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Richard S. Wolton
Senior Attorney

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AZ CORP COMMISSION
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Suite 1575
1875 Lawrence Street
Denver, CO 80202
303 298-6741
FAX 303 298-6301

June 28, 2004

Chairman Marc Spitzer
Commissioner William A. Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason
Commissioner Kristin K. Mayes

Re: Scope of Docket No. T-01051B-03-0454
Qwest Amended Price Cap Plan

Arizona Corporation Commission
DOCKETED

JUN 29 2004

Dear Chairman Spitzer and Commissioners:

DOCKETED BY

On June 8, 2004, Mr. Christopher C. Kempley, Chief Counsel, Legal Division, sent a letter to the Commissioners explaining why the price cap renewal proceeding "should and must be conducted in the manner of a full rate proceeding." Mr. Timothy Berg, on behalf of Qwest Corporation, on June 22, 2004, provided a lengthy rebuttal. AT&T believes Staff's arguments have merit. However, AT&T is concerned that Staff's proposal if adhered to strictly may be too restrictive and fail to permit some flexibility where appropriate. Qwest's response, on the other hand, tends to ignore realities.

One of the purposes of the present proceeding is to review Qwest's current price cap plan and determine if it should be renewed in its present form or adopted with modifications. Another purpose is to determine the reasonableness of Qwest's rates for switched access. In addition, the Commission will be asked to determine whether Qwest's rates for long distance services exceed the price floor established by Commission rules. AT&T believes that the focus should be on whether the Commission has the information available to it to make informed decisions on *all* these issues.

Qwest made a filing that it believed complies with R14-2-103. Staff recently notified Qwest that the filing was sufficient, conditioned on Qwest updating the filing based on discussions with Staff. Qwest has also filed its direct



testimony. At this point, the parties are free to conduct discovery and prepare their cases.

AT&T is concerned that Staff's position may unnecessarily require strict compliance with its notions of a "full rate proceeding". Staff may insist that certain things must be done by Qwest that do not materially affect the issues to be decided by the Commission. AT&T is also concerned that arguments over compliance, and actual compliance, with traditional rate case principles will prolong resolution of the proceeding without any corresponding benefits.

On a very basic level, Qwest appears to simply be asking for some flexibility. A little flexibility may be warranted. AT&T believes that the Administrative Law Judge will be required to balance the requests of the parties for information from Qwest to make their cases and the objections from Qwest that the information sought by the parties is not relevant to the issues in the proceeding. The Administrative Law Judges are more than capable of making these decisions, do so regularly, and should be given the flexibility to weigh all factors in making their decisions.

However, this is not to say that AT&T does not believe a traditional rate case analysis is unnecessary. Qwest claims it has a revenue deficiency of \$322 million after imputing \$72 million in directory revenues. It also claims it is not asking for this additional revenue if it gets what it wants. Qwest cannot throw out such a large number and not expect someone to take a look at the reliability and reasonableness of the number, especially since there is an implicit, and possibly an explicit, warning that if Qwest does not get what it wants it will simply ask for the \$322 million rate increase. It only makes sense for Staff to thoroughly test the reliability and reasonableness of this number.

As noted by Staff, *Scates* is still the law. *US WEST* did not change *Scates* with respect to monopoly services, although it may have provided the Commission some flexibility with respect to competitive services. However, in light of *USTA II* and Qwest's notice to AT&T invoking the change of law provisions in its interconnection agreements, there is some question whether the services Qwest provides are truly competitive. This may affect the scope of the application of *Scates*.

Qwest is attempting to renew its price cap plan, with modifications. It is not asking for a rate increase in the traditional sense and believes a traditional rate



case is not necessary. To the extent Qwest seeks some flexibility, AT&T sees some merit in this. AT&T sees the merits in Staff's arguments also; and, because of the nature and importance of the proceeding, Staff must be given some deference in the scope of its investigation and preparation of its case. AT&T, however, must point out that the case is also about switched access and the price floor for Qwest intraLATA and interLATA toll services. These issues are every bit as important as the renewal of Qwest's price cap plan. To the extent that a traditional rate case analysis, in whole or in part, is necessary to address these issues, Qwest will have to do the analysis to provide the Commission with a basis to render its decision. Fundamentally, what is most important is that the Commission have the information necessary to render its decision on all the issues placed before it. If one goes to the heart of Mr. Kempley's letter, this is what Staff is essentially arguing.

Sincerely,

A handwritten signature in cursive script, which appears to read "Richard S. Wolters", is written over a horizontal line.

Richard S. Wolters

cc: Parties of Record

CERTIFICATE OF SERVICE
(Docket No. T-01051B-03-0454)

I certify that an original and thirteen copies of a letter from Richard S. Wolters to Chairman Spitzer and the other Commissioners were sent by overnight delivery on June 28, 2004 to:

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

and originals of the letter were sent by overnight delivery on June 28, 2004 to:

Chairman Marc Spitzer
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Commissioner William A. Mundell
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Commissioner Jeff Hatch-Miller
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Commissioner Mike Gleason
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Commissioner Kristin K. Mayes
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

and a true and correct copy was sent by overnight delivery on June 28, 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

Judge Jane Rodda
Arizona Corporation Commission
400 W. Congress
Tucson, Arizona 85701

and a true and correct copy was sent by U.S. Mail, postage prepaid, on June 28, 2004 to:

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

Scott S. Wakefield
RUCO
1110 West Washington St., Suite 220
Phoenix, AZ 85007

Thomas F. Dixon
WorldCom, Inc.
707 17th Street, 39th Floor
Denver, CO 80202

Michael W. Patten
Roshka, Heyman & Dewulf, PLC
400 East Van Buren St., Suite 800
Phoenix, AZ 85004

Peter Q. Nyce Jr.
Regulatory Law Office
U.S. Army Litigation Center
901 N. Stuart St., Suite 713
Arlington, VA 22203-1644

Todd Lundy
Qwest Corporation
1801 California Street
Denver, CO 80202

Joan S. Burke
Osborn, Maledon, P.A.
2929 North Central Ave., Suite 2100
Phoenix, AZ 85012

Thomas H. Campbell
Michael T. Hallam
Lewis and Roca
40 N. Central Ave.
Phoenix, AZ 85004

Mark A. DiNunzio
Cox Arizona Telecom, LLC
20401 North 29th Ave.
Phoenix, AZ 85027

Richard Lee
Snavely, King, Majoros, O'Connor &
Lee, Inc.
1220 L Street N.W., Suite 410
Washington, DC 20005


