



0000012165

EXCEPTION

ORIGINAL

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2001 FEB 12 P 2:15

1  
2  
3 WILLIAM A. MUNDELL  
CHAIRMAN  
4 JIM IRVIN  
COMMISSIONER  
5 MARC SPITZER  
COMMISSIONER

AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

FEB 14 2001

DOCKETED BY

7 IN THE MATTER OF THE APPLICATION  
8 OF U S WEST COMMUNICATION, INC., A  
9 COLORADO CORPORATION, FOR A  
10 HEARING TO DETERMINE THE  
11 EARNINGS OF THE COMPANY FOR  
12 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

**COX ARIZONA TELCOM, L.L.C.'S  
COMMENTS/EXCEPTIONS ON  
RECOMMENDED OPINION AND  
ORDER**

13  
14 Cox Arizona Telcom, L.L.C. ("Cox") has reviewed the Recommended Opinion and  
15 Order ("ROO") in this docket and offers the following comments:

16 Cox commends the ALJ for preparing a thorough and detailed opinion and order  
17 concerning the issues raised and debated in this docket. Importantly, the ROO recognizes  
18 that telecommunications competition is still in its infancy in many Arizona markets.  
19 Although the ROO does not adopt all of Cox's proposals concerning the Settlement  
20 Agreement and related Price Cap Plan, Cox believes the ROO and its modifications to the  
21 Settlement Agreement and Price Cap Plan go a long way towards addressing Cox's concerns  
22 about the potential anticompetitive impact of the Price Cap Plan. For example, the ROO has  
23 eliminated the vague and extremely anticompetitive geographic pricing provision (Section 4g  
24 of the Price Cap Plan). This provision attempted to do – in an even more ambiguous and  
25 anticompetitive way – what Proposition 108 would have done had the voters not  
26 overwhelmingly rejected it. The ROO also adopts important procedures for considering any

1 “competitive” (i.e., Basket 3) service proposed by Qwest. Those procedures reflect  
2 Commission policies set forth in Commission rules such as A.A.C. R14-2-1108, and ensure  
3 that critical factors – such as market share and actual market conditions – are considered in  
4 deciding whether or not to approve a “competitive” Qwest service.

5 Cox still remains concerned over certain potentially anticompetitive impacts of the  
6 Price Cap Plan. In particular, Cox believes the price floors may allow improper cross-  
7 subsidization and predatory pricing by Qwest. Some of Cox’s remaining concerns should be  
8 addressed in the new docket proposed by the *ROO* regarding the Commission’s Imputation  
9 Rule (A.A.C. R14-2-1310) and Cox will raise those concerns in that docket. Cox also hopes  
10 that other Cox concerns may be ameliorated by the Commission’s vigilant monitoring of  
11 Qwest activity under the Settlement Agreement and Price Cap Plan.

12  
13 February 12, 2001.

14 Respectfully submitted,

15 **COX ARIZONA TELCOM, L.L.C.**

16  
17 By 

18 Michael W. Patten  
19 BROWN & BAIN, P.A.  
20 2901 North Central Avenue  
21 Post Office Box 400  
22 Phoenix, Arizona 85001-0400  
23 602/351-8000

24 **ORIGINAL and 10 COPIES** filed  
25 February 12, 2001, with:

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

1 **COPIES** hand-delivered February 12, 2001, to:

2 Jane L. Rodda  
Hearing Division  
3 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
4 Phoenix, Arizona 85007

5 Christopher Kempley  
Maureen A. Scott  
6 Legal Division  
ARIZONA CORPORATION COMMISSION  
7 1200 West Washington Street  
Phoenix, Arizona 85007

8 Deborah R. Scott  
9 Director, Utilities Division  
ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
Phoenix, Arizona 85007

11  
12 **COPIES** mailed February 12, 2001, to:

13 Richard S. Wolters  
AT&T  
14 1857 Lawrence Street, Suite 1575  
Denver, Colorado 80202

15 Joan Burke  
16 OSBORN MALEDON  
2929 North Central Avenue, Suite 2100  
17 Post Office Box 36379  
Phoenix, Arizona 85067-6379

18 Albert Sterman  
19 ARIZONA CONSUMERS COUNCIL  
2849 Eat 8th Street  
20 Tucson, Arizona 85716

21 Martin A. Aronson  
William D. Cleaveland  
22 MORRILL & ARONSON PLC  
One Camelback Road, Suite 340  
23 Phoenix, Arizona 85012

24 ...

25 ...

26 ...

- 1 Raymond S. Heyman  
Randall H. Warner, Esq.
- 2 ROSKA HEYMAN & DEWULF PLC  
Two Arizona Center  
3 400 North 5th Street, Suite 1000  
Phoenix, Arizona 85004
- 4 Diane Bacon
- 5 COMMUNICATIONS WORKERS OF AMERICA  
5818 North 7th Street, Suite 206  
6 Phoenix, Arizona 85014-5811
- 7 Peter Q. Nyce, Jr.  
General Attorney, Regulatory Law Office  
8 U.S. Army Legal Services Agency  
DEPARTMENT OF THE ARMY  
9 901 North Stuart Street, Suite 700  
Arlington, Virginia 22203-1837
- 10 Thomas F. Dixon
- 11 MCI WORLD COM  
707 17<sup>th</sup> Street, Suite 3900  
12 Denver, Colorado 80202
- 13 Thomas H. Campbell  
LEWIS & ROCA  
14 40 North Central Avenue  
Phoenix, Arizona 85004
- 15 Douglas Hsiao
- 16 RHYTHMS LINKS INC.  
6933 Revere Parkway  
17 Englewood, Colorado 80112
- 18 Jim Scheltema  
BLUMENFELD & COHEN  
19 1625 Massachusetts Avenue, N.W., Suite 300  
Washington, D.C. 20036
- 20 Scott S. Wakefield
- 21 RESIDENTIAL UTILITY CONSUMER OFFICE  
2828 North Central Avenue, Suite 1200  
22 Phoenix, Arizona 85004-1022
- 23 Darren S. Weingard  
Natalie D. Wales
- 24 SPRINT COMMUNICATIONS COMPANY L.P.  
1850 Gateway Drive, 7th Floor  
25 San Mateo, California 94404-2467
- 26 ...

- 1 Jeffrey W. Crockett  
SNELL & WILMER  
2 One Arizona Center  
Phoenix, Arizona 85004-0001  
3  
4 Timothy Berg  
Theresa Dwyer  
FENNEMORE CRAIG  
5 3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
6  
7 Steven J. Duffy  
RIDGE & ISAACSON PC  
3101 North Central Avenue, Suite 432  
8 Phoenix, Arizona 85012  
9  
10 J.E. & B.V. McGillivray  
300 South McCormick  
Prescott, Arizona 86303  
11  
12 Chuck Turner, Mayor  
TOWN OF GILA BEND  
644 West Pima Street  
Post Office Box A  
13 Gila Bend, Arizona 85337-0019  
14  
15 Richard Lee  
SNAVELY KING & MAJOROS  
O'CONNOR & LEE, INC.  
1220 L Street, N.W., Suite 410  
16 Washington, D.C. 20005  
17  
18 William F. Cottrell  
7064 West Angela Drive  
Glendale, Arizona 85308  
19  
20 Jon Poston  
6733 East Dale Lane  
Cave Creek, Arizona 85331

21   
22  
23 125555\_1  
24  
25  
26