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BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission
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CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

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

**RUCO'S RESPONSE TO MOTION
FOR PROCEDURAL ORDER AND
REQUEST FOR AN EXPEDITED
RULING**

The Residential Utility Consumer Office ("RUCO") files this response to Qwest Corporation's ("Qwest") Motion for Procedural Order and Expedited Ruling ("Motion"). RUCO recommends that the Motion be denied, for the reasons set forth below.

At the conclusion of the hearing on this matter on December 4, 2000, the Acting Chief Administrative Law Judge ordered that closing briefs be filed by December 18, 2000. On December 5, 2000, Qwest filed its Motion, proposing that closing briefs be due on December 12, 2000, that a Proposed Order be issued on December 18, 2000, that Exceptions be due December 28, 2000, and that the Commission hold an Open Meeting to consider the Proposed Order on December 29, 2000. Qwest proposed the alternative schedule to avoid what it characterized as "inevitable" delay that would result if this matter were not resolved prior to the end of this year.

1 **Qwest's Proposed Schedule Precludes Public Input**

2 Qwest has provided no notice to the public of the Settlement Agreement that was the
3 subject of the hearing. At the prehearing conference on November 22, 2000, the Chief
4 Administrative Law Judge indicated that the Commission intended to hold additional public
5 comment sessions after a Proposed Order was issued. Qwest's proposed schedule would
6 leave only eleven days between issuance of a Proposed Order and an Open Meeting at which
7 the Commission might act on the Proposed Order. During this time, the Commission could
8 hold public comment. However, Christmas falls in the middle of that period, and public input is
9 likely to be less than robust so close to the holidays. In addition, the public comment sessions
10 should not begin until at least two days after the Proposed Order is issued, so that members of
11 the public might have an opportunity to review and digest the Proposed Order prior to
12 providing input. Without providing a legitimate opportunity for the public to understand the
13 Proposed Order and provide meaningful comments to the Commission, the integrity of open
14 government will be compromised.

15 **Qwest's Proposed Schedule Precludes Thorough Analysis**

16 In considering whether to accept the settlement agreement, which is opposed by a
17 number of the parties to this proceeding, the Commission should determine whether the
18 settlement is a reasonable resolution of the application before it, in light of the entire record.
19 *See Business and Professional People for the Public Interest v. Illinois Commerce*
20 *Commission*, 136 Ill.2d 192, 144 Ill.Dec. 334, 555 N.E.2d 693, 704 (1989). The record in this
21 proceeding consists of transcripts from four days of hearings and 120 exhibits, as well as the
22 briefs that are yet to be filed. RUCO is concerned that the accelerated schedule proposed by
23 Qwest will compromise the Acting Chief Administrative Law Judge's ability to make a
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1 recommendation based on a thorough analysis of the entire record given that she inherited the
2 case less than two weeks ago and is maintaining her regular hearing schedule.

3 Furthermore, Qwest's proposed schedule provides that an Open Meeting be held on the
4 Proposed Order one day after Exceptions are filed. Recently, the Commissioners expressed
5 frustration that the filing of Exceptions immediately before Open Meeting did not permit them
6 enough time to fully review those Exceptions. Thereafter, the Hearing Division changed its
7 deadline for Proposed Orders to be issued, so that Exceptions would be due two business
8 days before an Open Meeting. Qwest's proposed schedule undermines the Commissioners'
9 opportunity to fully review any Exceptions that might be filed less than one full day before the
10 Commission considers the Proposed Order.

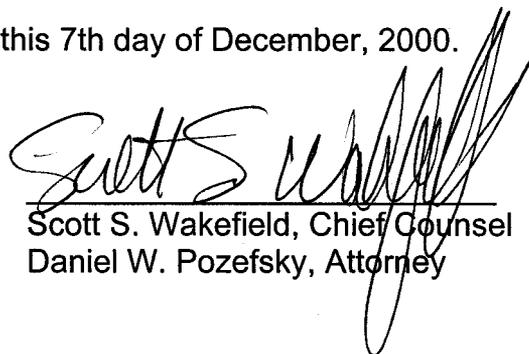
11 Qwest suggests that, if this matter is not resolved prior to the end of this year, the
12 matter would not be brought to open meeting prior to late February or March of next year, due
13 to the presence of a new commissioner. While RUCO recognizes that a new commissioner
14 may desire some time to become familiar with the issues of this case prior to voting on it, there
15 is no reason to believe that it would take two or more months for the new commissioner to gain
16 that familiarity. Furthermore, if the issues are so complex that one who is unfamiliar with this
17 case cannot adequately become familiar with the issues rapidly, the Acting Chief
18 Administrative Law Judge, who was assigned to this case just five days before the hearing
19 began, may require further time to complete her Proposed Order than the four business days
20 permitted under Qwest's proposed schedule.

