



0000012032

ORIGINAL

Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CARL J. KUNASEK
Chairman
JAMES M. IRVIN
Commissioner
WILLIAM MUNDELL
Commissioner

JUL 24 4 06 PM '00

JUL 24 2000

DOCUMENT CONTROL

DOCKETED BY
Jr

IN THE MATTER OF THE APPLICATION
OF U S WEST COMMUNICATIONS, INC.,
A COLORADO CORPORATION, FOR A
HEARING TO DETERMINE THE EARNINGS
OF THE COMPANY, THE FAIR VALUE OF
THE COMPANY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN THEREON
AND TO APPROVE RATE SCHEDULES
DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. T-01051B-99-0105

**QWEST CORPORATION'S RESPONSE
TO THE MOTION OF RUCO AND
STAFF FOR AN EXTENSION OF
TIME TO FILE DIRECT
TESTIMONY DUE TO OUTSTANDING
QWEST DISCOVERY RESPONSES**

Qwest Corporation ("Qwest"), formerly U S WEST
Communications, Inc., submits the following response to the RUCO
and Staff Motion for Extension of Time to File Direct Testimony.
Qwest does not object to a brief, final extension so long as the
hearing date in this matter is not postponed. However, for the
following five reasons, Qwest opposes any extension of time that
leads to a continuance of the hearing date.

First, Staff's Experts and RUCO have already conducted
sufficient discovery and do not have a legitimate need for more
discovery. Second, there has been no appreciable delay in
responding to data requests. Third, Staff's Experts and RUCO
have refused to prioritize data requests so that Qwest could
expedite those requests that are on the critical path given the
existing schedule. Fourth, Staff's Experts and RUCO have

1 procrastinated in serving data requests and have delayed follow-
2 up on answers that they have received. Finally, the limited
3 discovery that remains outstanding does not justify an extension.

4 **I. STAFF'S EXPERTS AND RUCO HAVE ALREADY CONDUCTED**
5 **SUFFICIENT DISCOVERY.**

6 This case is the most over-discovered case in Arizona
7 rate case history. To date, Staff, RUCO and the Intervenors have
8 served Qwest with more than 3,500 data requests. In the last
9 three months alone, Qwest has been served with over 1,500
10 requests, including sub-parts. One or more sets of data requests
11 has come in virtually every day. Given the enormous number of
12 requests that have been served, it is all too easy for Staff and
13 RUCO to say they need more discovery or to blame Qwest for delays
14 in providing responses. But their statements that requests have
15 not been answered on time says nothing about whether the requests
16 were needed in the first place. Too much discovery has already
17 been conducted. It is time to put an end to discovery and to
18 move forward with the hearing.

19 **II. THERE HAS BEEN NO APPRECIABLE DELAY BY QWEST IN**
20 **RESPONDING TO DATA REQUESTS.**

21 To support their claim that an extension is necessary, Staff
22 and RUCO argue that Qwest's turnaround of discovery has averaged
23 11.2 days. This statistic actually demonstrates a very
24 responsive turnaround under the circumstances. Staff's experts
25 and RUCO have served most of their requests late in the day on
26

1 Wednesday, Thursday or Friday. As a result, Qwest loses two days
2 right off the bat. Moreover, because the requests are served at
3 the end of the day, the requests are not input into Qwest's
4 system until the next day which causes still another day delay.
5 Finally, the statistic is measured from the day served to the day
6 received such that the in-transit day is counted against Qwest.
7 When these details are taken into account, the turnaround time
8 drops by 4 days to 7.2 days (rather than 11.2).
9

10 Moreover, Staff and RUCO have served many requests that
11 could not under any set of circumstances be answered within five
12 days. Staff Data Request No. 43-20, for example, was essentially
13 a request for a new rate case filing. RUCO Data Request Nos. 21-
14 1 through 21-5 really amounted to several hundred data requests.
15 To be sure, Staff and RUCO have repeatedly demonstrated their
16 ability to submit really burdensome requests. Qwest typically
17 receives more than one set of requests in the window it has to
18 respond to a prior set of requests. As a result, Qwest is faced
19 with responding to one set of requests at the expense of
20 completing responses to a prior set.
21
22
23
24
25
26

