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BEFORE THE ARIZONA CORPORATION COMMISSION

2005 MAR 25 P 3: 53

JEFF HATCH-MILLER
Chairman
WILLIAM A. MUNDELL
Commissioner
MARC SPITZER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN MAYES
Commissioner

AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

MAR 25 2005

DOCKETED BY KS

IN THE MATTER OF QWEST CORPORATION'S FILING AMENDED RENEWED PRICE REGULATION PLAN.	DOCKET NO. T-01051B-03-0454
IN THE MATTER OF THE INVESTIGATION OF THE COST OF TELECOMMUNICATIONS ACCESS.	DOCKET NO. T-00000D-00-0672

EXCEPTIONS TO PROPOSED ORDER

Pursuant to A.A.C. R14-3-110, Qwest Corporation ("Qwest") files the following exceptions to the recommended opinion and order issued on March 16, 2005 (the "Proposed Order"). Qwest requests that the Commission enter an order staying Decision Nos. 66772 and 67047 (only as to the Basket 1 productivity factor rate adjustment) until the entry of a final decision in this docket. A Proposed Order to this effect is attached hereto as Exhibit A. Alternatively, Qwest requests that the Commission adopt the amendment attached hereto as Exhibit B and declare that Qwest's existing Basket 1 rates continue after April 1, 2005 as interim rates pending a final decision in this docket. Either alternative provides a way to deal with the April 1 issue that is fair to both Qwest and ratepayers, in a manner to be decided in the current case, without implicating the legal issues identified by the Administrative Law Judge in the Proposed Order.[1]

[1] The Proposed Order denies Qwest's Motion to Suspend Inflation-Minus-Productivity Factor Adjustment ("Motion") because it concludes that granting the Motion would violate the *Scates* doctrine and constitute retroactive ratemaking. In reaching this conclusion, the Administrative Law Judge ("ALJ") relies primarily on

The Commission is undoubtedly aware of the background of this dispute. Briefly stated, under the existing Price Cap Plan (interpreted in the Proposed Order), Qwest must adjust its overall Basket 1 revenues by an amount determined according to an inflation-minus-productivity factor index ("the Productivity Adjustment") until the existing Price Cap Plan is terminated, renewed or revised. Thus, on April 1 of each year that the Price Cap Plan is in effect if productivity is greater than inflation, Qwest must lower some of its existing rates in Basket 1. Unlike an automatic adjustment clause for purchased power or fuel (which is revenue neutral because decreases or increases in costs are matched by decreases or increases in revenue), the Productivity Adjustment reduces Qwest's return on fair value rate base.

In early 2004, Qwest asked the Commission to interpret the Price Cap Plan to require no further reductions based on the Productivity Adjustment or to terminate the Price Cap Plan. The Commission rejected Qwest's motion after two lengthy open meetings, but made it clear that Qwest was free to renew its motion if this docket were not completed before April 1, 2005. On February 3, 2005, Qwest filed the Motion, requesting the temporary suspension of the operation of the Productivity Adjustment until the completion of this docket. The Proposed Order recommends denying this Motion.

The ALJ and RUCO take the position that it is illegal to suspend the operation of the Productivity Factor even on an interim basis, no matter how long a full rate case takes to reach its conclusion. Either of the alternatives Qwest proposes above completely avoid any complication with the *Scates* doctrine and the rule against retroactive ratemaking.

It is clear under the provision of A.R.S. 40-252 that the Commission may at any

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interpretations of Arizona's fair value requirement and retroactive ratemaking doctrine as urged by RUCO. These arguments, and as a consequence the Proposed Order, have no sound basis in Arizona law, and Qwest believes that the Commission would be on solid legal ground to simply reject the Proposed Order and approve Qwest's Motion for the reasons stated in Appendix attached hereto. However, the two alternatives Qwest suggests herein provide a way for the Commission to look at this issue in different ways that do not implicate the *Scates* doctrine or retroactive ratemaking.