21 Qwest further claims that its proposed schedule is necessary to remain consistent with
22 the "goals of the time clock rule." Despite the fact that Qwest agreed to waive the time clock
23 rule (see copy of attached motion dated October 18, 1999, page 2, lines 10-13), the
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1 Commission's actions to date have been consistent with the goal of that rule. At the request of
2 Qwest and Commission Staff (see attached motion), the Commission suspended the
3 procedural schedule in this docket pending resolution of Qwest's depreciation application. The
4 Commission resolved that matter at Open Meeting on April 25, 2000. In its May 5, 2000
5 Procedural Order, the Commission established a new procedural schedule for consideration of
6 a revised filing based on the Commission's resolution of the depreciation application and an
7 updated test year. The Commission permitted less than three months for Staff and intervenors
8 to file testimony on Qwest's updated filing. The time clock rule would have permitted six
9 months for Staff and intervenors to file such testimony. The goal of the time clock rule is to
10 balance the interests of an applicant in obtaining a timely resolution with the interests of the
11 other parties in having an opportunity to investigate and raise issues relating to the relief
12 sought. Qwest cannot legitimately claim that the processing of this application has been
13 inconsistent with the goal of the time clock rule.

14 For the reasons stated above, RUCO requests that Qwest's Motion be denied.

15 RESPECTFULLY SUBMITTED this 7th day of December, 2000.

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18 Scott S. Wakefield, Chief Counsel
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2 December, 2000 with:

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1 BEFORE THE ARIZONA CORPORATION COMMISSION

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

DOCKET NO. T-01051B-99-0105

**JOINT MOTION OF U S WEST
COMMUNICATIONS, INC. AND
COMMISSION STAFF FOR
MODIFICATION OF THE
CURRENT PROCEDURAL
SCHEDULE**

12 On August 14, 1999, the Hearing Division issued an Amended Rate Case
13 Procedural Order establishing dates for the filing of testimony and a hearing on U S WEST
14 Communications Inc.'s ("U S WEST" or the "Company") application for increased rates. U S
15 WEST and Commission Staff, (collectively the "Movants") hereby jointly request that the
16 procedural schedule established in the August 14, 1999 Order be modified to extend the time for
17 the filing of testimony and hearing as discussed below.

18 The current procedural schedule in this case requires the Staff and Intervenors to
19 file direct testimony on October 25, 1999. This does not allow adequate time for the Company
20 to update its schedules (both depreciation and revenue requirement as necessary) and revise its
21 testimony in this case to reflect its new depreciation rates and any other corrections to its
22 schedules as may be necessary. It further does not allow Staff and the Intervenors adequate time
23 to review the revised testimony and schedules and prepare testimony in response to the
24 Company's amended filing.

25 The Movants request that the filing deadline for Staff and Intervenor direct
26 testimony be extended to 30 days after the Company files its updated schedules incorporating its
27 new depreciation rates and revised testimony, and other corrections as may be necessary in this
28 case. The Company should be required to amend its filing when there is a determination on the

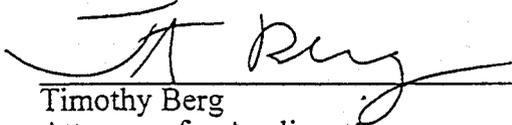
1 Staff and U S WEST depreciation rate calculations in the Depreciation Docket filed October 1,
2 1999.¹ Staff recommends requiring the Company to file within two weeks of any such
3 determination. Staff and all Intervenor would then have sufficient time, i.e. 30 days, to review
4 the Company's revised testimony and schedules and prepare testimony in response to the
5 Company's amendments. U S WEST and Commission Staff also request that all other dates in
6 the existing procedural schedule be extended for the same amount of time as the Staff/Intervenor
7 direct testimony filing date. The Movants also propose that discovery be extended until a date
8 subsequently determined by the Commission.

9 The Commission Staff and U S WEST have contacted the Intervenor in this case
10 and no party objects to this joint request for modification of the existing procedural schedule. In
11 addition, U S WEST agrees to waive any statutory or other deadlines to the extent necessary to
12 allow for the extension of time or modifications to the existing procedural schedule ultimately
13 adopted by the Commission.

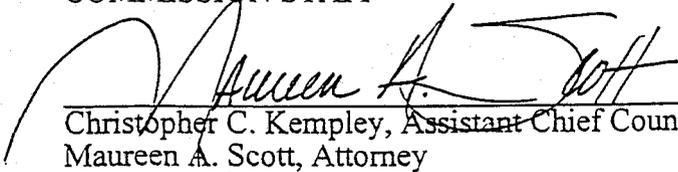
14 WHEREFORE, U S WEST and Commission Staff hereby respectfully request a
15 modification of the current procedural schedule as discussed above.

16 RESPECTFULLY SUBMITTED this 18th day of October, 1999.

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¹ In the Matter of U S WEST's Depreciation Rates, Docket No. T-01051B-97-0689.

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