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BEFORE THE ARIZONA CORPORATION COMMISSION

2004 SEP - 3 10 44

MARC SPITZER

Chairman

WILLIAM MUNDELL

Commissioner

JEFF HATCH-MILLER

Commissioner

MIKE GLEASON

Commissioner

KRISTIN MAYES

Commissioner

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

SEP - 3 2004

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IN THE MATTER OF QWEST
CORPORATION'S FILING AMENDED
RENEWED PRICE REGULATION PLAN

DOCKET NO. T-01051B-03-0454

DOCKET NO. T-00000D-00-0672

IN THE MATTER OF THE
INVESTIGATION OF THE COST OF
TELECOMMUNICATIONS ACCESS

QWEST CORPORATION'S MOTION
TO COMPEL DATA REQUEST
RESPONSES FROM AT&T
COMMUNICATIONS OF THE
MOUNTAIN STATES, INC. AND TCG
PHOENIX

Pursuant to Rule 37 of the Arizona Rules of Civil Procedure and Rule 14-3-101 of the Arizona Administrative Code, Qwest Corporation ("Qwest") moves the Administrative Law Judge ("ALJ") for an order compelling AT&T Communications of the Mountain States, Inc ("AT&T") and TCG Phoenix ("TCG") to respond to certain data requests described herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Factual Background

On July 21, 2004, Qwest propounded its first set of data requests to AT&T and TCG in the above-captioned matter, attached hereto as Exhibits A and B. The data requests sought information concerning the depreciation of specific telecommunications assets in Arizona. On July 26, 2004, counsel for AT&T and TCG advised Qwest's

1 attorneys via e-mail that AT&T and TCG would not provide any responses to these data
2 requests on the grounds that the depreciation information sought: (1) was not relevant
3 because companies like AT&T and TCG were not comparable to Qwest; and (2) was not
4 discoverable under Rule 26(b) as Qwest's depreciation lives were not yet at issue in this
5 docket. A copy of this e-mail is attached hereto as Exhibit C. On August 17, 2004,
6 counsel for Qwest responded to AT&T and TCG in a letter, attached hereto as Exhibit D,
7 in a good faith effort to resolve this discovery dispute. Although Qwest disputed the
8 validity of AT&T and TCG's objections for the reasons stated herein, it offered a
9 compromise – that AT&T and TCG would only be required to provide the depreciation
10 information responsive to the data requests within five days of the filing of Staff
11 testimony recommending changes to Qwest's depreciation lives. *See* Exhibit D. AT&T
12 and TCG rejected this offer in an e-mail dated August 24, 2004, attached hereto as
13 Exhibit E.

14 As an additional factual matter, it should be noted that Qwest propounded the
15 identical set of data requests upon six other CLEC intervenors in this docket (specifically,
16 Arizona Dialtone, Inc.; Cox Arizona Telecom, L.L.C. ("Cox"); Eschelon Telecom of
17 Arizona, Inc.; Sprint Communications Company, L.P.; Time Warner Telecom of
18 Arizona, L.L.C.; and WorldCom, Inc.). All of these CLECs provided answers. The only
19 CLEC to raise objections substantially similar to those of AT&T and TCG was Cox. In
20 the case of Cox, Qwest offered the same compromise to resolve this discovery dispute,
21 which Cox accepted. A letter from Cox's counsel accepting this offer is attached hereto
22 as Exhibit F.

23 **II. Discovery Obligations**

24 Rule 26 provides that parties may obtain discovery "regarding any matter, not
25 privileged, which is relevant to the subject matter involved." Ariz. R. Civ. P. 26(b)(1).
26 Relevancy of evidence is found if it has "any tendency to make the existence of any fact

1 that is of consequence to the determination of the action more probable or less probable
2 than it would be without the evidence.” Ariz. R. Evid. 401. Evidence need not be
3 admissible in order to be discovered – it need only be “reasonably calculated to lead to
4 the discovery of admissible evidence.” Ariz. R. Civ. P. 26(b)(1). Rule 37 states that
5 where a party fails to respond to an interrogatory or request for production, the party
6 serving such discovery may move for an order compelling the non-responsive party to
7 answer. Ariz. R. Civ. P. 37(a).

8 The Arizona Rules of Civil Procedure advocate a policy of full disclosure between
9 parties. The purpose of discovery is to “provide a vehicle by which one party may be
10 fairly apprised of the other’s case and be prepared to meet it if he can.” *Kott v. City of*
11 *Phoenix*, 158 Ariz. 415, 418, 763 P.2d 235, 238 (1988) *citing Watts v. Superior Court*, 87
12 Ariz. 1, 347 P.2d 565 (1959). Discovery promotes the efficient and speedy disposition of
13 [an action], minimizes surprise, and prevents a hearing or trial from becoming a guessing
14 game. *See Cornet Stores v. Superior Court*, 108 Ariz. 85, 86, 492 P.2d 1191, 1193
15 (1972). In light of Arizona’s policy of full disclosure, a party must respond to a data
16 request “unless it appears affirmatively that the evidence sought is patently objectionable
17 and inadmissible.” *Id.* at 87, 492 P.2d at 1194 (citations omitted).

18 **III. AT&T and TCG Have Failed To Adequately Respond To Qwest’s Data**
19 **Requests.**

20 With these basic and familiar principles in mind, the Hearing Division should
21 order AT&T and TCG to respond to Qwest’s data requests. Here, it is AT&T and TCG’s
22 burden to demonstrate that the data requests seek information that in no manner could
23 lead Qwest to relevant evidence. This they cannot do because the information Qwest
24 seeks is, in fact, relevant to these proceedings.