time, upon notice to the corporation affected, alter or amend any order or decision made by the Commission. Indeed, the Commission has recently exercised that authority when it adopted Decision 67047, reversing the Commission's earlier decision concerning access charges in Decision 66772. A decision to stay Decision Nos. 66772 and 67047 does not implicate either the prohibition against retroactive ratemaking or the *Scates* doctrine. Under Arizona law, retroactive ratemaking occurs when the Commission sets a new rate and requires either a surcharge or refund based on the application of the new rate back to an earlier day. *Mountain States Tel. & Tel. Co. v. Arizona Corporation Comm'n, 124 Ariz. 433, 604 P.2d 1144 (App. 1979).* Staying that portion of the Commission's prior decisions does not mandate the application of a subsequently established rate to a prior period. Rather, it permits the rates that are presently in effect to continue until the entry of a final order in this docket and permits the Commission to determine the effect of the Basket 1 productivity adjustment mechanism as part of a final order[2]. Similarly, *Scates* does not prohibit the entry of a stay here. *Scates* requires that before rates are changed, there be a finding of fair value and a reasonable rate of return. No rates will be changed by a stay; existing rates will remain in effect until the completion of this docket. As part of entering a final order, the Commission can determine what if any effect should be given to the existing Basket 1 productivity adjustment mechanism.

Qwest also suggests an alternative approach, which is stated in the proposed amendment in Exhibit B hereto. It is undisputed that in an emergency the Commission has the authority to declare rates as interim or to set interim rates, require the posting of a bond and the truing-up of the rates after the completion of a general rate case. In the past,

[2] If in adopting a final order approving a new price cap plan, the Commission were to find that Qwest was over-recovering between to April 1, 2005 and the effective date of such order, Qwest will not argue that an adjustment to its rates to reflect that finding is retroactive ratemaking, because by asking for a stay Qwest has agreed to the deferral of that issue to the final order.

the Commission has treated a delay in the ability to fix and implement proper rates as an emergency justifying interim rate relief. *See, e.g.,* Decision No. 61304 (December 30, 1998). This proceeding began in July 2003, when Qwest filed the information required by the Settlement Agreement in the previous docket. Since that filing, Qwest has already reduced rates once pursuant to the Productivity Adjustment. The record in this matter is undisputed that Qwest currently faces a revenue requirement deficiency. Staff, RUCO and Qwest have all filed testimony indicating that Qwest's current rates and charges have not met its revenue requirement since at least 2003. If the Basket 1 productivity adjustment is made on April 1, Qwest's revenue requirement deficiency will increase by the amount of that rate decrease. The delay in implementing new rates coupled with the undisputed revenue deficiency faced by Qwest creates an emergency justifying the imposition of interim rates. Further, Qwest faces the prospect of lowering rates an additional time and ultimately raising rates later this year upon completion of the pending proceeding. Under these circumstances, the Commission should conclude that an emergency exists and Qwest's existing Basket 1 rates should be declared to be in effect as interim rates from April 1, 2005 until the entry of a final decision in this matter.

CONCLUSION

The Commission should order a stay of Decision Nos. 66772 and 67047 in the form attached as Exhibit A until the entry of a final decision in this matter. Such a stay is an appropriate exercise to the Commission's inherent power to stay its own decisions and preserve the status quo in this matter.

Alternatively, the Commission should adopt the proposed amendment attached as Exhibit B and declare that Qwest's existing Basket 1 rates are interim as of April 1, 2005 and subject to true-up at the completion of this docket.

///

///

RESPECTFULLY SUBMITTED this 25th day of March, 2005.

QWEST CORPORATION

By: _____
Norman Curtright
4041 N. Central, 11th Floor
Phoenix, AZ 85012

-and-

Timothy Berg
Theresa Dwyer
FENNEMORE CRAIG
3003 North Central Ave., Suite 2600
Phoenix, Arizona 85012-2913
(602) 916-5421

Attorneys for Qwest Corporation

ORIGINAL and 15 copies hand-delivered for filing this 25th day of March, 2005 to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing delivered this 25th day of March, 2005 to:

Jane Rodda
Administrative Law Judge
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

Maureen A. Scott
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

Christopher Kempley
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing mailed
this 25th day of March, 2005 to:

Scott S. Wakefield, Chief Counsel
Daniel W. Pozefsky, Esq.
RUCO
1110 West Washington, Suite 220
Phoenix, AZ 85007

Michael W. Patten
Roshka Heyman & DeWulf, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Mark A. DiNunzio
Cox Arizona Telcom, LLC
20401 North 29th Avenue
Phoenix, Arizona 85027

