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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH § 271 OF THE
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

QWEST'S MOTION TO MODIFY DECISION NO. 64216

Qwest Corporation ("Qwest") respectfully moves the Arizona Corporation Commission ("Commission") to modify Decision No. 64216 dated November 20, 2001, relating to Checklist Item 5 under the Telecommunication Act of 1996 (the "Act").¹ Qwest requests that the fifth ordering clause set forth on page 13 of the Decision No. 64216 (lines 1-5) be deleted to conform that portion of the decision with the text of the decision and the determination made and amendment adopted by the Commission at the Special Open Meeting held on November 16, 2001.

Elimination of the ordering clause at issue will obviate the need for Qwest to file a plan relating to regeneration charges that the Commission, Administrative Law Judge Rodda ("ALJ"), and Qwest all agree need not be filed. Accordingly, the decision should be modified, the clause deleted and Qwest's motion granted.

¹ 47 U.S.C. § 271(c)(2)(B)(v).

BACKGROUND AND DISCUSSION

On October 1, 2001 the Staff filed its Final Report on Qwest's Compliance with Checklist Item No. 5 – Unbundled Local Transport ("Staff Final Report"). A copy of the Staff Final Report was attached as Exhibit A to the Commission's Decision No. 64216. At page 16 of the Staff Final Report, Staff recommended that

Qwest be required to file with the Commission a plan for how it intends to authenticate each of the instances where it must charge for regeneration. The plan should also detail how Qwest intends to authenticate that it is complying with all of the collocation safeguards laid out in the FCC's *Advanced Services Fourth Report and Order*. Staff believes that this plan should be filed by Qwest and approved by the Commission before the Commission endorses Qwest's 271 application with the FCC.²

Qwest filed comments on the Staff Final Report on October 11, 2001. In its comments, Qwest noted that it did not challenge Staff's recommendation regarding the need for an approved "plan detailing how [Qwest] will authenticate that it is complying with the collocation safeguards set forth in the FCC's *Advanced Services Fourth Report and Order*."³ Rather, Qwest sought revision of the recommendation that the Commission review the plan prior to issuing its final determination on 271 compliance given Qwest's commitment that it "will not impose separate charges for regeneration until it has filed its [authentication] plan with the Commission, and the Commission has approved the plan."⁴

² Staff Final Report at 16, ¶ 79.

³ See Qwest Corporation's Comments to the Hearing Division's Order on Qwest's Compliance with Checklist Item No. 5 (filed 10/11/01) at 2.

⁴ See *id.*

At the Special Open Meeting held on November 16, 2001, this matter was raised by the ALJ.⁵ In particular, the ALJ reviewed Qwest's requested revision of the Draft Order as set forth above and recommended the adoption of the revision as Hearing Division Amendment No. 2 to the Draft Order:

The Hearing Division Amendment No. 2 accepts Qwest's requested modification. It protects the CLECs from regeneration charges until the Commission has approved a plan but does not require the Commission to approve a plan prior to issuing its final determination regarding Qwest's 271 compliance.⁶

After discussion on the record, the full Commission agreed and adopted the amendment.⁷

Although the text of Decision No. 64216 incorporates the changes requested by Qwest, the ordering clause at issue does not.⁸ Accordingly, Qwest respectfully requests that lines 1 through 5 of the fifth ordering clause set forth on page 13 of Decision No. 64216 be deleted to conform to Qwest's comments and the Commission's deliberations and decision on this issue. Elimination of the ordering clause at issue is appropriate because doing so will obviate the need for Qwest to file a plan relating to regeneration charges that the Commission, the ALJ, and Qwest all agree need not be filed.

⁵ *In the Matter of U S West Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. T-00000A-97-0238, Special Open Meeting November 16, 2001 Transcript, at 65, 75-76.

⁶ *Id* at 65..

⁷ *Id* at 76.

⁸ *Compare* Decision No. 64216 at 7, lines 6-10 (noting Qwest's agreement "not [to] impose a charge for regeneration until the Commission has approved its authentication plan") *with id.* at 13, lines 1-5 (ordering Qwest to submit a regeneration authentication plan within 30 days of the "effective date of this Order").

CONCLUSION

This issue was decided during the Special Open Meeting. The language was removed from the substantive portion of the decision; however, the ordering paragraph concerning this issue was not removed. Qwest respectfully requests that the Hearing Officer modify Decision No. 64216 dated November 20, 2001, to remove the ordering clause requiring Qwest to file a report of how Qwest will authenticate the need for regeneration charges, as decided at the November 16, 2001 Special Open Meeting.

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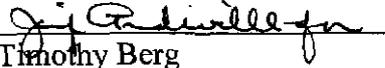
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DATED this 18th day of December, 2001.

Respectfully submitted,

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