25 In the depreciation docket that served as a companion for Qwest’s last 1999 rate
26 case, the Commission concluded, “Advancements in technology, coupled with the desire

1 to create robust competition in Arizona's telecommunications industry, warrants setting
2 U S WEST's depreciation lives within the range of its competitors." *In the Matter of the*
3 *Application of U S WEST Communications, Inc. for Changes in its Depreciation Rates,*
4 Decision No. 6257, Conclusions of Law, ¶ 3 (emphasis added). Decision No. 6257
5 recognizes the Commission's desire to provide forward-looking projection lives in
6 correlation to the rapid changes in the telecommunications industry, including the
7 complete opening of a competitive market for both local and long-distance services. It
8 further recognizes that the depreciation lives employed by Qwest's competitors are a
9 benchmark of appropriate and reasonable depreciation lives for Qwest.

10 Although Qwest did not propose a change to its depreciation lives as part of its
11 direct case in this proceeding, a substantial number of data requests propounded on
12 Qwest by Staff's expert witness William Dunkel strongly indicate that Staff will
13 recommend changes to Qwest's depreciation lives as part of Staff's direct case. Because
14 of the limited time available between the filing of Staff's direct testimony and the
15 deadline for filing Qwest's rebuttal testimony, Qwest cannot wait until Staff files such
16 testimony to undertake its discovery.

17 It would not serve either the public or any party's interests to delay these
18 proceedings further to permit Qwest an extension of time in order to conduct discovery
19 on depreciation issues after Staff files its testimony. The Commission has expressed a
20 desire for a prompt and timely resolution of this docket, which was originally intended
21 under the Price Cap Plan to be a streamlined review as opposed to a full-blown rate case.
22 *See, e.g.,* Open Meeting Transcript (January 29, 2004) at 81, 100. The compromise
23 offered by Qwest fairly balances the competing interests of AT&T, TCG, Staff and
24 Qwest, while continuing to move this docket along in an expeditious manner. AT&T and
25 TCG are not required to provide the information until Staff actually places depreciation
26 directly at issue in these proceedings, but must then respond in an expedited manner so

1 that Qwest can meet its rebuttal testimony deadline without having to request an
2 extension. To the extent that any of the information sought is "proprietary," the
3 Commission's Hearing Division has entered a protective order in this docket that will
4 safeguard AT&T and TCG's interests.

5 Under these circumstances, AT& T and TCG should not be permitted to stonewall
6 discovery in this manner and thereby indirectly and improperly preclude the
7 Commission's consideration of the issue of depreciation in this docket. They must permit
8 discovery by all parties on the issue and thereafter, at the appropriate juncture in these
9 proceeding, directly address its relevance and seek to bar the admission of testimony and
10 evidence on depreciation through appropriate motion practice (e.g., motion in limine,
11 objection at hearing, etc.).

12 RESPECTFULLY SUBMITTED this 3rd day of September, 2004.

13 FENNEMORE CRAIG

14 By: 

15 Timothy Berg

16 Theresa Dwyer

17 3003 North Central Ave., Suite 2600

18 Phoenix, Arizona 85012-2913

19 (602) 916-5421

20 -and-

21 Norm Curtright

22 QWEST CORPORATION

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25 Phoenix, AZ 85012

26 *Attorneys for Qwest Corporation*

1 ORIGINAL and 15 copies hand-delivered for
2 filing this 3rd day of September, 2004 to:

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 W. Washington St.
6 Phoenix, AZ 85007

7 COPY of the foregoing delivered
8 this 3rd day of September, 2004 to:

9 Jane Rodda
10 Administrative Law Judge
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12 1200 W. Washington St.
13 Phoenix, AZ 85007

14 Maureen A. Scott
15 Legal Division
16 ARIZONA CORPORATION COMMISSION
17 1200 W. Washington St.
18 Phoenix, AZ 85007

19 Ernest G. Johnson, Director
20 Utilities Division
21 ARIZONA CORPORATION COMMISSION
22 1200 W. Washington St.
23 Phoenix, AZ 85007

24 COPY of the foregoing mailed
25 this 3rd day of September, 2004 to:

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Phoenix, Arizona 85027
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- 4 Thomas H. Campbell
Michael T. Hallam
Lewis and Roca
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Phoenix, Arizona 85004
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- 7 Thomas F. Dixon
WorldCom, Inc.
707 17th Street, 39th Floor
8 Denver, Colorado 80202
- 9 Richard S. Wolters
Mary Tribby
10 AT&T
1875 Lawrence Street, Room 1575
11 Denver, CO 80202-1847
- 12 Peter Q. Nyce, Jr.
Regulatory Law Office
13 U.S. Army Litigation Center
901 N. Stuart Street, Suite 713
14 Arlington, VA 22203-1837
- 15 Richard Lee
Snively King Majoros O'Connor & Lee
16 1220 L. Street N.W., Suite 410
Washington, DC 20005
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- 18 Patrick A. Clisham
AT&T Arizona State Director
320 E. Broadmoor Court
19 Phoenix, AZ 85022
- 20 Eric S. Heath
Sprint Legal Division
21 100 Spear Street, Suite 930
San Francisco, CA 94105
- 22
- 23 Walter W. Meek President
Arizona Utility Investors Association
2100 N. Central Avenue, Suite 210
24 Phoenix, AZ 85004
- 25
- 26

