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CORPORATION COMMISSION

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AZ CORP COMMISSION  
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1  
2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER  
5

6 UTILITIES DIVISION STAFF,  
Complainant,  
7

8 vs.

9 LIVEWIRENET OF ARIZONA, LLC; THE PHONE  
COMPANY MANAGEMENT GROUP, LLC; THE  
10 PHONE COMPANY OF ARIZONA JOINT  
VENTURE dba THE PHONE COMPANY OF  
11 ARIZONA; ON SYSTEMS TECHNOLOGY, LLC,  
and its principles, TIM WETHERALD, FRANK  
12 TRICAMO AND DAVID STAFFORD; THE  
PHONE COMPANY OF ARIZONA, LLP and its  
13 members,

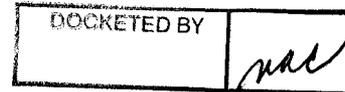
14 Respondents.

DOCKET NO. T-03889A-02-0796  
T-04125A-02-0796

Arizona Corporation Commission

**DOCKETED**

JAN 30 2003



**PROCEDURAL ORDER**

15 **BY THE COMMISSION:**

16 On October 18, 2002, the Arizona Corporation Commission ("Commission") Utilities  
17 Division ("Staff") filed a complaint and petition for relief against LiveWirenet of Arizona, LLC and  
18 The Phone Company Management Group, LLC d/b/a The Phone Company of Arizona Joint Ventures  
19 dba The Phone Company of Arizona, On Systems Technology, LLC, and its principles, Tim  
20 Wetherald, Frank Tricamo, David Stafford Johnson, and The Phone Company of Arizona, LLC and  
21 its members (collectively "Respondents").

22 On December 6, 2002, the Commission issued a Procedural Order that set this matter for a  
23 pre-hearing on January 7, 2003.

24 On January 7, 2003, the pre-hearing was held as scheduled. Staff appeared and was  
25 represented by counsel. Qwest appeared and was represented by counsel. The Phone Company of  
26 Arizona, LLP, appeared and was represented by counsel. The remaining Respondents appeared and  
27 were represented by counsel. At the pre-hearing, Staff requested that, because of the potential harm  
28 to approximately 6,500 Arizona customers, the Commission should process this Complaint on an

1 expedited basis. Staff requested that the hearing take place within 30 days of the pre-hearing. Qwest  
2 concurred with Staff's request and stated that for financial reasons, primarily that the Respondents  
3 owe Qwest a significant amount of money, Qwest would prefer an expedited hearing. The Phone  
4 Company of Arizona, LLP also concurred with Staff. The remaining Respondents, however,  
5 indicated that they would need time to complete discovery and they requested that the hearing not be  
6 set until at least 60 days from the date of the pre-hearing.

7 Based upon the statements of the parties at the pre-hearing, the Administrative Law Judge  
8 stated that the matter would be scheduled for hearing on February 4, 2003.

9 On January 13, 2003, the Commission issued a Procedural Order that, among other things, set  
10 this matter for hearing on February 4, 2003.

11 On January 21, 2003, pursuant to Rule 33(c) and (d) of the Rules of the Supreme Court,  
12 Michael L. Glaser, on behalf of LiveWirenet of Arizona, LLC, Phone Company Management Group,  
13 LLC, On Systems Technology, LLC and its Principles, Tim Wetherald, Frank Tricamo and David  
14 Stafford, filed a Motion and Consent of Local Counsel for *Pro Hac Vice* admission in the above-  
15 captioned matters. The Consent listed Marty Harper as the designated member of the State Bar with  
16 whom communication could be made and upon whom papers shall be served. In the discretion of the  
17 Commission, Michael L. Glaser should be permitted to appear and participate in the above-captioned  
18 matters.

19 On January 23, 2003, Staff filed a Motion requesting a one-month extension of time to  
20 complete discovery and to file and exchange witness lists and exhibits. Inherent in that request is a  
21 motion to also continue the hearing in this matter. Staff stated that the continuance was necessary  
22 because the information it had received from the Respondents through Staff's various data requests  
23 was voluminous and Staff needed extra time to prepare for a hearing.