1 **III. STAFF'S EXPERTS AND RUCO HAVE DELAYED SERVING INITIAL**
2 **AND FOLLOWUP REQUESTS.**

3 In evaluating Qwest's performance in answering requests, the
4 Commission should take into account the fact that it is far
5 easier to ask the question than to answer the question. A good
6 measure of Qwest's diligence compared to that of Staff's Experts
7 and RUCO is to look at the time it takes Staff's Experts and RUCO
8 to submit follow-up questions. By this measure, Qwest's
9 performance has been outstanding. Take, for example, Utilitech
10 Sets Nos. 63 and 64. These sets ask 45 follow-up questions. The
11 follow-up questions were served on average more than 50 days
12 after receipt of the responses the follow-up questions were based
13 on.
14

15
16 **IV. STAFF'S EXPERTS AND RUCO FAILED TO COOPERATE WITH**
17 **QWEST TO PRIORITIZE DATA REQUESTS.**

18 To ensure that Staff and RUCO received discovery when they
19 needed it, Qwest has done two things. First, it has given Staff
20 access to its finance personnel to obtain information directly.
21 Utilitech has availed itself of this several times and when
22 particular information was requested, it was provided promptly.
23 Second, counsel for Qwest has several times requested Staff and
24 RUCO to identify particular requests that were on the critical
25 path so that those requests could be expedited. (A copy of an
26

1 email request is attached as exhibit A). Staff and RUCO should
2 not be given an extension of time when they have refused to
3 prioritize discovery to make the testimony schedule in this
4 matter achievable.

5
6 V. **DISCOVERY THAT IS PRESENTLY OUTSTANDING DOES NOT**
7 **JUSTIFY AN EXTENSION.**

8 Most of the recent outstanding data requests have concerned
9 insignificant items or matters that are not and will not be known
10 and measurable at the time of hearing. In particular, many of
11 the outstanding requests have concerned the proposed Broadband
12 transfer, the Exchange Sale and reciprocal compensation. No
13 matter how much Staff and RUCO conduct discovery on these items,
14 there will be uncertainties and unanswered questions about these
15 issues when they file their testimony. Moreover, these are
16 issues that, if addressed at all in the rate case, will have to
17 be addressed separately. Thus, the fact that there may have been
18 outstanding discovery on these matters does not justify an
19 extension of time, beyond the extension already given.
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED this 24th day of July, 2000.

QWEST CORPORATION
Law Department
Thomas Dethlefs

and

FENNEMORE CRAIG

By Jenny Trudiville for
Timothy Berg
Theresa Dwyer
3003 N. Central Avenue, Suite
2600
Phoenix, Arizona 85012-2913
Attorneys for Qwest Corporation

ORIGINAL AND TEN of the foregoing hand-delivered
for filing this 24th day of
July, 2000, to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered
this 24th day of July, 2000, to:

Maureen Scott
ARIZONA CORPORATION COMMISSION
Legal Division
1200 West Washington
Phoenix, Arizona 85007

Deborah Scott
Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

1 Jerry L. Rudibaugh, Chief Administrative Law Judge
Hearing Division
2 Arizona Corporation Commission
1200 W. Washington
3 Phoenix, AZ 85007
4
5 COPY of the foregoing mailed
this 24th day of July, 2000, to:
6 Scott S. Wakefield, Chief Counsel
Residential Utility Consumer Office
7 2828 N. Central Ave., Suite 1200
Phoenix, AZ 85004-1022
8
9 Darren S. Weingard
Natalie D. Wales
10 Sprint Communications Company, L.P.
1850 Gateway Drive, 7th floor
11 San Mateo, CA 94404-2467
12
13 Steven J. Duffy
Ridge & Isaacson, P.C.
3101 N. Central Ave., Suite 432
14 Phoenix, AZ 85012
15
16 Raymond S. Heyman
Randall H. Warner
Roshka Heyman & DeWulf
17 Two Arizona Center
400 N. Fifth St., Suite 1000
18 Phoenix, AZ 85004
19
20 Peter Q. Nyce, Jr.
General Attorney, Regulatory Law Office
U.S. Army Legal Services Agency
21 Department of the Army
901 N. Stuart St., Suite 700
22 Arlington, VA 22203-1837
23
24 Richard Lee
Snavelly, King, Majoros, O'Connor & Lee, Inc.
1220 L St., N.W., Suite 410
25 Washington, D.C. 20005
26

