AT&T COMMUNICATIONS OF THE MOUNTAIN  
 22 STATES, INC.  
 795 FOLSOM STREET, ROOM 2159  
 23 SAN FRANCISCO, CA 94107-1243

24 BROOKS FIBER COMMUNICATIONS OF  
 TUCSON, INC.  
 25 201 SPEAR STREET 9TH FLOOR  
 SAN FRANCISCO CA 94105-

26 COMM SOUTH COMPANIES INC.  
 27 2909 N. BUCKNER BLVD., STE. 800  
 DALLAS TX 75228-0000

28

ELECTRIC LIGHTWAVE, INC.  
 4 TRIAD CENTER, STE. 200  
 SALT LAKE CITY UT 84180-

ESCHELON TELECOM OF ARIZONA, INC.  
 730 SECOND AVENUE SOUTH SUITE 1200  
 MINNEAPOLIS MN 55402-0000

GLOBAL CROSSING TELEMAGEMENT, INC.  
 180 SOUTH CLINTON  
 ROCHESTER NY 14646-0000

INTERMEDIA COMMUNICATIONS INC  
 3608 QUEEN PALM DRIVE  
 TAMPA, FL 33619-1311

LEVEL 3 COMMUNICATIONS, LLC  
 1025 ELDORADO BLVD.  
 BROOMFIELD CO 80021-

MAX-TEL COMMUNICATIONS, INC.  
 105 N. WICKHAM, P. O. BOX 280  
 ALVORD TX 76225-0000

MCIMETRO  
 201 SPEAR STREET 9TH FLOOR  
 SAN FRANCISCO CA 94105

METROPOLITAN FIBER SYSTEMS OF ARIZONA,  
 INC.  
 201 SPEAR STREET 9TH FLOOR  
 SAN FRANCISCO CA 94105

NORTH COUNTY COMMUNICATIONS  
 CORPORATION  
 3802 ROSENCRANS, SUITE 485  
 SAN DIEGO CA 92110-0000

ONEPOINT COMMUNICATIONS  
 TWO CONWAY PARK, 150 FIELD DR., STE. 300  
 LAKE FOREST IL 60045-0000

RCN TELECOM SERVICES, INC.  
 105 CARNEGIE CENTER  
 PRINCETON NJ 08540-0000

REFLEX COMMUNICATIONS, INC.  
 1601 5TH AVENUE, STE. 710  
 SEATTLE WA 98101

RHYTHM LINKS, INC.  
 9100 E. MINERAL CIRCLE  
 ENGLEWOOD CO 80112-0000

SPRINT COMMUNICATIONS COMPANY L. P.  
 6860 W. 115TH, MS:KSOPKD0105  
 OVERLAND PARK KS 66211-

1 THE PHONE COMPANY/NETWORK SERVICES OF  
NEW HOPE  
6805 ROUTE 202  
2 NEW HOPE PA 18938-0000

3 VERIZON SELECT SERVICES, INC.  
6665 N MACARTHUR BLVD, HQK02D84  
4 IRVING TX 75039-0000

5 OXO ARIZONA, INC.  
3930 E. WATKINS STE 200  
6 PHOENIX AZ 85034-

7 ALLIANCE GROUP SERVICES, INC.  
1221 POST ROAD EAST  
8 WESTPORT CT 06880-0000

9 ARCHTEL, INC.  
1800 WEST PARK DRIVE SUITE 250  
10 WESTBOROUGH MA 01581-0000

11 ERNEST COMMUNICATIONS, INC.  
6475 JIMMY CARTER BLVD SUITE 300  
12 NORCROSS GA 30071-0000

13 GLOBAL CROSSING TELECOMMUNICATIONS,  
INC.  
180 SOUTH CLINTON AVENUE  
14 ROCHESTER NY 14646-0000

15 MCI WORLDCOM NETWORK SERVICES, INC.  
16 201 SPEAR STREET, 9TH FLOOR  
SAN FRANCISCO CA 94105

17 NEXTLINK LONG DISTANCE SERVICES, INC.  
18 3930 E. WATKINS SUITE 200  
PHOENIX AZ 85034

19 NORTH COUNTY COMMUNICATIONS  
CORPORATION  
20 3802 ROSENCRANS SUITE 485  
SAN DIEGO CA 92110-0000

21 ONE POINT COMMUNICATIONS  
22 TWO CONWAY PARK SUITE 300  
LAKE FOREST IL 60045

23 OPEX COMMUNICATIONS, INC.  
24 500 EAST HIGGINS ROAD STE 200  
ELK GROVE VILLAGE IL 60007-0000

25 PAC-WEST TELECOMM, INC.  
26 1776 W. MARCH LANE #250  
STOCKTON CA 95207

QWEST COMMUNICATIONS CORPORATION  
555 17TH STREET  
DENVER CO 80202-0000

SPECIAL ACCOUNTS BILLING GROUP, INC.  
1523 WITHORN LANE  
INVERNESS IL 60067-0000

TOUCH AMERICA  
130 N. MAIN STREET  
BUTTE MT 59701

VYVX, LLC  
ONE WILLIAMS CENTER, MD 29-1  
TULSA OK 74172

WESTERN CLEC CORPORATION  
3650 131ST AVE SE SUITE 400  
BELLEVUE WA 98006-0000

WILLIAMS LOCAL NETWORK, INC.  
ONE WILLIAMS CENTER, MD 29-1  
TULSA OK 74172

DARREN WEINGARD  
SPRINT COMMUNICATIONS  
1850 GATEWAY DR, 7TH FLOOR  
SAN MATEO CALIFORNIA 94404

CITIZENS TELECOMMUNICATIONS OF TUCSON,  
INC.  
201 SPEAR STREET, 9<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94105

CITIZENS COMMUNICATIONS CO. OF THE  
WHITE MTS.  
4 TRIAD CENTER, STE. 200  
SALT LAKE CITY, UT 84180

BRIAN THOMAS  
TIME WARNER TELECOM  
520 SW 6<sup>TH</sup> AVENUE, STE. 300  
PORTLAND, OR 97204

ERIC HEATH  
SPRINT  
100 SPEAR STREET, STE. 930  
SAN FRANCISCO, CA 94105

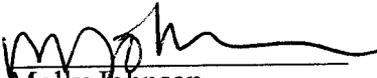
STEVEN J. DUFFY  
ISAACSON & DUFFY  
3101 N. CENTRAL AVENUE, STE. 740  
PHOENIX, AZ 85012

1 ERNEST G. JOHNSON, DIRECTOR  
2 UTILITIES DIVISION  
3 ARIZONA CORPORATION COMMISSION  
4 1200 WEST WASHINGTON STREET  
5 PHOENIX, AZ 85007

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
CHRISTOPHER KEMPLEY, CHIEF COUNSEL  
ARIZONA CORPORATION COMMISSION  
LEGAL DIVISION  
1200 WEST WASHINGTON  
PHOENIX, AZ 85007

ARIZONA REPORTING SERVICE, INC  
2627 N. THIRD STREET, SUITE THREE  
PHOENIX, ARIZONA 85004-1103

By:

  
Molly Johnson  
Secretary to Jane Rodda