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Arizona Corporation Commission

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OCT - 7 2004

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October 7, 2004

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VIA EMAIL AND HAND-DELIVERY

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

Re: Qwest/Renewed Price Regulation Plan; Docket No.: T-01051B-03-0454

Dear Ms Scott:

I have received your letter dated October 5, 2004 and provide this response. First, Qwest disagrees with your statement that "significant outstanding discovery" relative to Qwest's affiliate transactions with BSI and Qwest's allocation of investment in deregulated or interstate services still remains in this docket. As we pointed out during oral argument on Staff's motion to compel, many of Staff's data requests relate to test year expenses that cannot be considered material by any reasonable standard. For example, requests by Staff for information related to all sponsorships made in the test year in an amount exceeding \$10,000 (i.e., UTI 14-007) is not necessary to reasonable review of the revenue requirement for Qwest's Arizona operations. The same objection applies to the data requests identified in your letter as is discussed below. Further, as we have repeatedly discussed, Staff's overbroad and unnecessary discovery is increasing the cost of this proceeding to a prohibitive level. Various CLEC intervenors (e.g., AT&T, TCG, Sprint) have now withdrawn from this docket because they can no longer expend their resources to engage in a case that has become so broad in scope.

With regard to the specific data requests identified in your letter, Qwest responds as follows:

WDA 10-018, Subparts (b) and (j): In its responses to WDA 10-18 (b) and (j), Qwest did not indicate that it was undertaking "some major revisions" to the rates charged by Qwest to BSI. Rather, Qwest indicated that it would charge BSI the collocation rates ordered by this Commission in Decision No. 64922 and would true-up the results back to January 1, 2003, because the rates charged to BSI were higher than those rates. Because of the large number of rate elements contained in the SGAT and in the previous price list used for BSI, Qwest has not completed the true-up. However, the rates to be charged to BSI on a going-forward basis are the SGAT rates, which are publicly available to Staff. You should note, however, that Qwest's charges to BSI total only \$31,000/month

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and, therefore, any increase or decrease in such charges will have little (as opposed to "significant") impact on any analysis of a revenue requirement for Qwest. Nevertheless, Qwest will submit a supplemental response to these requests by tomorrow, in which it will give a preliminary estimate based upon a high level review of the amount and the direction of any resulting true-up.

WDA 04-027: Please note that this request does *not* ask Qwest about its 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. Instead, the request seeks the following:

The Qwest website (qwest.com/vdsl/) states that Qwest offers Qwest Choice (TM) TV in certain areas in and near Phoenix. This site states "Talk on the phone" and "View cable programming" "all at the same time through one single phone line".

- a. What is the maximum length in feet of copper cable over which the Qwest Choice (TM) TV service is provided. Provide the effective practical limits (not a distance that is only "theoretical").
- b. Does Qwest offer different grades, choices or types of Choice TV service, which depend upon the length of the copper cable over which the Qwest Choice (TM) TV service is provided?
- c. If the answer to part (b) is "yes" list the different grades, choices or types and the maximum length in feet of copper cable over which each is provided.

In response to WDA 04-027, Qwest answered:

- a. Under engineering guidelines, the maximum length of copper sub loop over which Choice TV services should be provided is 4,500 feet or 5,200, including the drop wire.
- b. No
- c. Not applicable.

Based on Qwest's response, Mr. Dunkel issued an additional data request on August 27, 2004, *i.e.*, WDA 10-11, which stated:

RE: Response to WDA 04-27

The response to WDA 04-27 indicates that the copper subloop needs to be 4,500 feet or shorter in order to provide Choice TV. According to the Qwest website (www.qwest.com/vdsl/), Choice TV is provided in the Metropolitan Phoenix area.

- a. Please provide the additional amount of fiber investment that Qwest made in the Metropolitan Phoenix area, where Choice TV is offered, so that the maximum copper subloop length was 4,500 feet or 5,200

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feet including the drop. What portion of this fiber investment is included in the regulated intrastate investment amounts included in Qwest's filing?

b. Please provide the additional amount of investment in remote terminals and/or cross connects that Qwest made in the Metropolitan Phoenix area, where Choice TV is offered, so that the maximum copper subloop length was 4,500 feet or 5,200 feet including the drop. What portion of this investment in remote terminals is included in the regulated intrastate investment amounts included in Qwest's filing?

c. What data rate is the total downstream signal data rate (towards the end user) and what is the total upstream data rate in the VDSL used to provide the Qwest Choice TV service.

d. Please provide the additional amount of investment in USAMs that Qwest made in the Metropolitan Phoenix area, where Choice TV is offered, so that the maximum copper subloop length was 4,500 feet or 5,200 feet including the drop. What portion of this investment in remote terminals is included in the regulated intrastate investment amounts included in Qwest's filing?

Qwest responded, in part, to this request on September 27, 2004, indicating that Qwest does not track the data in the specific format requested and that to collect the information would require a special study (20 business days) to assemble the response. The reference to 20 days does not indicate, in any way, that Qwest intended to perform a special study. Qwest has consistently objected to conducting such special studies in this proceeding and will continue to do so. The 20-day reference was simply to advise Staff of the substantial effort and time that would be required to conduct such a study. Qwest stands by its objection to this request.

WDA 8-007 and 8-009: Responses have been sent to Staff and Mr. Dunkel today.

WDA 8-13, Subparts (c) and (d): Qwest will provide a supplement to these responses by close of business tomorrow.

WDA 4-020 and 4-021: Qwest will provide responses to these requests by Tuesday, October 13, 2004.

UTI 11-14SI, 13-10, and 15-17: Copies of the attachments referenced in Qwest's responses to these data requests were sent to Staff yesterday.

UTI 9-14 and 9-15: Qwest has objected to these requests and stands by its objection. As we made clear at oral argument on Staff's motion to compel, Qwest believes that internal memoranda concerning its analysis of and positions at the federal and state legislatures are protected by Qwest's First Amendment rights and are, in part, protected by the attorney-client and work product privileges.

UTI 16-7: Qwest will provide a supplemental response to this request by close of business tomorrow.

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UTI 16-13: This request provides, in pertinent part:

b) Please confirm that in addition to Arizona, the States of Colorado, Minnesota and Washington currently have AFUDC policies that differ from the FCC and identify any other jurisdictions that should be added to this list.

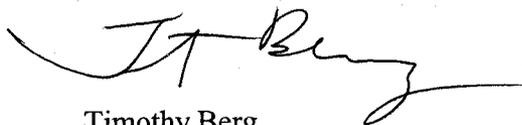
c) Referring to item (b) above, please describe the TPUC and AFUDC policies of each jurisdiction that differ from the FCC.

These requests seek public information concerning the policies or rules of various state PUCs in other jurisdictions and ask Qwest to summarize and analyze the differences between them. This information is readily available to Staff from those PUC public records from which Staff or its consultants can perform their own analyses. Staff itself has objected to a number of Qwest data requests on this same basis (e.g., Qwest's 2nd Set of Data Request to Staff, Nos. 1, 2, 4, 21, and 24). Qwest's objection therefore still stands. However, if what Staff now seeks is a summarization of *Qwest's accounting practices* in these various jurisdictions, Qwest will treat such a "clarification" by Staff as a new request and will provide such information by Tuesday, October 13, 2004.

If you have any further questions or comments, please feel free to contact me.

Sincerely,

FENNEMORE CRAIG



Timothy Berg

cc: Jane Rodda, ALJ
Ernest Johnson, Director, Utilities Division
Elijah Abinah, Asst. Director, Utilities Division
Docket Control
All Parties of Record

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