- 1 Accipiter Communications, Inc.
2238 W. Lone Cactus Dr., Ste.100
- 2 Phoenix, AZ 85027
- 3 Alliance Group Services, Inc.
1221 Post Road East
- 4 Westport, CT 06880
- 5 Archtel, Inc.
1800 West Park Drive, Ste. 250
- 6 Westborough, MA 01581
- 7 Brooks Fiber Communications of Tucson, Inc.
201 Spear Street, 9th Floor
- 8 San Francisco, CA 94105
- 9 Centruytel
PO Box 4065
- 10 Monroe, LA 71211-4065
- 11 Citizens Utilities Rural Co. Inc.
Citizens Communications Co. of Arizona
- 12 4 Triad Center, Suite 200
Salt Lake City, UT 84180
- 13 Citizens Telecommunications Co. of the White Mountains, Inc.
4 Triad Center, Ste. 200
- 14 Salt Lake City, UT 84180
- 15 Comm South Companies, Inc.
2909 N. Buckner Blvd., Ste. 200
- 16 Dallas, TX 75228
- 17 Copper Valley Telephone, Inc.
PO Box 970
- 18 Willcox, AZ 85644
- 19 Electric Lightwave, Inc.
4 Triad Center, Ste. 200
- 20 Salt Lake City, UT 84180
- 21 Eschelon Telecom of Arizona, Inc.
730 Second Avenue South, Ste.1200
- 22 Minneapolis, MN 55402
- 23 Ernest Communications, Inc.
5275 Triangle Pkwy, Ste. 150
- 24 Norcross, GA 30092-6511
- 25 Intermedia Communications, Inc.
3608 Queen Palm Drive
- 26 Tampa, FL 33619-1311

- 1 Level 3 Communications, LLC
1025 Eldorado Blvd.
2 Broomfield, CO 80021
- 3 Max-Tel Communications, Inc.
105 N. Wickham
4 PO Box 280
Alvord, TX 76225
- 5 MCI WorldCom Communications
6 201 Spear Street, 9th Floor
San Francisco, CA 94105
- 7 MCIMetro
8 201 Spear Street, 9th Floor
San Francisco, CA 94105
- 9 Metropolitan Fiber Systems of Arizona, Inc.
10 201 Spear Street, 9th Floor
San Francisco, CA 94105
- 11 Midvale Telephone Exchange
12 PO Box 7
Midvale, ID 83645
- 13 Navajo Communications Co., Inc.
14 4 Triad Center, Suite 200
Salt Lake City, UT 84180
- 15 Nextlink Long Distance Svcs.
16 3930 E. Watkins, Ste. 200
Phoenix, AZ 85034
- 17 North County Communications Corporation
18 3802 Rosencrans, Ste. 485
San Diego, CA 92110
- 19 One Point Communications
20 Two Conway Park
150 Field Drive, Ste. 300
21 Lake Forest, IL 60045
- 22 Opex Communications, Inc.
500 E. Higgins Rd., Ste. 200
23 Elk Grove Village, IL 60007
- 24 Pac-West Telecomm, Inc.
1776 W. March Lane, #250
25 Stockton, CA 95207
- 26

- 1 The Phone Company/Network Services of New Hope
6805 Route 202
- 2 New Hope, PA 18938
- 3 Rio Virgin Telephone Co.
Rio Virgin Telephone and Cablevision
- 4 PO Box 189
Estacada, OR 97023-000
- 5
- 6 South Central Utah Telephone Association, Inc.
PO Box 226
Escalante, UT 84726-000
- 7
- 8 Southwestern Telephone Co., Inc.
PO Box 5158
Madison, WI 53705-0158
- 9
- 10 Special Accounts Billing Group
1523 Withorn Lane
Inverness, IL 60067
- 11
- 12 Sprint Communications Company, L.P.
6860 W. 115th, MS:KSOPKD0105
Overland Park, KS 66211
- 13
- 14 Touch America
130 N. Main Street
Butte, MT 59701
- 15
- 16 Table Top Telephone Co, Inc.
600 N. Second Avenue
Ajo, AZ 85321-0000
- 17
- 18 TCG Phoenix
1875 Lawrence Street, Room 1575
Denver, CO 80202
- 19
- 20 Valley Telephone Cooperative, Inc.
752 E. Malley Street
PO Box 970
Willcox, AZ 85644
- 21
- 22 Verizon Select Services Inc.
6665 MacArthur Blvd, HQK02D84
Irving, TX 75039
- 23
- 24 VYVX, LLC
One Williams Center, MD 29-1
Tulsa, OK 74172
- 25
- 26

1 Western CLEC Corporation
3650 131st Avenue SE, Ste. 400
2 Bellevue, WA 98006

3 Williams Local Network, Inc.
One Williams Center, MD 29-1
4 Tulsa, OK 74172

5 XO Arizona Inc.
3930 Watkins, Ste. 200
6 Phoenix, AZ 85034

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **MARC SPITZER**
Chairman

3 **WILLIAM MUNDELL**
Commissioner

4 **JEFF HATCH-MILLER**
Commissioner

5 **MIKE GLEASON**
Commissioner

6 **KRISTIN MAYES**
Commissioner

7
8 **IN THE MATTER OF QWEST**
9 **CORPORATION'S FILING AMENDED**
10 **RENEWED PRICE REGULATION PLAN.**

DOCKET NO. T-01051B-03-0454

11 **IN THE MATTER OF THE**
12 **INVESTIGATION OF THE COST OF**
13 **TELECOMMUNICATIONS ACCESS.**

DOCKET NO. T-00000D-00-0672

QWEST'S FIRST SET OF DATA
REQUESTS TO AT&T OF THE
MOUNTAIN STATES, INC.

14 Qwest Corporation ("Qwest") hereby submits its first set of data requests to AT&T
15 of the Mountain States, Inc. ("AT&T") in the above-captioned docket and requests that full
16 and complete responses be made by August 2, 2004.

17 **DEFINITIONS**

18 As used herein, the following terms have the meaning as set forth below:

19 1. The term "you," and "your" shall mean AT&T in the above captioned
20 proceedings, as well as its parent, subsidiaries, and affiliates, its former and present
21 officers, attorneys, employees, servants, agents and representatives, and any person acting
22 on its behalf for any purpose.

