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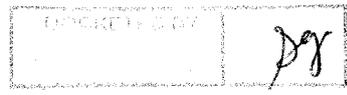
Arizona Corporation Commission
RE THE ARIZONA CORPORATION COMMISSION

RECEIVED

- 2 CARL J. KUNASEK
CHAIRMAN
- 3 JIM IRVIN
COMMISSIONER
- 4 WILLIAM A. MUNDELL
COMMISSIONER

SEP 26 2000

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AZ CORP COMMISSION
DOCUMENT CONTROL

5
6 IN THE MATTER OF THE APPLICATION OF
7 LOCAL GATEWAY EXCHANGE, INC. TO
8 CERTIFICATE OF CONVENIENCE AND
9 NECESSITY TO PROVIDE COMPETITIVE
FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES IN
ARIZONA

DOCKET NO. T-03883A-00-0366

PROCEDURAL ORDER

10 **BY THE COMMISSION:**

11 On May 30, 2000, Local Gateway Exchange, Inc. ("Applicant" or "LGEI") submitted to
12 Docket Control of the Arizona Corporation Commission ("Commission") an application for a
13 Certificate of Convenience and Necessity ("Certificate") to provide competitive facilities-based and
14 resold local exchange and interexchange telecommunications services in Arizona.

15 On July 5, 2000, LGEI filed Affidavits of Publication indicating compliance with the
16 Commission's notice requirements.

17 On August 18, 2000, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.
18 Accordingly, the matter should be set for hearing.

19 On August 28, 2000, a Procedural Order was issued setting the matter for hearing on October
20 26, 2000.

21 On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion in
22 Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the
23 Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all
24 public service corporations in Arizona prior to setting their rates and charges." Although that
25 Opinion will more than likely be appealed to the Arizona Supreme Court, we are going to request
26 FVRB information at this time to insure compliance with the Constitution should the ultimate
27 decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned
28 that the cost and complexity of FVRB determinations must not offend the Telecommunications Act

1 of 1996.

2 IT IS THEREFORE ORDERED that the hearing on the above application and petition of
3 Applicant currently scheduled for hearing on October 26, 2000 shall be continued to December 14,
4 2000 at 10 a.m., or as soon thereafter as is practical, at the Commission's offices, 1200 West
5 Washington Street, Phoenix, Arizona 85007 to allow additional time for Local Gateway Exchange,
6 Inc. to file FVRB information.

7 IT IS FURTHER ORDERED that Local Gateway Exchange, Inc. shall file its proposed
8 FVRB by November 1, 2000 (pursuant to A.A.C. R14-2-103(B), this may be the same as original
9 cost rate base). The FVRB shall include the value of all plant and equipment currently held by the
10 Company and intended to be used to provide telecommunications services to Arizona customers. In
11 doing so, Local Gateway Exchange, Inc. may use any reasonable means of asset allocation, direct
12 assignment or combination thereof.

13 IT IS FURTHER ORDERED that Local Gateway Exchange, Inc. shall file a description of all
14 plant and equipment currently held by the Company and intended to be used to provide
15 telecommunications services to Arizona customers, including their cost and location, by November 1,
16 2000.

17 IT IS FURTHER ORDERED that Local Gateway Exchange, Inc. shall file information
18 demonstrating how the value of its plant and equipment (both current and projected) is related to its
19 total service long-run incremental costs by November 1, 2000 (such demonstration must include the
20 amount of depreciation expense and capital carrying costs related to the FVRB which has been
21 incorporated into the long-run incremental costs).

22 IT IS FURTHER ORDERED that for all maximum rates and charges of Local Gateway
23 Exchange, Inc. which are higher than those of the incumbent local exchange carrier ("ILEC") for the
24 same regulated services, Local Gateway Exchange, Inc. must demonstrate that such rates and charges
25 are not unreasonable, and constitute a fair rate of return on FVRB (if there is more than one ILEC in
26 your proposed service area, use Qwest Corporation as a surrogate ILEC for the entire state).

27

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1 IT IS FURTHER ORDERED that Staff shall review the FVRB information filed and ascertain
2 that Local Gateway Exchange, Inc. is utilizing the appropriate amount of depreciation and capital
3 carrying costs in determining its total service long-run incremental costs.

4 IT IS FURTHER ORDERED that Staff or Intervenors shall file disagreements with the
5 proposed FVRB and/or rates and charges, by **12:00 noon** on December 1, 2000.

6 IT IS FURTHER ORDERED that Local Gateway Exchange, Inc. shall mail Qwest
7 Corporation, formerly U S WEST Communications, Inc. notice of its pending application by October
8 11, 2000.

9 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
10 except that all motions to intervene must be filed on or before November 14, 2000 **by 12 noon**.

11 IT IS FURTHER ORDERED that any objections to motions to intervene shall be filed on or
12 before November 21, 2000 **by 12 noon**.

13 IT IS FURTHER ORDERED that all intervenors shall file specific disagreements/comments
14 regarding the application and Staff Report on or before December 7, 2000 **by 12 noon**.

15 IT IS FURTHER ORDERED that the Applicant shall file specific disagreements/comments,
16 if any, to the Staff report by **12:00 noon** on December 7, 2000.

17 IT IS FURTHER ORDERED that all intervenors, Staff and Applicant shall file by **12:00**
18 **noon** on December 7, 2000, a list of witnesses and subject area(s) to be covered at the hearing in this
19 matter.

20 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
21 regulations of the Commission, except that every effort shall be made to respond within 48 hours of
22 receipt; the response time may be extended by mutual agreement of the parties involved if the request
23 requires an extensive compilation effort.

24 IT IS FURTHER ORDERED that in the alternative to filing a written motion to compel
25 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
26 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such
27 request, a procedural hearing will be convened as soon as practicable; and that the party making such
28 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the

1 hearing provide a statement confirming that the other parties were contacted.¹

2 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
3 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

4 DATED this 26th day of September, 2000.

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STEPHEN GIBELLI
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 26th day of September, 2000 to:

11 Connie Wightman
12 Technologies Management, Inc.
13 210 Park Avenue, North
14 Winter Park, FL 32789

15 Charles G. Taylor, Jr., President and CEO
16 Local Gateway Exchange, Inc.
17 700 North Pearl, Suite 200
18 Dallas, Texas 75201

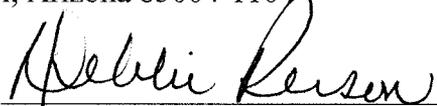
19 Timothy Berg
20 FENNEMORE CRAIG
21 3003 North Central Avenue, Suite 2600
22 Phoenix, Arizona 85012-2913
23 Attorneys for Qwest Corporation

24 Lyn Farmer, Chief Counsel
25 Legal Division
26 ARIZONA CORPORATION COMMISSION
27 1200 West Washington Street
28 Phoenix, Arizona 85007

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

¹ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 ARIZONA REPORTING SERVICE, INC.
2 2627 N. Third Street, Suite Three
3 Phoenix, Arizona 85004-1104

4 By: 
5 Debbi Person
6 Secretary to Stephen Gibelli
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