24 On January 24, 2003, Qwest filed a Motion opposing Staff's request for an extension of time.  
25 Qwest stated that a one month extension of time will prejudice Qwest's efforts to complete collection  
26 of the unpaid charges that Respondents owe Qwest.

27 On January 24, 2003, counsel for The Phone Company of Arizona, LLP contacted the  
28 Hearing Division and stated it also opposed the extension of time.

1 On January 24, 2003, the remaining Respondents filed a motion that concurred with Staff's  
2 request for a continuance of one month.

3 Based upon the volume of discovery in this case, Staff's request to continue this matter shall  
4 be granted. However, in balancing the interest of all the parties, an extension of 30 days will not be  
5 granted.

6 IT IS THEREFORE ORDERED that the hearing set for February 4, 2003 shall be vacated and  
7 re-set for **February 24, 2003 at 9:00 a.m.** at the Commission's offices, 1200 West Washington  
8 Street, Phoenix, Arizona.

9 IT IS FURTHER ORDERED that all witness lists and exhibits shall be filed with Docket  
10 Control and exchanged between all parties no later than February 14, 2003 with a copy of each set to  
11 the presiding Administrative Law Judge.

12 IT IS FURTHER ORDERED that Michael L. Glaser shall be admitted *Pro Hac Vice* in the  
13 above captioned matters. His address for service of papers and other communication shall be:

14 Michael L. Glaser  
15 1050 17<sup>th</sup> Street, Ste. 2300  
16 Denver, CO 80202

17 IT IS FURTHER ORDERED that pursuant to Rule 33(d), the address for service of papers  
18 and other communications for the Arizona-licensed attorney designated as Marty Harper shall be:

19 Marty Harper  
20 Shughart Thomson & Kilroy, P.C.  
21 3636 North Central Avenue, Ste. 1200  
22 Phoenix, AZ 85012

23 IT IS FURTHER ORDERED that if Mark Brown is going to represent Qwest in this matter,  
24 Qwest shall file a Motion and Consent of Mr. Brown for *Pro Hac Vice* admission on or before  
25 February 7, 2003.

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1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
2 Communications) applies to this proceeding as the matter is now set for public hearing.

3 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter  
4 amend or waive any portion of this Procedural Order with by subsequent Procedural Order or by  
5 ruling at the hearing.

6 Dated this 30 date of January, 2003.

7  
8 

9 PHILIP J. DION III  
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered  
12 this 30 day of January, 2003 to:

12 Timothy Berg  
13 FENNEMORE CRAIG  
14 3003 N. Central Avenue, Ste. 2600  
15 Phoenix, AZ 85003

15 Jeffrey W. Crockett  
16 SNELL & WILMER, L.L.P.  
17 One Arizona Center  
18 400 E. Van Buren  
19 Phoenix, AZ 85004

18 Marty Harper  
19 Kelly J. Flood  
20 Shughart Thomson Kilroy Goodwin Raup  
21 3636 N. Central Avenue, Ste. 1200  
22 Phoenix, AZ 85012

21 Mark Brown  
22 Qwest Corporation  
23 3033 N. 3<sup>rd</sup> Street, Ste. 1009  
24 Phoenix, AZ 85012

23 David Stafford Johnson  
24 740 Gilpin Street  
25 Denver, CO 80218

25 Michael L. Glaser  
26 1050 17<sup>th</sup> Street, Ste. 2300  
27 Denver, CO 80202

28 ...

1 Christopher Kempley, Chief Counsel  
Legal Division  
2 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
3 Phoenix, AZ 85007

4 Ernest Johnson, Director  
Utilities Division  
5 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
6 Phoenix, AZ 85007

7 ARIZONA REPORTING SERVICE, INC.  
2627 N. Third Street, Suite Three  
8 Phoenix, Arizona 85004-1104

9  
10 By:   
Molly Johnson  
Secretary to Philip J. Dion III

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