23 2. "List," "describe," "detail," "explain," "specify" or "state" shall mean to set
24 forth fully, in detail, and unambiguously each and every fact of which you, your company
25 or your agents or representatives have knowledge which is relevant to the answer called for
26 by the data request.

1 3. The terms "document," "documents," or "documentation" as used herein
2 shall include, without limitation, any writings and documentary material of any kind
3 whatsoever, both originals and copies (regardless of origin and whether or not including
4 additional writing thereon or attached thereto), and any and all drafts, preliminary versions,
5 alterations, modifications, revisions, changes and written comments of and concerning such
6 material, including, but not limited to: correspondence, letters, memoranda, internal
7 communications, notes, reports, directions, studies, investigations, questionnaires and
8 surveys, inspections, permits, citizen complaints, studies, papers, files, books, manuals,
9 instructions, records, pamphlets, forms, contracts, contract amendments or supplements,
10 contract offers, tenders, acceptances, counteroffers or negotiating agreements, notices,
11 confirmations, telegrams, communications sent or received, print-outs, diary entries,
12 calendars, tables, compilations, tabulations, charts, graphs, maps, recommendations,
13 ledgers, accounts, worksheets, photographs, tape recordings, movie pictures, videotapes,
14 transcripts, logs, work papers, minutes, summaries, notations and records of any sort
15 (printed, recorded or otherwise) of any oral communications whether sent or received or
16 neither, and other written records or recordings, in whatever form, stored or contained in or
17 on whatever medium including computerized or digital memory or magnetic media that:
18 (a) are now or were formerly in your possession, custody or control; or (b) are known or
19 believed to be responsive to these interrogatories, regardless of who has or formerly had
20 custody, possession or control.

21 4. The terms "identify" and "identity" when used with reference to a natural
22 person means to state his or her full name, present or last known address, present or last
23 known telephone number, present or last known place of employment, position or business
24 affiliation, his or her position or business affiliation at the time in question, and a general
25 description of the business in which he or she is engaged.

26 5. The terms "identify" and "identity" when used with respect to any other

1 entity means to state its full name, the address of its principal place of business and the
2 name of its chief executive officers.

3 6. The terms “identify” and “identity” with respect to a document mean to state
4 the name or title of the document, the type of document (e.g., letter, memorandum,
5 telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the
6 person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it
7 was sent, its general subject matter, its present location, and its present custodian. If any
8 such document was but is no longer in your possession or subject to your control, state
9 what disposition was made of it and explain the circumstances surrounding, and the
10 authorization for, such disposition, and state the date or approximate date of such
11 disposition.

12 7. The terms “identify” and “identity” with respect to any non-written
13 communication means to state the identity of the natural person(s) making and receiving
14 the communication, their respective principals or employers at the time of the
15 communication, the date, manner and place of the communication, and the topic or subject
16 matter of the communication.

17 8. The term to “state the basis” for an allegation, contention, conclusion,
18 position or answer means: (a) to identify and specify the sources therefore; (b) to identify
19 and specify all facts on which you rely or intend to rely in support of the allegation,
20 contention, conclusion, position or answer; and (c) to set forth and explain the nature and
21 application to the relevant facts of all pertinent legal theories upon which you rely for your
22 knowledge, information and/or belief that there are good grounds to support such
23 allegation, contention, conclusion, position or answer.

24 9. The terms “relates to” or “relating to” mean referring to, concerning,
25 responding to, containing, regarding, discussing, describing, reflecting, analyzing,
26 constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any

1 way pertaining to.

2 10. The term "including" means "including, but not limited to."

3 11. The terms "CLEC" or "competitor" means any competing local exchange
4 carrier not affiliated with Qwest, regardless of whether the carrier is presently providing
5 local telephone exchange services in the State of Arizona.

6 12. The term "carrier" means any provider of telecommunications services.

7 13. The term "possession, custody or control" includes the joint and several
8 possession, custody, or control not only by one or more employees or representatives of
9 AT&T, but also by each or any person acting or purporting to act on behalf of AT&T or any
10 of its employees or representatives whether as an agent, independent contractor, attorney,
11 consultant, witness or otherwise.

12 14. "Entity" or "entities" means any corporation, unincorporated association, sole
13 proprietorship, partnership, individual, department, agency or consulting firm.

14 INSTRUCTIONS

15 A. These data requests shall be deemed to be continuing. You are obliged to
16 change, supplement, and correct all answers to data requests to conform to available
17 information, including such information as first becomes available to you after the data
18 requests hereto are filed and made, should additional information become known or should
19 information supplied in the responses prove to be incorrect or incomplete.

20 B. The response to each data request provided should first restate the question
21 asked and also identify the person(s) supplying the information and the name of the witness
22 or witnesses who will be prepared to testify concerning the matters contained in any
23 response or document produced.

24 C. In answering these data requests, furnish all information that is available to
25 you or may be reasonably ascertained by you, including information in the possession of
26 any of your agents or attorneys, or otherwise subject to your knowledge, possession,

1 custody or control.

2 D. If in answering these data requests you encounter any ambiguity in
3 construing the request or a definition or instruction relevant to the inquiry contained within
4 the request, set forth the matter deemed "ambiguous" and set forth the construction chosen
5 or used in responding to the request.

6 E. If you object to any part of a request, answer all parts of such requests to
7 which you do not object, and as to each part to which you do object, separately set forth the
8 specific basis for the objection.

9 F. In the event you assert that the data requested is privileged, you should
10 identify any such data and any supporting documents in your written response, by date, and
11 provide a general description of its content. You should also identify all persons who
12 participated in the preparation of the document and all persons, inside or outside AT&T,
13 who received a copy, read or examined any such document. In addition, you should
14 describe, with particularity, the grounds upon which privilege is claimed.

