



0000012259

47

ORIGINAL

Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

2 CARL J. KUNASEK 01 2000  
3 Chairman  
4 JIM IRVIN DOCKETED BY  
5 Commissioner  
6 WILLIAM A. MUNDELL  
7 Commissioner

JM

2000 DEC -1 A 11:22

AT CORP COMMISSION DOCUMENT CONTROL

6 IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. T-03883A-00-0366  
7 LOCAL GATEWAY EXCHANGE, INC. )  
8 FOR A CERTIFICATE OF CONVENIENCE ) STAFF'S FAIR VALUE RATE  
9 AND NECESSITY TO PROVIDE ) BASE COMMENTS  
10 COMPETITIVE FACILITIES-BASED AND )  
11 RESOLD LOCAL EXCHANGE AND )  
12 INTEREXCHANGE TELECOMMUNICATIONS )  
13 SERVICES IN THE STATE OF ARIZONA. )

11 On November 16, 2000 Local Gateway Exchange, Inc. ("The Applicant") filed a response  
12 to the September 26, 2000 Procedural Order's requirement that the Applicant file Fair Value Rate  
13 Base ("FVRB") information in support of its application for a Certificate of Convenience and  
14 Necessity ("CC&N"). The Applicant is not currently providing service in Arizona. The September  
15 26, 2000 Procedural Order ordered the Utilities Division Staff ("Staff") to file disagreements with  
16 the proposed FVRB and/or rates and charges within 60 days of the date of the Procedural Order.<sup>1</sup>  
17 Staff hereby files its disagreements with the Applicant's November 16, 2000 filing.

18 **Staff's Substantive Comments.**

19 The Applicant's response to the ordered FVRB information provides insufficient information  
20 for Staff analysis and recommendation for a fair value finding in this case. At a minimum, Staff  
21 requires the following three items of information of the Applicant in order to make a FVRB  
22 recommendation. First, a dollar figure representing the Applicant's rate base is necessary for a  
23 FVRB analysis. This dollar figure should include all assets the Applicant will use to provide the  
24 proposed telecommunications services to its Arizona customers for the first twelve months of service  
25 and can include office space, office equipment, company vehicles, and other like items. Second, a

27 <sup>1</sup> The September 26, 2000 Procedural Order also ordered Staff to review the FVRB information  
28 filed and ascertain that the Applicant is utilizing the appropriate amount of depreciation and capital  
carrying costs in determining its total service long-run incremental costs. The information filed by  
the Applicant was not sufficient to allow Staff to so ascertain.

1 FVRB analysis requires that the Applicant provide an estimate of its annual maximum revenues to  
2 be received in exchange for providing the proposed telecommunications services to its Arizona  
3 customers for the first twelve months of service assuming the maximum rates as filed in the  
4 application. Third, a FVRB analysis requires that the Applicant provide an estimate of its annual  
5 maximum expenses incurred in providing the proposed telecommunications services to its Arizona  
6 customers for the first twelve months of services assuming the maximum rates as filed in the  
7 application.

8 The September 26, 2000 Procedural Order referenced the Opinion of the Arizona Court of  
9 Appeals, Division One in Cause No. 1 CA-CV 98-0672 ("Opinion"). Since the issuance of that  
10 Opinion and the Procedural Order, several parties to that case have filed petitions for review of the  
11 Opinion to the Arizona Supreme Court, including Staff, Electric Lightwave, Inc., AT&T, Sprint  
12 Communications, MFS Intelnet, and Cox Arizona Telcom.

13 **Staff's Procedural Comments.**

14 Staff believes that in light of the current appeal status of the Opinion, that the Applicant  
15 should have the choice of the following two procedural options in proceeding with its CC&N  
16 application.

17 **Alternative #1:**

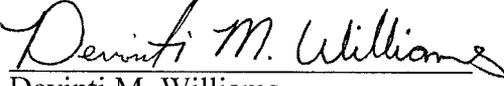
18 Staff recommends that if the Applicant wishes to have permanent rates set in this proceeding,  
19 that it be ordered to file the three above-described FVRB information items within 30 days of the  
20 date of any Commission order granting the requested CC&N, or at least 90 days prior to providing  
21 service. The Applicant should be ordered to notify Staff within ten calendar days of providing  
22 service. If there are any disagreements with any FVRB information the Applicant files, the Order  
23 granting the Applicant's CC&N should be stayed pending resolution of those disagreements.

24 **Alternative #2:**

25 If the Applicant desires to proceed with its CC&N application without providing FVRB  
26 information at this time, Staff believes that any tariffs filed in this matter should be reviewed and  
27 approved on an interim basis. If a CC&N is conditionally granted and tariffs are authorized on an  
28 interim basis, the Applicant should be required to file the three FVRB items with the Commission

1 within thirty days of any final court mandate on the Fair Value requirement, and failure to file the  
2 information should result in the expiration of the conditional CC&N as well as expiration of any  
3 approval to charge its tariffs on an interim basis. If there are any disagreements with any FVRB  
4 information the Applicant files, the Order granting the Applicant's CC&N should be stayed pending  
5 resolution of those disagreements.

6 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of December, 2000.

7 

8 Devinti M. Williams  
9 Arizona Corporation Commission  
10 Attorney, Legal Division  
11 1200 West Washington Street  
12 Phoenix, Arizona 85007  
13 (602) 542-3402

14 The original and fifteen (15) copies  
15 of the foregoing filed this 1<sup>st</sup> day  
16 of December, 2000, with:

17 Docket Control  
18 Arizona Corporation Commission  
19 1200 West Washington Street  
20 Phoenix, Arizona 85007

21 Copy of the foregoing was mailed  
22 this 1<sup>st</sup> day of December, 2000 to:

23 Connie Wightman  
24 Technologies Management, Inc.  
25 210 Park Avenue, North  
26 Winter Park, FL 32789

27 Charles G. Taylor, Jr., President and CEO  
28 Local Gateway Exchange, Inc.  
700 North Pearl, Suite, 200  
Dallas, Texas 75201

Timothy Berg  
FENNEMORE CRAIG  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
Attorneys for Qwest Corporation

25   
26 Angela L. Bennett