Thomas H. Campbell
Michael T. Hallam
Lewis and Roca
40 N. Central Avenue
Phoenix, Arizona 85004

Thomas F. Dixon
WorldCom, Inc.
707 17th Street, 39th Floor
Denver, Colorado 80202

Peter Q. Nyce, Jr.
Regulatory Law Office
U.S. Army Litigation Center
901 N. Stuart Street, Suite 713
Arlington, VA 22203-1837

Richard Lee
Snavely King Majoros O'Connor & Lee
1220 L. Street N.W., Suite 410
Washington, DC 20005

Walter W. Meek President
Arizona Utility Investors Association
2100 N. Central Avenue, Suite 210
Phoenix, AZ 85004

Albert Sterman, Vice President
Arizona Consumers Council
2849 E. 8th Street
Tucson, AZ 85716

Martin A. Aronson
Morrill & Aronson, PLC
One East Camelback Road, Suite 340
Phoenix, AZ 85012

Brian Thomas
Vice President Regulatory
Time Warner Telecom, Inc.
223 Taylor Avenue North
Seattle, WA 98109

Diane Kupan

APPENDIX

The Proposed Order denies Qwest's Motion to Suspend Inflation-Minus-Productivity Factor Adjustment ("Motion") because it concludes that granting the Motion would violate the *Scates* doctrine and constitute retroactive ratemaking. In reaching this conclusion, the Administrative Law Judge ("ALJ") relies primarily on interpretations of Arizona's fair value requirement and retroactive ratemaking doctrine as urged by RUCO. These arguments, and as a consequence the Proposed Order, have no sound basis in Arizona law.

The ALJ and RUCO take the position that it is illegal to suspend the operation of the Productivity Factor even on an interim basis, no matter how long a full rate case takes to reach its conclusion. Their analysis undermines the purpose of both the *Scates* doctrine and the rule against retroactive ratemaking.

Article 15, Sections 3 and 14 of the Arizona Constitution require the Commission to set just and reasonable rates for a public service corporation, and in so doing to determine and consider the fair value of the public service corporation's rate base. *Scates v. Arizona Corporation Comm'n*, 118 Ariz. 531, 578 P.2d 612 (App. 1978). Under *Scates* and related cases, the rates of a utility cannot be raised or lowered in a way that will impact its return on fair value rate base without a determination of that fair value and return. *See, e.g., Simms v. Round Valley Light & Power Co.*, 80 Ariz. 145, 294 P.2d 378 (1956); *Scates supra.* The *Scates* decision recognizes two exceptions to the fair value requirement. First, rates that are raised or lowered pursuant to an automatic adjustment clause do not require a prior determination of fair value because the effect of such a clause is revenue neutral (*i.e.,* any increase or decrease in rates is offset by an increase or decrease in costs so that the return on rate base before and after the rate adjustment is the same). If a rate increase or decrease does not result in a change to the utility's return on fair value rate base, there is no reason to require a full rate case (or any determination of

fair value) prior to the change. Second, the Commission is permitted to set interim rates, subject to a bond and later true-up in the event of an emergency. *Scates, supra.*

Here, the granting of Qwest's motion would have had no effect on Qwest's return on fair value rate base. If Qwest's motion is granted, its return on rate base after April 1, 2005 will be the same as before. Contrary to RUCO's arguments, a suspension of the operation of the productivity adjustment neither changes Qwest's rates nor its return on rate base. There simply is no *Scates* issue.

RUCO may argue that the fair value determination in the Commission's original decision approving the existing Price Cap Plan was based on the assumption that the productivity adjustment would continue to operate into the indefinite future, resulting in some incalculable, indeterminate fair rate of return over an undefined period of time. This argument fails. The Commission has an obligation to set just and reasonable rates—*i.e.,* rates that are fair to both consumers and the utility. As part of that authority to set rates, the Commission may enter into or approve an agreement that sets rates for a defined period based on a fair value determination made when the rates are adopted. All of this is consistent with *Scates* and the Arizona Constitution. Doing what RUCO and the Proposed Order suggest is not consistent with those authorities, however. RUCO proposes that the Commission can place into effect a mechanism that not only lowers a utility's rates, but also its return over an indefinite period; this proposal effectively strips the Commission of its power to suspend the operation of that mechanism without a full rate case. Nothing in the Arizona Constitution compels such a result. The obligation to set just and reasonable rates includes the obligation to ensure that those rates do not become unjust or unreasonable in the future. Here, every party who has filed revenue requirement testimony in this docket has calculated a positive revenue requirement for Qwest. The Commission has no obligation to mechanically continue to decrease rates in these circumstances. The Commission has the authority to suspend the operation of the

productivity adjustment if that adjustment will produce rates that are unjust or unreasonable, so long as it ultimately makes a fair value determination in setting permanent rates in this docket.

