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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC'S COMPLIANCE
WITH SECTION 271 OF THE
TELECOMMUNICATINOS ACT OF 1996

Docket No. T-00000A-97-0238

ACC Staff's Reply to Qwest's Comments on the Final Staff Report
on Qwest's Compliance with Checklist Item No. 5

Qwest accepts almost all of the conclusions set forth in Staff's Final Report on Checklist Item 5. However, in Qwest's Comments to the Final Staff Report on Qwest's Compliance with Checklist Item No. 5, it seeks reversal of a portion of two transport issues and deferral of one issue to the Wholesale Pricing Docket.

1) Regeneration

Qwest seeks reversal of Staff's recommendation in paragraph 79 regarding authentication of regeneration charges Qwest seeks to impose. Qwest Comments at p. 2. Staff recommended 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 take issue with this aspect of the recommendation but objects to the requirement that it authentic instances when it believes that regeneration is necessary. Staff also recommended that Qwest be required to file a plan on how it intends to authentic such instances. Qwest argues in their Comments that the authentication requirement is unduly burdensome and that it is unnecessary because there is already a dispute resolution process in the SGAT. Qwest Comments at p. 2.

Staff disagrees with Qwest's reasoning. Staff does not believe that the requirement will be unduly burdensome because with or without the requirement Qwest will have to make a determination regarding available collocation space. In order to decide whether to charge a CLEC

1 regeneration charges Qwest will have to perform some sort of investigation or analysis to determine
2 that regeneration charges are appropriate for that CLEC. All Staff is requiring is that some portion
3 of the investigation or analysis Qwest performs be provided to the CLEC. Since all Staff is requiring
4 is that Qwest provide a summary of the investigation or analysis that they would be doing in any
5 case, Staff does not believe that the requirement is unduly burdensome. Staff recommends that
6 Qwest file a plan regarding how they plan to authenticate their regeneration decisions so that CLECs
7 and Staff will know what to expect from Qwest in the future. Since all such a plan need consist of
8 is a description of the information Qwest will provide about a process Qwest is already performing,
9 Staff does not believe that requiring Qwest to file a plan in advance is unduly burdensome either.

10 Qwest also states that the current dispute resolution process in the SGAT makes Staff's
11 authentication process unnecessary. Staff does not agree. While a necessary component of the
12 SGAT, the dispute resolution process will consume resources of both Qwest and the CLECs
13 whenever it is used. If Qwest provides authentication of its decision to charge for regeneration
14 potential disputes may be avoided and the dispute resolution process may be avoided as well.

15 Without some sort of authentication on Qwest's part, a requirement by the ACC that Qwest
16 only charge for regeneration under certain circumstances is essentially meaningless.

17 **2) Distinction between UDIT and EUDIT**

18 Qwest also takes exception to Staff's recommendation that there should be no distinction
19 between unbundled dedicated interoffice transport ("UDIT") and extended unbundled dedicated
20 interoffice transport ("EUDIT"). Qwest Comments at pps. 2-3. This recommendation requires
21 Qwest to eliminate EUDIT from the SGAT and that the UDIT offering encompass all the offerings
22 that were previously classified as UDIT or EUDIT. Qwest claims that the distinction between UDIT
23 and EUDIT is a rate design issue and should be deferred to the Wholesale Pricing Docket. Qwest
24 comments at pps. 2-3.

25 Staff takes issue with Qwest's characterization of the distinction between UDIT and EUDIT
26 as simply a "rate design" issue. Staff believes that the issue regarding the distinction is a question
27 of whether Qwest's policy allows for appropriate CLEC access to their network. Staff believes that
28 the distinction between UDIT and EUDIT is artificial and that it discriminates against the CLECs.

1 The FCC Orders do not support Qwest's differing treatment of dedicated interoffice transport to a
2 CLEC wire center. Qwest's reliance on historical pricing methodologies that may have been
3 appropriate in a monopoly environment must give way to the requirements of the 1996 Act and a
4 competitive marketplace.

5 Also, Qwest's request to defer this issue to the Wholesale Pricing Docket comes very late
6 in this process. Staff believes that the issue at impasse, i.e., whether the distinction between UDIT
7 and EUDIT is appropriate, should be resolved in this Docket where the underlying record exists and
8 the parties have briefed the issue. Qwest had ample opportunity to request that this issue be deferred
9 to the Wholesale Pricing Docket and has not done so until now. The actual rates for dedicated
10 interoffice transport, however, should be addressed in the Wholesale Pricing Docket.