15 G. In the event that you assert that the requested data are not relevant or material
16 to any issue in the above-captioned matter, you should indicate in your written response to
17 the specific basis for such assertion.

18 H. In the event you assert that the requested data are public information
19 otherwise available to Qwest, you should identify the following in your written response:

- 20 1. The title or description of the data claimed to be public information;
- 21 2. The specific page and line number on which the requested material can
22 be found;
- 23 3. The address of the office(s) and/or location(s) nearest downtown
24 Denver where the document or file containing the requested material is
25 maintained for public inspection.

26

1 I. In the event that you assert that the requested data are not available in the
2 form requested, you should disclose the following in your written response thereto:

- 3 1. The form in which the requested data currently exists (identifying
4 documents by title or description);
- 5 2. The earliest dates, time period, and location that representatives of
6 Qwest may inspect AT&T files, records or documents in which the
7 requested data currently exist.

8 J. If any request calls for a document that has been destroyed, placed beyond
9 your control, or otherwise disposed of, identify with specificity each such document and
10 describe in detail any such destruction, placement or disposition.

DATA REQUESTS

11 1. Please provide to Qwest a complete copy of all data requests that you have
12 propounded and the responses thereto that you have received from any and all parties in the
13 above-captioned docket, with the exception of Qwest.

14 2. Please provide to Qwest a complete copy of all data requests with which you
15 have been served and the responses thereto that you have provided to any and all parties in
16 the above-captioned docket, with the exception of Qwest.

17 3. Identify your company's depreciation lives for the following classes of plant
18 (for regulated and financial reporting depreciation):

- 19 Buildings
- 20 Computer
- 21 Digital Switch
- 22 Digital Circuit
- 23 Aerial Cable - Metallic
- 24 Buried Cable - Metallic
- 25 Underground Cable - Metallic
- 26 Intra-Building Cable - Metallic

If you do not categorize your plant in the above manner, provide the depreciation lives
according to the plant categories you utilize.

1 4. Identify your net salvage values as percent of the gross plant category for the
2 following classes of plant (for regulated and financial reporting depreciation):

- 3 Buildings
- 4 Computer
- 5 Digital Switch
- 6 Digital Circuit
- 7 Aerial Cable - Metallic
- 8 Buried Cable – Metallic
- 9 Underground Cable – Metallic
- 10 Intra-Building Cable – Metallic

11 If you do not categorize your plant in the above manner, provide the net salvage values as a
12 percent of the plant categories you do utilize.

13 5. Identify your depreciation survivor curve descriptions for the following
14 classes of plant (for regulated and financial reporting depreciation):

- 15 Buildings
- 16 Computer
- 17 Digital Switch
- 18 Digital Circuit
- 19 Aerial Cable - Metallic
- 20 Buried Cable – Metallic
- 21 Underground Cable – Metallic
- 22 Intra-Building Cable – Metallic

23 If you do not categorize your plant in the above manner, provide the depreciation survivor
24 curve descriptions for the plant categories that you do utilize.

25 6. Provide your depreciation rates for the following classes of plant (for
26 regulated and financial reporting depreciation):

- 27 Buildings
- 28 Computer
- 29 Digital Switch
- 30 Digital Circuit
- 31 Aerial Cable - Metallic
- 32 Buried Cable – Metallic

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Underground Cable – Metallic
Intra-Building Cable – Metallic

If you do not categorize your plant in the above manner, provide the depreciation rates for the plant categories that you do utilize.

7. Identify your vintage age distribution data for the following classes of plant (for regulated and financial reporting depreciation):

- Buildings
- Computer
- Digital Switch
- Digital Circuit
- Aerial Cable - Metallic
- Buried Cable – Metallic
- Underground Cable – Metallic
- Intra-Building Cable – Metallic

If you do not categorize your plant in the above manner, provide the vintage age distribution for the plant categories that you do utilize.

8. Identify your depreciation methodology(ies) (for regulated and financial reporting depreciation), *i.e.*, straight-line, double-declining balance, sum-of-the-years digits, etc. If different classes of plant follow different methodologies, please itemize individually.

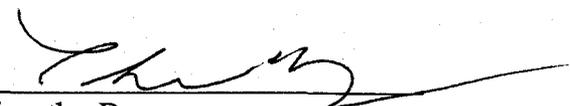
9. Identify depreciation procedure(s) you follow (for regulated and financial reporting depreciation), *i.e.*, broad group, vintage group, equal life group or individual unit depreciation. If different classes of plant follow different procedures, please identify and itemize individually.

10. Identify the technique(s) you follow, *i.e.*, whole-life or remaining-life depreciation techniques (for regulated and financial reporting depreciation). If different classes of plant follow different techniques, please identify and itemize individually.

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RESPECTFULLY SUBMITTED this 21st day of July, 2004.

FENNEMORE CRAIG

By: 
Timothy Berg
Theresa Dwyer
3003 North Central Ave., Suite 2600
Phoenix, Arizona 85012-2913
(602) 916-5421

ORIGINAL +1 COPY mailed and e-mailed
this 21st day of July, 2004 to:

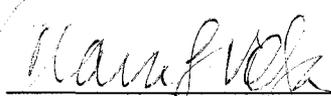
Richard S. Wolters (rwolters@att.com)
AT&T
1875 Lawrence Street, Room 1575
Denver, CO 80202-1847

Joan S. Burke (jsburke@omlaw.com)
Osborn Maledon
2929 N. Central Ave., Ste. 2100
Phoenix, AZ 85012

COPY of the foregoing mailed
this 21st day of July, 2004 to:

Maureen A. Scott
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

Scott S. Wakefield, Chief Counsel
Daniel W. Pozefsky, Esq.
RUCO
1110 West Washington, Suite 220
Phoenix, AZ 85007


1567438.1/67817.336

B

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MARC SPITZER
Chairman
3 WILLIAM MUNDELL
Commissioner
4 JEFF HATCH-MILLER
Commissioner
5 MIKE GLEASON
Commissioner
6 KRISTIN MAYES
Commissioner

7
8 IN THE MATTER OF QWEST
CORPORATION'S FILING AMENDED
9 RENEWED PRICE REGULATION PLAN.

