

ORIGINAL 3010



BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
WILILAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
Commissioner

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AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED
OCT - 7 2004

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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

**COMMISSION STAFF'S REQUEST FOR EXTENSION OF TIME TO FILE
DIRECT TESTIMONY BASED UPON NONCOMPLIANCE BY QWEST
CORPORATION WITH THE COMMISSION'S SEPTEMBER 29, 2004
PROCEDURAL ORDER**

I. INTRODUCTION

On September 17, 2004, the Arizona Corporation Commission ("Commission" or "ACC") Staff filed a Motion to Compel Qwest Corporation ("Qwest") to respond to all outstanding and overdue Staff data requests. Attached to Staff's Motion was a list of over 100 data requests to which Qwest's responses remained outstanding and overdue up to a month in some cases. Qwest filed a Response to Staff's Motion to Compel on September 24, 2004, and at the same time filed a Cross-Motion for the imposition of discovery limits on Staff. In its Response, Qwest stated that it believed it could provide Staff with all of its outstanding responses by October 1, 2004.

On September 29, 2004, the Commission issued a Procedural Order which ordered Qwest to submit its overdue responses to all Staff's outstanding data requests by October 1, 2004. Staff and its

1 Consultants reviewed the overdue responses provided by Qwest on October 1, 2004 and the
2 Separations Study provided by Qwest on October 4, 2004. Based upon this review, Staff and its
3 Consultants identified both questions that had not yet been answered and attachments that were
4 missing.

5 On October 5, 2004, Staff sent Qwest a letter identifying both the questions that had not been
6 answered and the attachments that were missing. (Exhibit A attached). Staff sent Qwest a clarifying
7 letter on October 6, 2004 with respect to WDA 4-27 and WDA 10-011, and the outstanding
8 information requested by WDA 10-011, that has not yet been provided. (Exhibit B attached). In its
9 October 5, 2004 letter the Staff stated “[g]iven this failure by Qwest to provide the information
10 requested at all or in other instances in a timely manner, and the fact that Staff just received the
11 Company’s Year 2000 Separations Study, the Staff and its Consultants still have significant gaps in
12 their testimony which they cannot address until they receive the information identified below and
13 have an opportunity to do follow-up discovery in some instances.”¹ Despite this, since sending its
14 letter, Staff has received no word from Qwest as to when it can expect to receive this information
15 which it needs to complete its testimony.

16 The Commission indicated in its Procedural Order that:

17 “If Qwest is unable to comply with this deadline, the date for filing Staff and
18 Intervenor testimony may have to be extended, with corresponding changes to the
19 rest of the procedural schedule. Staff should file a request to extend the testimony
20 deadline no later than October 8, 2004, if it believes the information it receives by
21 October 2, 2004, is not sufficiently complete for Staff to file complete testimony.”

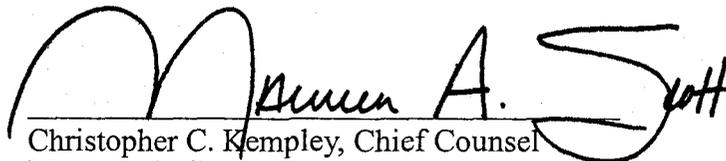
22 In that Staff has not heard from Qwest that it will be providing the outstanding information
23 anytime soon, the fact that Qwest’s Separations Study, which is used by Staff extensively in portions
24 of its analysis, was just received on October 4, 2004, and the anticipated need to do follow-up
25 discovery on many of the responses only recently received, Staff respectfully requests an extension of
26 time to file its direct testimony in this case. When determining whether to request this extension of
27 time, Staff considered the option of going ahead with portions of its testimony left incomplete.
28 However, because this would result in a disjointed presentation by Staff and the inability by the Staff

¹ October 5, 2004 Letter from Staff Counsel to Mr. Norman G. Curtright and Mr. Timothy Berg.

1 and/or its Consultants to present a complete analysis on all of the complex and interdependent issues
2 raised, Staff believes that the better approach is to seek an extension of time until Qwest can provide
3 the missing information and the Staff has a reasonable opportunity to do any follow-up discovery that
4 may be necessary.

5 Staff respectfully requests that the Commission schedule a procedural conference on this
6 matter, require Qwest to respond as to when it will be able to provide the outstanding information,
7 and extend the deadline for Staff and Intervenor direct testimony to accommodate Qwest's needs for
8 gathering the information and Staff's needs to review the information provided and do some limited
9 follow-up discovery, as necessary. Staff requests expedited action on its Motion so that any delay in
10 the schedule can be kept to a minimum.

