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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF  
MCIMETRO ACCESS TRANSMISSION  
SERVICES, LLC, FOR APPROVAL OF AN  
AMENDMENT FOR ELIMINATION OF UNE-P  
AND IMPLEMENTATION OF BATCH HOT CUT  
PROCESS AND QPP MASTER SERVICE  
AGREEMENT.

DOCKET NO. T-01051B-04-0540  
DOCKET NO. T-03574A-04-0540

PROCEDURAL ORDER

BY THE COMMISSION:

On July 28, 2004, MCImetro Access Transmission Services, LLC ("MCImetro") filed an application with the Arizona Corporation Commission ("Commission") seeking approval of a negotiated amendment to an Interconnection Agreement between MCImetro and Qwest Corporation ("Qwest")<sup>1</sup>, for Elimination of UNE-P and Implementation of Batch Hot Cut Process and Discounts, and for approval of a QPP Master Service Agreement.

On August 6, 2004, Qwest filed a Motion to Dismiss Application for Review of Negotiated Commercial Agreement (with Alternative Request for Intervention). Qwest argues that the QPP Master Service Agreement ("QPP Agreement") is a "Commercial Agreement" that does not alter the terms of the existing Interconnection Agreement between Qwest and MCImetro and does not create any terms or conditions for services that Qwest must provide under Sections 251(b) and (c) of the Telecommunications Act. Qwest contends, therefore, that the QPP Agreement is beyond the scope of the Commission's jurisdiction and should be excluded from consideration in MCImetro's pending application.

Responsive briefs were filed regarding Qwest's Motion to Dismiss, and oral argument was conducted on the Motion. The parties also subsequently submitted Supplemental Authority in the form of decisions rendered in other jurisdictions on the legal issues involved in this matter.

<sup>1</sup> The underlying Interconnection Agreement between MCImetro and US WEST Communications, Inc., was approved by the Commission in Decision No. 60308 (July 31, 1997).

1 On June 28, 2005, a Recommended Order was issued denying the Motion to Dismiss and  
2 asserting jurisdiction over the QPP Agreements.

3 Qwest filed Exceptions to the Recommended Order on July 7, 2005. In its "Exceptions,"  
4 Qwest raises substantive legal arguments regarding recent rulings by the Minnesota Public Utilities  
5 Commission and a federal district court in Montana to which no opposing party has had an  
6 opportunity to respond.

7 IT IS THEREFORE ORDERED that responses to Qwest's July 7, 2005 Exceptions to the  
8 Recommended Order shall be filed by interested parties, including all parties on the attached service  
9 list<sup>2</sup>, by no later than August 5, 2005.

10 IT IS FURTHER ORDERED that Qwest shall, by no later than July 18, 2005, serve a copy of  
11 its Exceptions on each of the parties on the service list of the Recommended Order, if such parties  
12 were not previously served.

13 IT IS FURTHER ORDERED that Qwest's reply to any such responses shall be filed by no  
14 later than August 15, 2005.

15 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
16 amend, or waive any portion of this Procedural Order by subsequent Procedural Order or by ruling at  
17 hearing.

18 DATED this 11<sup>th</sup> day of July, 2005.

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21 \_\_\_\_\_  
22 DWIGHT D. NODES  
23 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

23 Copies of the foregoing mailed/delivered  
24 this 11 day of July, 2005 to:  
25  
26 \_\_\_\_\_

27 <sup>2</sup> The Recommended Order was served on each of the parties whose cases or QPP Agreements were consolidated with the  
28 above-captioned matter (See, May 3, 2005 Procedural Order consolidating agreements for purposes of determining  
whether the agreements should be filed with the Commission). However, it does not appear that Qwest served its  
Exceptions on the parties to the other QPP Agreements.

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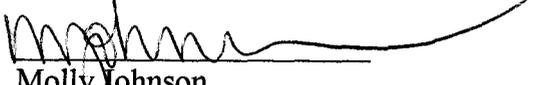
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