DOCKET NO. T-01051B-03-0454

10 IN THE MATTER OF THE
11 INVESTIGATION OF THE COST OF
TELECOMMUNICATIONS ACCESS.

DOCKET NO. T-00000D-00-0672

**QWEST'S FIRST SET OF DATA
REQUESTS TO TCG PHOENIX**

12
13 Qwest Corporation ("Qwest") hereby submits its first set of data requests to TCG
14 Phoenix ("TCG") in the above-captioned docket and requests that full and complete
15 responses be made by August 2, 2004.

16 **DEFINITIONS**

17 As used herein, the following terms have the meaning as set forth below:

18 1. The term "you," and "your" shall mean TCG in the above captioned
19 proceedings, as well as its parent, subsidiaries, and affiliates, its former and present
20 officers, attorneys, employees, servants, agents and representatives, and any person acting
21 on its behalf for any purpose.

22 2. "List," "describe," "detail," "explain," "specify" or "state" shall mean to set
23 forth fully, in detail, and unambiguously each and every fact of which you, your company
24 or your agents or representatives have knowledge which is relevant to the answer called for
25 by the data request.

26 3. The terms "document," "documents," or "documentation" as used herein

1 shall include, without limitation, any writings and documentary material of any kind
2 whatsoever, both originals and copies (regardless of origin and whether or not including
3 additional writing thereon or attached thereto), and any and all drafts, preliminary versions,
4 alterations, modifications, revisions, changes and written comments of and concerning such
5 material, including, but not limited to: correspondence, letters, memoranda, internal
6 communications, notes, reports, directions, studies, investigations, questionnaires and
7 surveys, inspections, permits, citizen complaints, studies, papers, files, books, manuals,
8 instructions, records, pamphlets, forms, contracts, contract amendments or supplements,
9 contract offers, tenders, acceptances, counteroffers or negotiating agreements, notices,
10 confirmations, telegrams, communications sent or received, print-outs, diary entries,
11 calendars, tables, compilations, tabulations, charts, graphs, maps, recommendations,
12 ledgers, accounts, worksheets, photographs, tape recordings, movie pictures, videotapes,
13 transcripts, logs, work papers, minutes, summaries, notations and records of any sort
14 (printed, recorded or otherwise) of any oral communications whether sent or received or
15 neither, and other written records or recordings, in whatever form, stored or contained in or
16 on whatever medium including computerized or digital memory or magnetic media that:
17 (a) are now or were formerly in your possession, custody or control; or (b) are known or
18 believed to be responsive to these interrogatories, regardless of who has or formerly had
19 custody, possession or control.

20 4. The terms "identify" and "identity" when used with reference to a natural
21 person means to state his or her full name, present or last known address, present or last
22 known telephone number, present or last known place of employment, position or business
23 affiliation, his or her position or business affiliation at the time in question, and a general
24 description of the business in which he or she is engaged.

25 5. The terms "identify" and "identity" when used with respect to any other
26 entity means to state its full name, the address of its principal place of business and the

1 name of its chief executive officers.

2 6. The terms “identify” and “identity” with respect to a document mean to state
3 the name or title of the document, the type of document (e.g., letter, memorandum,
4 telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the
5 person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it
6 was sent, its general subject matter, its present location, and its present custodian. If any
7 such document was but is no longer in your possession or subject to your control, state
8 what disposition was made of it and explain the circumstances surrounding, and the
9 authorization for, such disposition, and state the date or approximate date of such
10 disposition.

11 7. The terms “identify” and “identity” with respect to any non-written
12 communication means to state the identity of the natural person(s) making and receiving
13 the communication, their respective principals or employers at the time of the
14 communication, the date, manner and place of the communication, and the topic or subject
15 matter of the communication.

16 8. The term to “state the basis” for an allegation, contention, conclusion,
17 position or answer means: (a) to identify and specify the sources therefore; (b) to identify
18 and specify all facts on which you rely or intend to rely in support of the allegation,
19 contention, conclusion, position or answer; and (c) to set forth and explain the nature and
20 application to the relevant facts of all pertinent legal theories upon which you rely for your
21 knowledge, information and/or belief that there are good grounds to support such
22 allegation, contention, conclusion, position or answer.

23 9. The terms “relates to” or “relating to” mean referring to, concerning,
24 responding to, containing, regarding, discussing, describing, reflecting, analyzing,
25 constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any
26 way pertaining to.

1 D. If in answering these data requests you encounter any ambiguity in
2 construing the request or a definition or instruction relevant to the inquiry contained within
3 the request, set forth the matter deemed "ambiguous" and set forth the construction chosen
4 or used in responding to the request.

5 E. If you object to any part of a request, answer all parts of such requests to
6 which you do not object, and as to each part to which you do object, separately set forth the
7 specific basis for the objection.

8 F. In the event you assert that the data requested is privileged, you should
9 identify any such data and any supporting documents in your written response, by date, and
10 provide a general description of its content. You should also identify all persons who
11 participated in the preparation of the document and all persons, inside or outside TCG, who
12 received a copy, read or examined any such document. In addition, you should describe,
13 with particularity, the grounds upon which privilege is claimed.

14 G. In the event that you assert that the requested data are not relevant or material
15 to any issue in the above-captioned matter, you should indicate in your written response to
16 the specific basis for such assertion.

