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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 CORPORATION'S COMMENTS TO THE STAFF'S FINAL REPORT  
ON QWEST'S COMPLIANCE WITH CHECKLIST ITEM: NO. 5 –  
UNBUNDLED LOCAL TRANSPORT RELEASED OCTOBER 1, 2001**

Qwest Corporation hereby provides its comments to the Staff's Final Report on Qwest's Compliance with Checklist Item: No. 5 – Unbundled Local Transport Released October 1, 2001 (hereinafter, Report). Qwest commends Staff and the Hearing Division for their hard work in generating and issuing the Report. Qwest accepts virtually every conclusion in the Report. Qwest does, however, seek reversal of a portion of two transport issues and seeks deferral of one additional issue to the cost docket. Qwest respectfully requests that the Arizona Corporation Commission (ACC) adopt the Report with the minor changes reflected below.

**DISPUTED ISSUE NO. 1: Whether the CLEC should be required to pay a separate regeneration charge to receive dedicated transport at its collocation? (TR-5 and CL2-10)**

Paragraph 79 of the Report contains a recommendation that Qwest be required to modify its SGAT to remove the regeneration charge where there exists alternative

locations that would not require channel regeneration, or where there would be such a location, had Qwest not reserved space for its future use in the affected premises. Qwest does not challenge this requirement. In fact, Qwest's comments to the Initial Staff Report on Transport recommended this as the appropriate resolution of this issue which was previously addressed and resolved in the Staff's collocation report.

However, Qwest takes exception to, and seeks reversal of, the new recommendation in paragraph 79 that Qwest be required to authenticate all instances where it claims that there are no locations available that do not require regeneration and the recommendation that Qwest file with the Commission a plan describing how Qwest proposes to comply with the authentication requirement. It is unduly burdensome and unnecessary for Qwest to provide some form of authentication every time regeneration is required. The current requirement would apply regardless of whether a CLEC objects to the determination that regeneration is required. In those instances that a CLEC actually objects to regeneration, procedures are already in place to deal with the objection via the dispute resolution process already contained in the SGAT. Therefore, Qwest requests that the portion of paragraph 79 requiring authentication every time regeneration is required be reversed.

**DISPUTED ISSUE NO. 2: Whether there should be a distinction between UDIT and EUDIT? (TR-12)**

Qwest takes exception with the Staff's resolution of this issue and requests a deferral of this issue to the cost docket. Additionally, Qwest seeks clarification of paragraph 94. First, Qwest takes issue with the recommendation in paragraph 92 that Qwest be required to modify its SGAT to eliminate the EUDIT product altogether. The distinction Qwest has drawn between UDIT and EUDIT is largely a question of rate

design. Qwest's proposed rate design is consistent with the way costs for facilities analogous to UDIT and EUDIT have historically been recovered. In reality, this "concern" among the parties is a cost model and rate issue. Cost model and rate issues are not appropriately addresses in this docket, but should be addressed in the cost docket. Therefore, Qwest requests that the distinction between UDIT and EUDIT not be addressed in this docket, but that these cost and rate structure issues be deferred to the cost docket.

Second, Qwest seeks clarification of, the requirement in paragraph 94 that Qwest must provide electronics at the CLEC end of dedicated transport. This issue was not properly noticed. This issue involves whether there should be a distinction between UDIT and EUDIT. As paragraph 94 admits, the electronics issue was not even included in the Staff's Recommended Report and is included for the first time in this Report by a passing reference. Qwest is not clear what the Report is recommending regarding electronics. Qwest is operating under the assumption that the language of paragraph 94 is simply clarifying that existing electronics that are in place on the CLEC end of dedicated transport should be included as part of the overall facility request for dedicated transport. Qwest agrees that it will activate the existing electronics (consistent with the unbundling requirement of Section 251(c)(3)) if the electronics are already existing and in place on the CLEC end of the fiber, but simply have not been turned on.

On the remote chance that this passing reference is intended to require Qwest to add or upgrade electronics that do not exist on the CLEC end of dedicated transport, Qwest takes strong exception and reserves the right to fully brief this issue for the benefit of the Commission to provide it with the compelling authority mandating that electronics

are not required to be added. This issue was recently decided conclusively by the FCC in its Section 271 approval of Pennsylvania.<sup>1</sup> Thus, adding electronics does not fall under the umbrella of the unbundling requirement of Section 251(c)(3).<sup>2</sup> This is consistent with the FCC's unwillingness to impose on incumbent LECs an obligation to construct new facilities for the provision of unbundled transport.<sup>3</sup> Adding electronics is simply a version of the obligation to build issue.

Finally, Qwest briefed the obligation to build issue generally, and the sub-issue of adding electronics, in its brief filed in May addressing checklist item two. Since the May brief, Qwest has uncovered even more legal support mandating that there is no obligation to build, including no obligation to add electronics. At this point, Staff has not issued even the Recommended Decision on checklist item two. Therefore, on the remote chance that addition of electronics is intended here, Qwest respectfully requests that the issue be deferred until after Staff issues its Recommended Report on the obligation to build issue and the obligation to add electronics issue contained in checklist item two.

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<sup>1</sup> Memorandum Opinion and Order, *In the Matter of Application of Verizon Pennsylvania Inc. Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks, Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, FCC 01-269 (Sept. 19, 2001) at ¶ 90-92.

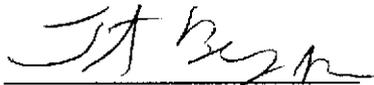
<sup>2</sup> In fact, the FCC has stated that the obligation to add electronics belongs to the CLEC leasing the fiber. Third Report and Order and Fourth Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, 15 FCC Rcd 3696, ¶ n.292 (Nov. 5, 1999) ("*UNE Remand Order*") ("The [carrier] leasing the fiber is expected to put its own electronics and signals on the fiber.").

<sup>3</sup> First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, 11 FCC Rcd 15499 at ¶ 451 (Aug. 8, 1996) ("*Local Competition Order*") ("[W]e expressly limit the provision of unbundled interoffice facilities to existing incumbent LEC facilities."). In fact, the FCC has stated that the obligation to add electronics belongs to the CLEC leasing the fiber. Third Report and Order and Fourth Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, 15 FCC Rcd 3696, ¶ 292 (Nov. 5, 1999) ("*UNE Remand Order*") ("The [carrier] leasing the fiber is expected to put its own electronics and signals on the fiber.").

CONCLUSION

Qwest, again, commends the Staff and the Hearing Division for their hard work involved with the Report. Qwest is prepared to accept virtually every aspect of the Report. Nonetheless, Qwest seeks reversal of a portion of two issues mentioned above and deferral of another to the cost docket. Qwest asks that the Commission adopt the Report as modified in Qwest's comments herein.

Respectfully submitted this 11th day of October, 2001.



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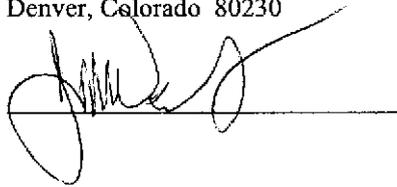
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