Further, no purpose embodied in the fair value requirement of the Arizona Constitution is served by requiring the productivity adjustment to continue automatically. The purpose of the fair value requirement is to assist the Commission in setting rates that are fair to *both* the utility's ratepayers and its shareholders. In these circumstances, an automatic reduction followed by an increase at the end of the proceeding does not serve the interests of either ratepayers or shareholders.

The ALJ's conclusion that suspending the Productivity Factor will result in retroactive ratemaking is also erroneous. Under Arizona law, retroactive ratemaking occurs when the Commission sets a new rate and requires either a surcharge or refund based on the application of that new rate back to an earlier date. *Mountain States Tel. &Tel. Co. v. Arizona Corporation Comm'n*, 124 Ariz. 433, 640 P.2d 1144 (App. 1979). Qwest is not proposing that it be permitted to surcharge or be required to refund after the entry of a final order in this docket based on the retroactive application of the rates ultimately set by the Commission to a period prior to their adoption. Any such action would certainly violate the prohibition against retroactive ratemaking. Qwest is proposing, however, that the Productivity Factor be suspended pending the Commission's final decision in this docket; that is not retroactive ratemaking.

If the Commission simply suspends the operation of the Productivity Factor, it will leave Qwest's current rates in place and will not apply rates to be set in the future to the period from April 1, 2005 to the effective date of an order setting permanent rates. If it declares Qwest's current rates to be interim and subject to true-up at the conclusion of the case, such an action is not retroactive ratemaking because interim rates (properly adopted as such) are an exception to the rule against retroactive ratemaking. Similarly, if the

Commission simply stays the effect of Decision Nos. 66772 and 67047, there will be no issue of retroactive ratemaking because the Decisions are simply stayed pending a final decision in this docket.

Finally, the Proposed Order represents bad public policy. The net effect of the Proposed Order is to require Qwest to lower rates shortly before the conclusion of a rate case where all parties agree that Qwest faces a revenue requirement deficiency that will lead to increased rates. The Commission denied Qwest's request for relief from the Productivity Adjustment in 2004 because it concluded, in part, that the delay in the docket up to that point had been Qwest's fault. The fact that this docket did not reach a conclusion between April 1, 2004 and April 1, 2005 cannot be blamed on any failure by Qwest. The Productivity Adjustment should be suspended pending a final decision in this case.

EXHIBIT A

BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
Chairman
WILLIAM A. MUNDELL
Commissioner
MARC SPITZER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN MAYES
Commissioner

IN THE MATTER OF QWEST CORPORATION'S FILING AMENDED RENEWED PRICE REGULATION PLAN.	DOCKET NO. T-01051B-03-0454
IN THE MATTER OF THE INVESTIGATION OF THE COST OF TELECOMMUNICATIONS ACCESS.	DOCKET NO. T-00000D-00-0672 DECISION NO. _____

ORDER STAYING
DECISION NOS. 66772 and 67047
BY THE COMMISSION

In Decision No. 63487 (March 30, 2001), the Arizona Corporation Commission approved a Settlement Agreement, which adopted a Price Cap Plan for Qwest Corporation ("Qwest"). The Price Cap Plan, which had an initial term of three years, provides *inter alia,* that Basket 1 services are capped and subject to an annual rate adjustment determined by an "Inflation minus Productivity" indexing mechanism. Under that mechanism when productivity exceeds inflation, rates for Basket 1 services decrease effective April 1 of the following year.

On July 1, 2003, Qwest filed its Renewed Price Regulation Plan ("Renewed Plan") pursuant to the provisions of the Settlement Agreement approved in Decision No. 63487.

By Procedural Order dated November 17, 2003, the Commission determined that Phase I of the Access Charge Docket, which addresses Qwest's access charges, should be

considered in conjunction with the Renewed Plan.