17 H. In the event you assert that the requested data are public information
18 otherwise available to Qwest, you should identify the following in your written response:

- 19 1. The title or description of the data claimed to be public information;
 - 20 2. The specific page and line number on which the requested material can
21 be found;
 - 22 3. The address of the office(s) and/or location(s) nearest downtown
23 Denver where the document or file containing the requested material is
24 maintained for public inspection.
- 25
26

1 I. In the event that you assert that the requested data are not available in the
2 form requested, you should disclose the following in your written response thereto:

- 3 1. The form in which the requested data currently exists (identifying
4 documents by title or description);
5 2. The earliest dates, time period, and location that representatives of
6 Qwest may inspect TCG files, records or documents in which the
7 requested data currently exist.

8 J. If any request calls for a document that has been destroyed, placed beyond
9 your control, or otherwise disposed of, identify with specificity each such document and
10 describe in detail any such destruction, placement or disposition.

11 DATA REQUESTS

12 1. Please provide to Qwest a complete copy of all data requests that you have
13 propounded and the responses thereto that you have received from any and all parties in the
14 above-captioned docket, with the exception of Qwest.

15 2. Please provide to Qwest a complete copy of all data requests with which you
16 have been served and the responses thereto that you have provided to any and all parties in
17 the above-captioned docket, with the exception of Qwest.

18 3. Identify your company's depreciation lives for the following classes of plant
(for regulated and financial reporting depreciation):

- 19 Buildings
20 Computer
21 Digital Switch
22 Digital Circuit
23 Aerial Cable - Metallic
24 Buried Cable - Metallic
25 Underground Cable - Metallic
26 Intra-Building Cable - Metallic

If you do not categorize your plant in the above manner, provide the depreciation lives
according to the plant categories you utilize.

1 4. Identify your net salvage values as percent of the gross plant category for the
2 following classes of plant (for regulated and financial reporting depreciation):

- 3 Buildings
- 4 Computer
- 5 Digital Switch
- 6 Digital Circuit
- 7 Aerial Cable - Metallic
- 8 Buried Cable – Metallic
- 9 Underground Cable – Metallic
- 10 Intra-Building Cable – Metallic

11 If you do not categorize your plant in the above manner, provide the net salvage values as a
12 percent of the plant categories you do utilize.

13 5. Identify your depreciation survivor curve descriptions for the following
14 classes of plant (for regulated and financial reporting depreciation):

- 15 Buildings
- 16 Computer
- 17 Digital Switch
- 18 Digital Circuit
- 19 Aerial Cable - Metallic
- 20 Buried Cable – Metallic
- 21 Underground Cable – Metallic
- 22 Intra-Building Cable – Metallic

23 If you do not categorize your plant in the above manner, provide the depreciation survivor
24 curve descriptions for the plant categories that you do utilize.

25 6. Provide your depreciation rates for the following classes of plant (for
26 regulated and financial reporting depreciation):

- 27 Buildings
- 28 Computer
- 29 Digital Switch
- 30 Digital Circuit
- 31 Aerial Cable - Metallic
- 32 Buried Cable – Metallic
- 33 Underground Cable – Metallic

1 Intra-Building Cable – Metallic

2 If you do not categorize your plant in the above manner, provide the depreciation rates for
3 the plant categories that you do utilize.

4 7. Identify your vintage age distribution data for the following classes of plant
5 (for regulated and financial reporting depreciation):

- 6 Buildings
- 7 Computer
- 8 Digital Switch
- 9 Digital Circuit
- 10 Aerial Cable - Metallic
- 11 Buried Cable – Metallic
- Underground Cable – Metallic
- Intra-Building Cable – Metallic

12 If you do not categorize your plant in the above manner, provide the vintage age distribution
13 for the plant categories that you do utilize.

14 8. Identify your depreciation methodology(ies) (for regulated and financial
15 reporting depreciation), *i.e.*, straight-line, double-declining balance, sum-of-the-years digits,
16 etc. If different classes of plant follow different methodologies, please itemize individually.

17 9. Identify depreciation procedure(s) you follow (for regulated and financial
18 reporting depreciation), *i.e.*, broad group, vintage group, equal life group or individual unit
19 depreciation. If different classes of plant follow different procedures, please identify and
20 itemize individually.

21 10. Identify the technique(s) you follow, *i.e.*, whole-life or remaining-life
22 depreciation techniques (for regulated and financial reporting depreciation). If different
23 classes of plant follow different techniques, please identify and itemize individually.

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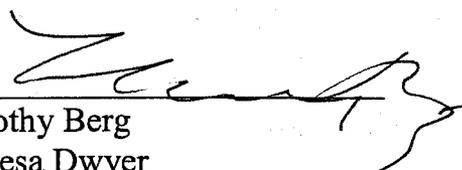
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FENNEMORE CRAIG

By: _____


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Osborn Maledon
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1200 W. Washington St.
Phoenix, AZ 85007

Scott S. Wakefield, Chief Counsel
Daniel W. Pozefsky, Esq.
RUCO
1110 West Washington, Suite 220
Phoenix, AZ 85007



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C

VOLPE, CLAIRE

From: Wolters, Richard S (Rick) - LGCRP [rwolters@att.com]
Sent: Tuesday, August 24, 2004 11:46 AM
To: VOLPE, CLAIRE; jsburke@omlaw.com
Cc: BERG, TIM; DWYER, THERESA
Subject: Qwest's first set of data requests to AT&T

Tim, while I appreciate your proposal to resolve our dispute on Qwest's first set of data requests to AT&T, I cannot agree to it on behalf of my client. If you have any questions feel free to call. Rick

-----Original Message-----

From: VOLPE, CLAIRE [mailto:CVOLPE@FCLAW.com]
Sent: Tuesday, August 17, 2004 11:41 AM
To: Wolters, Richard S (Rick) - LGCRP; jsburke@omlaw.com
Cc: BERG, TIM; DWYER, THERESA
Subject: SENT ON BEHALF OF TIM BERG

Attached please find a letter to Rick Wolters from Tim Berg regarding Qwest's First Set of Data Requests to AT&T/TCG in the Price Cap Plan docket, T-01051B-03-0454. This letter will also be mailed to you today.