11 RESPECTFULLY submitted this 7th day of October, 2004.

12
13 

14 Christopher C. Kempley, Chief Counsel
15 Maureen A. Scott, Attorney
16 Timothy J. Sabo, Attorney
17 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007
(602) 542-6022

18 Original and 15 copies of the foregoing
19 filed this 7th day of October, 2004 with:

20 Docket Control
21 Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

22 Copy of the foregoing mailed this
23 7th day of October, 2004 to:

24 Jane L. Rodda
25 Administrative Law Judge
400 West Congress Street
Tucson, AZ 85701

26 Timothy Berg
27 Theresa Dwyer
Darcy R. Renfro
Fennemore Craig, P.C.
3003 N. Central, Suite 2600
Phoenix, AZ 85012-2913

28 Todd Lundy
Qwest Law Department
1801 California Street
Denver, CO 80202

Joan S. Burke
Osborn Maledon, P.A.
2929 N. Central, Suite 2100
Phoenix, AZ 85012-2794
Attorneys for AT&T Communications
Of the Mountain States and TCG Phoenix

1 Richard S. Wolters
AT&T Communications of the
2 Mountain States
1875 Lawrence Street, Suite 1503
3 Denver, CO 80202-1870

4 Scott S. Wakefield, Chief Counsel
RUCO
5 1110 W. Washington, Suite 220
Phoenix, AZ 85007

6 Michael W. Patten
7 Roskhka Heyman & DeWulf, PLC
400 E. Van Buren Street, Suite 800
8 Phoenix, AZ 85004

9 Mark A. DiNunzio
Cox Arizona Telcom, LLC
10 1550 W. Deer Valley Road
MS DV3-16, Bldg. C
11 Phoenix, AZ 85027

12 Thomas H. Campbell
Michael T. Hallam
13 Lewis and Roca
40 North Central Avenue
14 Phoenix, AZ 85004

15 Thomas F. Dixon
WorldCom, Inc.
16 707 17th Street, 39th Floor
Denver, CO 80202

17 Patrick A. Clisham
18 AT&T Arizona State Director
320 E. Broadmoor Court
19 Phoenix, AZ 85022

20 Eric S. Heath
Sprint Communications Company
21 100 Spear Street, Suite 930
San Francisco, CA 94105

22 Peter Q. Nyce, Jr.
23 Regulatory Law Office
U.S. Army Litigation Center
24 901 N. Stuart Street, Suite 713
Arlington, VA 22203-1644

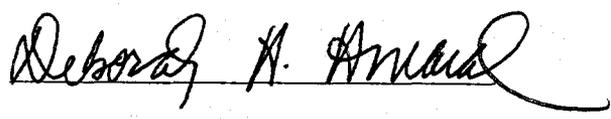
25 Richard Lee
26 Snavelly King Majors O'Connor & Lee
1220 L. Street N.W., Suite 410
27 Washington, DC 20005

28

Jon Poston
ACTS
6733 East Dale Lane
Cave Creek, AZ 85331

Steven J. Duffy
Isaacson & Duffy
3101 N. Central Avenue, Suite 740
Phoenix, AZ 85012

Jeffrey W. Crockett
Snell & Wilmer
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-6070
Attorney for ALECA



ATTACHMENT A

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



BRIAN C. MCNEIL
Executive Secretary

ARIZONA CORPORATION COMMISSION

October 5, 2004

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Mr. Norman G. Curtright
QWEST CORPORATION
Law Department - Regulatory Section
4041 North Central Avenue, Suite 1100
Phoenix, Arizona 85012

Mr. Timothy Berg
FENNEMORE CRAIG
3003 North Central, Suite 2600
Phoenix, Arizona 85012

Re: Qwest Corporation's Amended Renewed Price Regulation Plan
Docket No T-01051B-03-0454

Dear Messrs. Curtright and Berg:

As you are aware, Judge Rodda's most recent procedural order required Qwest Corporation ("Qwest" or the "Company") to respond to all of Staff's and its Consultant's outstanding and overdue data requests by October 1, 2004. We have reviewed the responses recently provided by Qwest in response to Judge Rodda's procedural order and would note the following significant omissions for the record.¹

There still appears to be significant outstanding discovery relating to Qwest's affiliate transactions with BSI, and its allocation of investment in deregulated or interstate services, including DSL and Choice TV. There are also missing attachments and non-responsive discovery responses regarding the Company's legislative activities, consolidated income tax returns, pension assets and accounting for TPUC and AFUDC. Given this failure by Qwest to provide the information requested at all or in other instances in a timely manner, and the fact that Staff just received the Company's Year 2000 Separations Study, the Staff and its Consultant's still have significant gaps in their testimony which they cannot address until they receive the information identified below and have an opportunity to do follow-up discovery in some instances.

Significant discovery was submitted by Staff Consultant Dunkel on August 27, 2004 on the issue of Qwest's charges to BSI. Responses to WDA 10-018(b) and (j) provided by Qwest on September 28, 2004 indicate that the Company will be doing some major revision to the rates

¹ We have also included a few later data requests issued by Utilitech to which the Company has not adequately responded or has not provided attachments that it referred to in its responses.