- 1 Thomas F. Dixon
MCI WorldCom
- 2 707 17th St., Suite 3900
- 3 Denver, CO 80202

- 4 Thomas H. Campbell
Lewis & Roca
- 5 40 N. Central Ave.
- 6 Phoenix, AZ 85004

- 7 Richard S. Wolters
AT&T
- 8 1875 Lawrence St., Suite 1575
- 9 Denver, CO 80202

- 10 Mary B. Tribby
AT&T
- 11 1857 Lawrence St., Ste. 1575
- 12 Denver, CO 80202

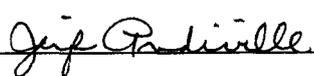
- 13 Patricia VanMidde
AT&T
- 14 2800 N. Central, Room 828
- 15 Phoenix, AZ 85004

- 16 Diane Bacon, Legislative Director
Communications Workers of America
- 17 Arizona State Council
- 18 5818 N. 7th St., Suite 206
- 19 Phoenix, AZ 85014-5811

- 20 Thomas H. Campbell
LEWIS AND ROCA
- 21 40 N. Central Avenue
- 22 Phoenix, Arizona 85004

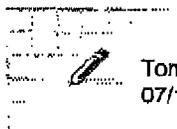
- 23 Michael W. Patten
BROWN & BAIN, P.A.
- 24 2901 North Central Avenue, Suite 2000
- 25 Phoenix, Arizona 85001-0400

- 26 Craig Marks
Citizens Utilities Company
- 27 2901 N. Central Ave., Suite 1660
- 28 Phoenix, AZ 85012

- 1 Jeffrey Crockett
2 Snell & Wilmer
3 One Arizona Center
4 Phoenix, AZ 85004-0001
- 5 J.E. McGillivray
6 300 S. McCormick
7 Prescott, AZ 86303
- 8 Jon Poston
9 Arizonians for Competition in Telephone Service
10 6733 East Dale Lane
11 Cave Creek, AZ 85331
- 12 Albert Sterman
13 Vice President
14 Arizona Consumers Council
15 2849 E. 8th Street
16 Tucson, AZ 85716
- 17 Douglas Hsiao
18 Frank Paganelli
19 Rhythms Links, Inc.
20 6933 Revere Parkway
21 Englewood, CO 80112
- 22 Jim Scheltema
23 Blumenfeld & Cohen
24 1625 Massachusetts Ave., NW, Suite 300
25 Washington, SC 20036
- 26 Martin A. Aronson
William D. Cleaveland
Morrill & Aronson, PLC
One East Camelback, Suite 340
Phoenix, AZ 85012-1658
- 27 Joan S. Burke
28 Osborn Maledon, P.A.
29 2929 N. Central Ave., Suite 2100
30 Phoenix, AZ 85012
- 31 

FROM QWEST LAW DEPT

(MON) 7. 24' 00 14:58/ST. 14:57/NO. 4660808004 P 1



Tom Dethlefs
07/11/2000 06:01 PM

To: "Scott Wakefield" <swakefield@azruco.com>
cc: Reed Peterson/PublicPolicy/USWEST/US@USWEST, Pamela
Morrow/PublicPolicy/USWEST/US@USWEST

Subject: Re: missing responses to DRs 

You should have received responses to 28-5, 28-11, 28-17, 29-14 and 29-17 already. I am checking on the rest of them and will call you tomorrow. Please let me know which of the others are priorities so that I can take steps to expedite them.

Thanks,

Tom

EXHIBIT A