On February 10, 2004, in response to a Qwest Motion to Clarify, Or In the Alternative, To Terminate Price Cap Plan, the Commission issued Decision No. 66772. In its Motion, Qwest had requested that the Commission clarify that after the expiration of the initial term of the Price Cap Plan on March 30, 2004, that: 1) no further productivity adjustment for Basket 1 Services would be made after March 30, 2004; 2) no further annual reduction in the level of access charges under the Settlement Agreement and the Price Cap Plan would be made after April 1, 2004; and 3) the procedures for changes in Qwest's rates and charges, including the hard caps imposed on the specific Basket 1 Services, would continue to apply until superceded by a revised plan approved by the Commission or a Commission order setting new rates and charges for Qwest.

In Decision No. 66772 the Commission found that pursuant to the Continuation Clause in the Price Cap Plan, the Plan's terms and conditions, including the productivity adjustment, continue in effect until the Commission modifies or terminates the Plan. The commission found that Qwest must make the adjustment for the third year of the Plan effective April 1, 2004, and that the productivity adjustment remains in place pending Commission action on a new Plan.

In Decision No. 67047 (June 18, 2004), the Commission addressed a Qwest Motion for Reconsideration of Decision No. 66772 and a Qwest Motion to Revise Productivity Factor. In Decision No. 67047, the Commission found that with respect to the productivity adjustment for Basket 1, Decision No. 66772 should be affirmed, and the adjustment for the third year of the Plan should be made on April 1, 2004. In addition, the Commission held:

> Further adjustments after April 1, 2004, would be governed by the Continuation Clause of the Agreement and Basket 1 adjustments would remain in effect until the Commission approves a new or revised Plan.

Qwest appealed both Decision Nos. 66772 and 67047, which appeals are currently pending before the Court of Appeals.

On February 3, 2005, Qwest filed an Emergency Motion to Suspend the Inflation Minus Productivity Factor Adjustment. In its current Motion, Qwest requests that the Commission suspend the application of the productivity adjustment that would be required on April 1, 2005 under the terms of Decision Nos. 66772 and 67047. Qwest states that if required to make the adjustment, its annual revenues would be reduced by $12 million annually.

The Residential Utility Consumer Office ("RUCO") filed a Response to Qwest's Motion on February 8, 2005.

Commission Utility Division Staff ("Staff") filed a Response to the Motion on February 22, 2005.

Qwest filed a Reply on March 1, 2005.

Pursuant to Procedural Order dated February 16, 2005, oral argument on Qwest's Motion was held on March 3, 2005, at the Commission's offices in Phoenix, Arizona.

Having considered all of the arguments of the parties, we decline to grant Qwest's Motion. Rather, we conclude that under the circumstances of this case, the appropriate course is to stay those portions of Decision Nos. 66772 and 67047 that require further Basket 1 productivity adjustments on or after April 1, 2005 pending the entry of a final order in this Docket.

A stay of our previous decisions will permit this Docket to continue to conclusion without further prejudice to any of the parties to this Docket or to the ratepayers of this State. We anticipate that, at the conclusion of this matter, we can incorporate any adjustment to the final resolution of this Docket that becomes necessary as a result of this stay.

FINDINGS OF FACT

1. In Decision No. 63487 (March 30, 2001), the Commission approved a Settlement Agreement in Qwest's then pending rate case which adopted a Price Cap Plan for Qwest.

2. On July 1, 2003, Qwest filed its Renewed Price Regulation Plan pursuant to the provisions of the Settlement Agreement approved in Decision No. 63487.

3. By Procedural Order dated November 17, 2003, the Commission determined that Phase I of the Access Charge Docket, which addresses Qwest's access charges, should be considered in conjunction with the Renewed Plan.

4. In Decision No. 66772 the Commission found that under the terms of the Price Cap Plan approved in Decision No. 63487, the terms and conditions, including the productivity adjustment, continue in effect until the Commission modifies or terminates the Plan. The Commission found that Qwest must make the adjustment for the third year of the Plan effective April 1, 2004, and that the productivity adjustment remains in place pending Commission action on a new Plan.

5. In Decision No. 67047, the Commission found that with respect to the productivity adjustment for Basket 1, Decision No. 66772 should be affirmed, and thus the adjustment for the third year of the Plan should be made on April 1, 2004. In addition, the Commission held "Further adjustments after April 1, 2004, would be governed by the Continuation Clause of the Agreement and Basket 1 adjustments would remain in effect until the Commission approves a new or revised Plan."