ATTACHMENT A

Mr. Norm Curtright
Mr. Timothy Berg
October 5, 2004
Page 2

charged by Qwest to BSI. However, Qwest has not provided the results of its rate revisions for BSI to Staff yet for its further review and analysis.

We have been provided no information yet on the amount of Qwest's investment in fiber, remote terminals and/or cross connects and USAMS facilities used to provide Choice TV, and the portion of that investment Qwest has allocated to the intrastate jurisdiction. Qwest indicated in its August 3, 2004 response to WDA 04-27 that it would take approximately 20 days to complete this study. This information is very important since Choice TV is a deregulated service and the intrastate jurisdiction should not be supporting these costs which could be substantial. Qwest was originally asked for this information on July 13, 2004.

On August 20, 2004, Mr. Dunkel submitted his eighth set of data requests to Qwest pertaining to separations issues with regard to the DSL investment of the Company. Both Staff and Mr. Dunkel have no record of Qwest ever having responded to WDA 8-007 and 8-009 seeking information on these DSL separations issues. Additionally, Qwest's responses to WDA 8-13(c) and (d) are inadequate. Again, this information is important because we are likely dealing with a significant investment by the Company, all of which should not be supported by the intrastate jurisdiction.

We would also note that Staff finally received, on October 4, 2004, Qwest's response to WDA 2-20 (submitted June 17, 2004) and WDA 08-01(f) (submitted August 20, 2004) both of which requested a copy of Qwest's Year 2000 separations study. Staff's inability to obtain the Company's study until this week, has delayed a significant and important part of its analysis on separations issues by several months. If you recall, because of its importance to Staff's analysis, Staff raised this issue repeatedly in its ongoing conversations with Qwest concerning outstanding discovery issues and each time the Company responded with something short of the actual study.

Staff also has no record of Qwest's responding to WDA 4-020 and 4-021 yet (submitted July 13, 2004) pertaining to Qwest's Arizona Exchange and Network services Price Cap Tariff, Section 4.1(C).

Finally, Utilitech has not received several attachments referred to in Qwest's responses to UTI 11-14S1 (Consolidated Income Tax Information)(highly confidential Attachment A is missing); UTI 13-10 (Attachment A is missing), and UTI 15-17 (no attachments received). Additionally, Utilitech has not received answers from the Company responsive to UTI 9-14 and UTI 9-15 concerning legislative activities. And, the Company's response to UTI 16-17 merely referred to Qwest witness Grate's rejoinder testimony in Qwest's last rate case; without providing an actual copy of what Mr. Grate was relying upon to support his testimony in this case. Staff also finds Qwest's response to UTI 16-13 to be non-responsive; as the Company did not produce the documentation that would allow Utilitech to verify the Company's accounting for differences in TPUC and AFUDC policies of other regulatory jurisdictions in its region that differ from the FCC.

ATTACHMENT A

Mr. Norm Curtright
Mr. Timothy Berg
October 5, 2004
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Staff would appreciate an immediate update from Qwest as to when it can expect Qwest's responses to this still outstanding discovery. Please do not hesitate to contact me if you have any questions concerning this letter. Thank you in advance for your cooperation with this matter.

Sincerely,

A handwritten signature in black ink that reads "Maureen A. Scott". The signature is written in a cursive, flowing style.

Maureen A. Scott
Attorney, Legal Division

cc: Christopher C. Kempley
Ernest G. Johnson
Elijah Abinah
All Parties of Record

ATTACHMENT B

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



BRIAN C. MCNEIL
Executive Secretary

ARIZONA CORPORATION COMMISSION

October 6, 2004

Mr. Norman G. Curtright
QWEST CORPORATION
Law Department - Regulatory Section
4041 North Central Avenue, Suite 1100
Phoenix, Arizona 85012

Mr. Timothy Berg
FENNEMORE CRAIG
3003 North Central, Suite 2600
Phoenix, Arizona 85012

Re: Qwest Corporation's Amended Renewed Price Regulation Plan
Docket No T-01051B-03-0454

Dear Messrs. Curtright and Berg:

This is a follow-up to my October 5, 2004 letter and my conversations with each of you this morning. I want to clarify the first full paragraph on page 2 of my October 5, 2004 letter and the information that remains outstanding. The paragraph's reference to WDA 4-27 should actually have been to WDA 10-011, which was a follow-up discovery request based upon Qwest's response to WDA 4-27. Data request WDA 10-011 was sent to Qwest on August 27, 2004.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions concerning this letter.

Sincerely,

A handwritten signature in black ink that reads "Maureen Scott". The signature is stylized and written in a cursive-like font.

Maureen A. Scott
Attorney, Legal Division

MAS:daa

cc: Christopher C. Kempley
Ernest G. Johnson
Elijah Abinah
All Parties of Record

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