

Joan S. Burke
Osborn Maledon, P.A.
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012-2794
(602) 640-9356
jsburke@omlaw.com



Mitchell H. Menezes
Senior Attorney

Room 15-21
1875 Lawrence Street
Denver, CO 80202
303 298-6493
FAX 303 298-6488
mmenezes@att.com

February 20, 2004

VIA CERTIFIED MAIL

Timothy Berg
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, AZ 85012-2913

Re: AT&T's and TCG's Elections of Qwest's Arizona Performance Assurance Plan

Dear Mr. Berg:

I received your letter dated February 13, 2004. In your letter you assert that a CLEC must file an opt-in request with the Arizona Corporation Commission, "presumably" in the docket the Commission opened for that purpose. However, the citation to Section 13.2 of the PAP referenced in your letter does not require this. In fact, by your use of the word "presumably" even Qwest is uncertain about the proper process by which an adoption is to be made.

The PAP simply requires that a CLEC file "written notice of its intent" to opt into the PAP. AT&T and TCG have made their adoptions known to Qwest and the Commission by the terms of my letter dated January 29, 2004. Qwest and the Commission, therefore, have actual notice of this adoption. Your letter acknowledges this. Qwest's decision to require AT&T and TCG to follow a process "presumed" to be correct by Qwest, but which has not been made clear to the CLECs, is certainly beneficial to Qwest, in that it would allow Qwest to delay its payment obligations under the PAP. However, it defies the purpose of the PAP – to establish a means to measure Qwest's performance and to assess a payment obligation on Qwest for failing to meet those measures in order to motivate Qwest to perform to some minimum standard.

While we do not agree that AT&T's and TCG's adoptions need to be filed in any docket, out of an abundance of caution, AT&T has filed my January 29, 2004, letter with the Arizona Corporation Commission in Docket No. T-01051B-03-0859. You were served with a copy.

Sincerely,

Mitchell H. Menezes
Mitchell H. Menezes

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$.37
Certified Fee		2.30
Return Receipt Fee (Endorsement Required)		1.75
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	4.42

Postmark Here
2-20-04

Sent To
Timothy Berg, Fenwick Craig
Street, Apt. No.,
or PO Box No. 3003 Corp Central Ave, #2000
City, State, ZIP+4
Phoenix, AZ 85012-2913

PS Form 3800, January 2001
See Reverse for Instructions

7002 0460 0002 8065 4271
5990 2000 0460 2001

CERTIFICATE OF SERVICE
(Docket No. T-01051B-03-0859)

I certify that the original and thirteen copies of AT&T Communications of the Mountain States, Inc. and TCG Phoenix's Notice of Response to Qwest's Response to AT&T's Request to Opt into Qwest's Arizona Performance Assurance Plan were sent by overnight delivery on February 27, 2004 to:

Arizona Corporation Commission
Docket Control – Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

and a true and correct copy was sent by overnight delivery on February 27, 2004 to:

Christopher Kempley, Chief Counsel
Arizona Corporation Commission
Legal Division
1200 West Washington
Phoenix, AZ 85007

Maureen Scott
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Lyn Farmer, Chief Administrative Law
Judge
Jane Rodda, Administrative Law Judge
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

and a true and correct copy was sent by U.S. Mail, postage prepaid, on February 27, 2004 to:

Eric S. Heath
Sprint Communications Company L.P.
100 Spear Street, Ste. 930
San Francisco, CA 94105

QWEST Corporation
1801 California Street, #5100
Denver, Colorado 80202

Joan Burke
Osborn Maledon
2929 North Central Avenue, 21st Floor
P.O. Box 36379
Phoenix, AZ 85012-2794

Maureen Arnold
U S WEST Communications, Inc.
3033 N. Third Street, Room 1010
Phoenix, Arizona 85012

Philip A. Doherty
545 S. Prospect St., Suite 22
Burlington, VT 05401

Timothy Berg
FENNEMORE CRAIG
3003 N. Central Ave., Suite 2600
Phoenix, Arizona 85016

Thomas F. Dixon
MCI TELECOMMUNICATIONS CORP
707 17th Street, #3900
Denver, Colorado 80202

Michael M. Grant
GALLAGHER AND KENNEDY
2575 East Camelback Road
Phoenix, Arizona 85016-9225

Mark DiNuzio
Cox Arizona Telcom, L.L.C.
20401 N. 29th Avenue, Suite 100
Phoenix, Arizona 85027

Mike Allentoff
Global Crossing Services, Inc.
1080 Pittsford Victor Road
Pittsford, NY 14534

Curt Huttsell
Electric Lightwave, Inc.
4 Triad Center, Suite 200
Salt Lake City, UT 84111

Gary L. Lane
6902 East 1st Street, Suite 201
Scottsdale, AZ 85251

Thomas H. Campbell
LEWIS & ROCA
40 N. Central Avenue
Phoenix, Arizona 85007

Kevin Chapman
Director-Regulatory Relations
SBC Telecom, Inc.
1010 N. St. Mary's, Rm. 13K
San Antonio, Texas 78215-2109

Scott S. Wakefield, Chief Counsel
Dan Pozefsky
RUCO
1110 W. Washington, Suite 220
Phoenix, Arizona 85007

Andrew O. Isar
TRI
4312 92nd Avenue, N.W.
Gig Harbor, Washington 98335

W. Hagood Bellinger
4969 Village Terrace Dr.
Dunwoody, GA 30338

Michael W. Patten
Raymond S. Heyman
ROSHKA HEYMAN & DEWULF
400 E. Van Buren, Suite 800
Phoenix, Arizona 85004

Thomas L. Mumaw
Jeffrey W. Crockett
SNELL & WILMER
One Arizona Center
Phoenix, Arizona 85004-0001

Joyce Hundley
UNITED STATES DEPARTMENT OF
JUSTICE
Antitrust Division
1401 H Street NW, Suite 8000
Washington, DC 20530

Traci Grundon
DAVIS WRIGHT TREMAINE LLP
1300 S.W. Fifth Avenue, Suite 2300
Portland, Oregon 97201

Daniel Waggoner
DAVIS WRIGHT TREMAINE
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

Michael Morris
Allegiance Telecom of Arizona, Inc.
505 Sansome Street, 20th Floor
San Francisco, CA 94111

Brian Thomas
Vice President – West
Time Warner Telecom, Inc.
223 Taylor Avenue North
Seattle, WA 98109

Diane Bacon, Legislative Director
COMMUNICATIONS WORKERS OF
AMERICA
5818 North 7th Street, Suite 206
Phoenix, Arizona 85014-5811

Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Karen Clauson
Eschelon Telecom Inc.
730 N. 2nd Ave. S., Suite 1200
Minneapolis, MN 55402

Tobin Rosen
Principal Assistant City Attorney
Office of the Tucson City Attorney
255 W. Alameda-Seventh Floor West
Tucson, AZ 85701

Richard Sampson
Z-Tel Communications, Inc.
601 S. Harbour Island, Suite 220
Tampa, FL 33602

Richard P. Kolb
Vice President of Regulatory Affairs
One Point Communications
Two Conway Park
150 Field Drive, Suite 300
Lake Forest, IL 60045

Megan Doberneck
COVAD COMMUNICATIONS CO
7901 Lowry Blvd.
Denver, CO 80230

Steven J. Duffy
Ridge & Isaacson, P.C.
3101 North Central Ave., Suite 1090
Phoenix, AZ 85012

David Kaufman
Espire Communications
1129 Paseo De Peralta
Santa Fe, NM 87501

Mitchell Brecher
Greenberg, Traurig, LLP
800 Connecticut Ave., NW
Washington, DC 20006