6. Qwest appealed both Decision Nos. 66772 and 67047, which appeals are currently pending before the Court of Appeals.

7. On February 3, 2005, Qwest filed an Emergency Motion to Suspend the Inflation Minus Productivity Factor Adjustment. In its current Motion Qwest requests that the Commission suspend the application of the productivity adjustment that is

required on April 1, 2005 under the terms of Decision Nos. 66772 and 67047.

8. Qwest states that if required to make the adjustment, its annual revenues would be reduced by $12 million annually.

9. RUCO filed a Response to Qwest's Motion on February 8, 2005.

10. Staff filed a Response to the Motion on February 22, 2005.

11. Qwest filed a Reply on March 1, 2005.

12. Pursuant to Procedural Order dated February 16, 2005, oral argument on Qwest's Motion was held on March 3, 2005, at the Commission's offices in Phoenix, Arizona.

13. Pursuant to the Stipulation of the parties, the Arizona Court of Appeals entered an Order that suspends the procedural schedule for Qwest's appeal of Decisions Nos. 66772 and 67047. This order does not affect that stipulation or appeal.

14. A stay of Decision Nos. 66772 and 67047 is necessary to preserve the status quo pending the conclusion of this Docket and will not adversely affect the interests of any party or of ratepayers.

CONCLUSIONS OF LAW

1. Qwest is a public service corporation within the meaning of the Arizona Constitution, Article XV, and Arizona Revised Statutes, Title 40, generally.

2. The Commission has jurisdiction over Qwest and the subject matter of Qwest's Motion.

3. The entry of a stay of our prior decisions is consistent with preserving the status quo in this Docket and will permit the Commission to afford full and complete relief upon the entry of a final order terminating this Docket.

ORDER

IT IS THEREFORE ORDERED that those portions of Decision Nos. 66772 and 67047 requiring further Basket 1 productivity adjustments on or after April 1, 2005 are stayed pending entry of a final order of this Docket.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

CHAIRMAN COMMISSIONER COMMISSIONER

COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ___ day of _____, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

DECISION NO. _____

SERVICE LIST FOR: QWEST CORPORATION
DOCKET NO. T-01051B-03-0454

Scott S. Wakefield, Chief Counsel
Daniel W. Pozefsky, Esq.
RUCO
1110 West Washington, Suite 220
Phoenix, AZ 85007

Michael W. Patten
Roshka Heyman & DeWulf, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Mark A. DiNunzio
Cox Arizona Telcom, LLC
20401 North 29th Avenue
Phoenix, Arizona 85027

Thomas H. Campbell
Michael T. Hallam
Lewis and Roca
40 N. Central Avenue
Phoenix, Arizona 85004

Thomas F. Dixon
WorldCom, Inc.
707 17th Street, 39th Floor
Denver, Colorado 80202

Peter Q. Nyce, Jr.
Regulatory Law Office
U.S. Army Litigation Center
901 N. Stuart Street, Suite 713
Arlington, VA 22203-1837

Richard Lee
Snavely King Majoros O'Connor & Lee
1220 L. Street N.W., Suite 410
Washington, DC 20005

Walter W. Meek President
Arizona Utility Investors Association
2100 N. Central Avenue, Suite 210
Phoenix, AZ 85004

Albert Sterman, Vice President
Arizona Consumers Council
2849 E. 8th Street
Tucson, AZ 85716

DECISION NO. _____

Martin A. Aronson
Morrill & Aronson, PLC
One East Camelback Road, Suite 340
Phoenix, AZ 85012

Brian Thomas
Vice President Regulatory
Time Warner Telecom, Inc.
223 Taylor Avenue North
Seattle, WA 98109

EXHIBIT B

Proposed Amendment No. 1

Page 5, line 15 through Page 6, line 11

Delete:

We agree with RUCO, and deny Qwest's Motion. It is clear based on the terms of the current Price Cap Plan, and our holdings in Decision Nos. 66772 and 67047 that unless we approve a new Plan or terminated the current Plan, Qwest must make the April 1, 2005 productivity adjustment. Public service corporations must charge the rates that are approved by the Commission. Any suspension of the productivity adjustment cannot change those rates, or affect the utility's collection of those amounts, because to do so would be retroactive ratemaking. The Commission cannot suspend the April 1, 2005 rate adjustment without also requiring a true-up of the value of the adjustment. We cannot modify current rates based on some of the parties' expectations of what may happen in the future.