Thank you.
Claire L. Volpe
FENNEMORE CRAIG
3003 N. Central Ave., Ste. 2600
Phoenix, AZ 85012
602-916-5180
cvolpe@fclaw.com

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D

LAW OFFICES
FENNEMORE CRAIG
A PROFESSIONAL CORPORATION

TIMOTHY BERG

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PHOENIX, ARIZONA 85012-2913
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August 17, 2004

Richard S. Wolters
AT&T
1875 Lawrence Street, Room 1575
Denver, CO 80202-1847

Re: Qwest Corporation First Set of Data Requests to AT&T/TCG
Docket No. T-01051B-03-0454

Dear Rick:

On July 21, 2004, Qwest Corporation ("Qwest") propounded its First Set of Data Requests to AT&T and TCG Phoenix ("TCG") in the above-referenced matter. As you are aware, these data requests concern depreciation information for specific telecommunication assets, and Qwest has already received substantive responses from MCI, Inc., Time Warner Telecom of Arizona, LLC, Eschelon Telecom of Arizona, Inc. and Sprint Communications Company, L.P.

I understand from our recent telephone conversations and your e-mail of July 26, 2004, that your clients refuse to provide responses to these data requests on the grounds that the depreciation information sought: 1) is not relevant because companies like AT&T and Qwest are not comparable; and 2) is not discoverable pursuant to Rule 26(b) because Qwest's depreciation lives are not yet at issue in this case. I would like to address both of these positions in hopes of avoiding the need to file a Motion to Compel in this matter.

Contrary to your assertion, AT&T and TCG's depreciation lives are relevant in setting Qwest's depreciation lives. In Decision No. 62507 (May 4, 2000) ("Order"), the Arizona Corporation Commission ("Commission") concluded, "Advancements in technology, coupled with the desire to create robust competition in Arizona's telecommunications industry, warrants setting US West's depreciation lives *within the range of its competitors.*" [Emphasis added] See Order, Conclusions of Law at ¶ 3. The Order recognizes the Commission's desire to provide forward-looking projection lives in correlation to the rapid changes in the telecommunications industry, including the complete opening of competitive markets for both local and long-distance services. It further recognizes that the depreciation lives employed by Qwest's competitors are a benchmark of appropriate and reasonable depreciation lives for Qwest. Therefore, the

FENNEMORE CRAIG

Richard Wolters

August 17, 2004

Page 2

information sought by Qwest is relevant to the issue of what are appropriate depreciation lives to be applied to Qwest Arizona.

Second, you suggest that AT&T and TCG's depreciation information is not subject to discovery at this time because Qwest did not propose a change to its depreciation lives as part of its direct case. However, as I told you in our telephone conversation, data requests from Staff witness William Dunkel strongly indicate that Staff will recommend changes to Qwest depreciation lives as part of Staff's direct case. Because of the limited time available between the filing of Staff's direct testimony and the deadline for filing Qwest's rebuttal testimony, Qwest cannot wait until Staff files its testimony to undertake its discovery. It would not be in the best interest of either of our clients if this proceeding were delayed to permit Qwest adequate time to conduct discovery on depreciation issues after Staff files its testimony. For that reason, Qwest believes it is entitled to ask for depreciation information from AT&T at this time.

However, in a desire to resolve the current impasse, my client is willing to agree that AT&T and TCG will only be required to provide depreciation information responsive to Qwest's First Set of Data Requests within five (5) days of filing of Staff testimony that recommends changes to Qwest's depreciation lives. However, AT&T and TCG must agree to do so at that time without any further objection or delay. I believe that this procedural arrangement is reasonable and provides your clients assurance that depreciation information will only be used to the extent Staff recommends any change in Qwest's depreciation lives.

Please respond in writing by August 24, 2004 as to whether this proposal is acceptable to AT&T and TCG. If the current impasse is not resolved, Qwest will file a Motion to Compel seeking responses to its data requests.

Sincerely,



Timothy Berg

cc: Joan Burke, Esq.
Norman Curtright, Qwest Corporation

1575362.1/67817.336

E

BERG, TIM

From: Wolters, Richard S (Rick) - LGCRP [rwolters@att.com]
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Claire L. Volpe
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<http://www.fennemorecraig.com>.

F

ROSHKA HEYMAN & DEWULF

ROSHKA HEYMAN & DEWULF, PLC
ATTORNEYS AT LAW
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SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

August 24, 2004

TELECOPIED AND MAILED

Timothy Berg, Esq.
FENNEMORE CRAIG, PC
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913

Dear Tim:

I am writing in response to your August 18, 2004 letter concerning Qwest's First Set of Data Requests to Cox Arizona Telcom, LLC ("Cox"). Your proposal concerning information concerning Cox's depreciation information is generally acceptable to Cox. Cox will provide responsive depreciation information to Qwest to the extent Staff proposes changes to Qwest's depreciation lives. However, Cox requests that: (i) Qwest provide written notice to Cox of Staff's proposed changes to Qwest's depreciation lives (and, therefore, the need for responses from Cox); (ii) an appropriate protective agreement or protective order be in place before responses are provided; and (iii) Cox has ten business days from receipt of that notice to provide responsive information.

Please let me know if this resolves the impasse.

Sincerely,



Michael W. Patten

MWP:mi

cc: Mark A. DiNunzio