11
12 **3) Dedicated Interoffice Transport**

13 Both Qwest and AT&T request clarification of Paragraph 94 of the Staff Final Report.
14 AT&T states that Qwest has an obligation to provide electronics at the CLEC's end of dedicated
15 transport and that while Staff addressed this issue in its Final Report, its Report was unclear on this
16 point. AT&T Comments at p. 3. Qwest argues that this issue is encompassed within the "obligation
17 to build" issue generally, and that Staff should therefore address this issue in its Report on Qwest's
18 compliance with Checklist Item 2. under the umbrella of the unbundling requirement of Section
19 251(c)(3)." Qwest Comments at p. 4. Staff disagrees with Qwest.

20 Staff believes the answer to this issue is contained at para. 323 of the FCC's *UNE Remand*
21 *Order* which addresses the definition of dedicated interoffice transport. The FCC states:

22 We reaffirm that the definition of dedicated transport set forth in the *Local*
23 *Competition First Report and Order* includes all technically feasible
24 capacity-related services such as DS1-DS3 and OC3-OC96 dedicated
25 transport services. *We clarify that this definition includes all technically*
26 *feasible capacity-related services, including those provided by electronics*
27 *that are necessary components of the functionality of capacity-related*
28 *services and are used to originate and terminate telecommunications*
services. [footnote omitted]. ...

Staff agrees with AT&T that under FCC Orders Qwest must provide the electronics at the

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CLEC end of dedicated transport.1 AT&T correctly notes that para. 94 Staff's Report needs to be amended to refer to optical terminating equipment or electronics with channel regeneration. An amended page from the Final Staff Report on Qwest's compliance with Checklist Item No. 5 is attached.

RESPECTFULLY SUBMITTED this 24nd day of October, 2001



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The original and ten (10) copies of the foregoing were filed this 24th day of October, 2001 with:

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1 In the *Local Competition First Report and Order*, the FCC stated that the incumbent LECs must provide unbundled access to dedicated transmission facilities between LEC central offices or between such offices and those of competing carriers. Therefore, it makes no difference that a CLEC central office is involved.

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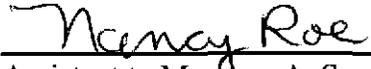
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93. As for rate structure issues, Staff agrees with the parties that the actual rates for UDIT and other transport elements should be established in the pending Arizona Cost Docket.

94. In its Comments to Staff's Proposed Findings of Fact and Conclusions of Law, AT&T noted that while it agreed with Staff's conclusion, Staff never concluded that Qwest must provide electronics at the CLEC end of dedicated transport. *Id.* at p. 2. AT&T cited the *UNE Remand Order*, para. 323, among others. In that paragraph, the FCC clarified that the definition of dedicated transport included "all technically feasible capacity-related services, including those provided by electronics that are necessary components of the functionality of capacity-related services and are used to originate and terminate telecommunications services." *Id.* As to the issue of optical terminating equipment or electronics and associated equipment for transport transmission facilities, Staff agrees with AT&T on this point, that according to the *UNE Remand Order* this is included within the definition of dedicated transport. This does not mean, however, that Qwest cannot recover its costs associated with optical terminating equipment or electronics, as part of its UNE rate.

DISPUTED ISSUE NO. 3: Applicability of the local use restriction to EUDIT (may CLECs use EUDIT as a substitute for special access services?)

a. Summary of Qwest and CLEC Positions

95. AT&T argued that Section 9.6.2.4 of the SGAT imposes unlawful restrictions on the use of unbundled interoffice transport. AT&T Brief at p. 36. The language prohibits the use of interoffice transport as a substitute for special or switched access services "except to the extent CLEC provides such services to its end user customers in association with local exchange services or to the extent that such UNEs meet the significant amount of local exchange traffic requirement set forth in section 9.23.3.7.2". *Id.*

96. The FCC has made it clear that ILECs cannot place any restrictions on the use of UNEs and reaffirmed its position in the *UNE Remand Order*. *Id.* at p. 36. In the *UNE Remand Order*, the FCC made clear that requesting carriers can order loop and transport combinations to provide interexchange service without any requirement to provide a certain amount of local exchange traffic. *Id.* The FCC modified its conclusion in paragraph 486 of the *UNE Remand Order*, stating that CLECs or IXC's could not convert special access to combinations of loop and transport unless it provided a significant amount of local exchange service to a particular customer. *Id.* at p. 36-37.

97. AT&T argues that Qwest's language in Section 9.6.2.4 must be rejected as inconsistent with the provisions of the *UNE Remand Order*. *Id.* at p. 38.

98. MCIW also argued that Qwest's SGAT section 9.6.2.4 does not address EELs or the combination of an unbundled loop, multiplexing/concentrating equipment and dedicated transport but rather addresses UDIT, which the FCC has defined as a