We can see however, that adjusting rates for basic services downward now as a result of the productivity adjustment, and then adjusting them again in the opposite direction in the near future as a result of final rates being set in the Renewed Plan, could cause consumer confusion. Consequently, although we deny Qwest's Motion, we will allow Qwest the option to defer implementing the April 1, 2005, rate adjustment until new rates under the Renewed Plan go into effect, as long as Qwest deposits the equivalent amount of the reduction into an interest bearing account, with the intention that ratepayers will receive the full benefit of the reduction when final rates are set. Thus, Qwest will have the option of implementing the April 1, 2005, productivity adjustment within 60 days of the effective date of this Order with the adjustment relating back to April 1, 2005, or deferring the adjustment until final rates are set in this docket with a true-up of the full amount of the reduction being credited to ratepayers.

Our Decision denying Qwest's Motion is motivated solely by a desire to avoid consumer confusion and unnecessarily complicating the administration of rates. Qwest's claim that it is under-earning under traditional rate of return analysis has no bearing on our Decision.

Furthermore, our holding herein is based upon the terms of the Price Cap Plan and our constitutional obligation not to modify rates absent a finding of fair value.

Insert:

We agree that under the circumstances of this case there is no reason to require a further reduction in the Basket One rates at this time. We believe that there is an emergency requiring this Commission to declare that Qwest's Basket 1 rates are interim

as of April 1, 2005. The emergency exists because this matter was originally commenced by Qwest's filing of July 1, 2003, and there is no order setting final rates in this matter. All of the evidence in the record filed by RUCO, Staff and Qwest indicates that Qwest has a revenue requirement deficiency. Further reduction of Qwest's rates in light of an undisputed deficiency will benefit neither ratepayers, who will face rate reductions followed in a short time by rate increases, nor the Company whose revenue requirement deficiency will be exacerbated by further reductions. We will require Qwest to segregate in a separate account each month until the conclusion of this matter an amount equal to the April 1, 2005 productivity adjustment to serve as a bond for the collection of interim rates. Upon the setting of permanent rates in this docket, the rates declared interim herein shall be subject to a true-up to April 1, 2005.

Because we have the authority under *Scates* to set interim rates subject to refund in an emergency, and because the setting of such rates with a subsequent true-up does not violate the prohibition against retroactive ratemaking, we conclude that the objections stated in RUCO's response to Qwest's Motion have no merit.

Delete text at Page 7, line 21 through line 22.

Delete text at Page 7, line 23 through line 24.

Delete text at Page 7, line 25 through line 28.

Delete text at Page 8, line 1 through line 4.

Insert:

13. An emergency exists justifying declaring Qwest's Basket 1 rates as interim as of April 1, 2005. This matter has been pending since July 1. 2003.

14. The witnesses for RUCO, Staff and Qwest all have testified that on a test-year basis, Qwest faces a revenue requirement deficiency. Requiring further reductions to Basket 1 rates will only increase that revenue requirement deficiency.

15. Qwest should be required each month until the entry of an order setting final rates to place in a separate segregated account the amount by which Basket 1 Rates would otherwise be reduced as a result of the Basket 1 productivity adjustment.

Delete text at Page 8, line 8 through line 17.

Delete text at Page 8, line 26 through 28.

Insert:

4. In light of our finding of an emergency, Qwest's Basket 1 rates should be declared interim and subject to true-up after the entry of an order setting permanent rates.

Delete text at Page 9, lines 1 through 4.

Delete Page 9, lines 6 through 11.

Insert:

IT IS THEREFORE ORDERED that Qwest's existing Basket 1 rates are declared interim until the entry of a final order in this docket and subject to true-up following the entry of that order

IT IS FURTHER ORDERED that beginning on April 1, 2005 and continuing until the entry of a final order in this Docket, Qwest shall place in a separate segregated account an amount equal to the amount by which the Basket 1 rates would have otherwise been reduced as a result of the Basket 1 productivity adjustment.

Delete Page 10, lines 1 through 3.