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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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AZ CORP COMMISSION
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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

COMMISSION STAFF'S MOTION TO RESCHEDULE FUNCTIONALITY WORKSHOP AND REQUEST FOR A PROCEDURAL CONFERENCE

I. INTRODUCTION

The Arizona Corporation Commission Staff ("Staff") hereby files a Motion to reschedule the Functionality Test Workshop and to request a Procedural Conference on an expedited basis. Staff also responds to the October 18, 2001 Notice of Scheduling Issues filed by AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T"), WorldCom's Concurrence in AT&T's Notice, and Qwest Corporation Inc.'s ("Qwest") Objection to Rescheduling of Functionality Workshop and Request for Procedural Conference filed on October 22, 2001.

II. DISCUSSION

On September 6, 2001, the Staff and Qwest filed a Joint Proposal to Modify the June 12 Procedural Order in this case. As noted by the Staff at the Procedural Conference that was convened on this matter, the dates proposed were extremely aggressive and contingent upon certain conditions and safeguards being met which had been agreed to by both Staff and Qwest. Those conditions and safeguards were contained in the Joint Proposal filed by Staff and Qwest on September 6, 2001, as well as a Joint Motion by Staff and Qwest to Modify and/or Supplement the June 12, 2000, Procedural Order filed on July 27, 2001. In reliance upon the

1 conditions and safeguards agreed to by Staff and Qwest, AT&T withdrew its pending Motion to
2 Suspend the OSS Test, and both AT&T and WorldCom agreed not to object to the schedule that
3 had been proposed by Qwest and Staff. Two of the safeguards agreed to by both Qwest and
4 Staff included a minimum review period for each of the Reports and a minimum time period in
5 which CAP Gemini Ernst & Young Telecom Media and Networks ("CGE&Y"), the ACC's OSS
6 Test Administrator, would have written responses to the parties' questions available before each
7 workshop. More specifically, both Qwest and Staff agreed that parties would have: (1) at least 21
8 days to review the Functionality Test Report and underlying data and that (2) CGE&Y would
9 provide written responses to the parties' questions at least two (2) business days in advance of
10 the Workshop.

11 Staff thought it was understood by all parties, including Qwest, that the schedule
12 contained in the Joint Proposal was not set in "concrete", but could only be achieved if
13 everything went smoothly and no problems arose. In essence, the schedule was predicated on a
14 "best case scenario", in which no further problems or delays were encountered. In fact, Staff had
15 discussed this with all parties, including Qwest, and inserted the following language into the
16 Joint Proposal to ensure no misunderstandings.

17
18 ...the schedule set forth below is contingent upon CGE&Y and the Staff and its
19 consultants being able to perform and complete the test in such a manner so that
20 the quality and integrity of the test is not adversely impacted. Staff and its
21 consultants will request an extension of any and all dates set forth below, if events
22 or issues arise which in Staff's and its consultant's opinion, require additional
23 time to resolve.

24 Joint Proposal of Qwest and Commission Staff to Modify Procedural Order, p. 2.

25 Under the original schedule proposed by both Qwest and Staff, both the Capacity and
26 Functionality OSS Reports were to be issued by CGE&Y on October 1, 2001. However because
27 of competing responsibilities and the need to allow Staff and DCI sufficient review time,
28 CGE&Y was unable to issue the Functionality Report until October 11, 2001, almost two weeks
later than contemplated under the schedule agreed to by the parties. Staff spent considerable
time attempting to mitigate the schedule impact by asking all parties to submit their questions on
a staggered basis, which would have allowed CGE&Y and Staff to meet the commitments agreed

1 to with the CLECs without a schedule change. The CLECs agreed at the time to use their best
2 efforts to submit their questions on a staggered basis so that the current schedule could be
3 maintained. Subsequently, the CLECs discovered that the underlying data associated with the
4 Functionality Test Report alone comprised approximately 27 cabinet file drawers. In addition,
5 the Relationship Management Report Workshop was delayed by approximately two weeks.
6 This created significant overlap in the review, comment and/or briefing cycles for three major
7 OSS reports (Relationship Management, Capacity and Functionality) all of which were issued by
8 CGE&Y in a relatively compressed timeframe. Staff was subsequently apprised by the CLECs
9 that given the volume of underlying data and the degree of overlap in the activities associated
10 with the Reports, the CLECs would be unable to have the majority of their questions to CGE&Y
11 until November 1, 2001. In its recent Notice, AT&T expressed concern that the safeguards
12 agreed to would not be met if the parties attempted to adhere to the current schedule.
13 WorldCom concurred.

14 Qwest's objections to Staff proposing to reschedule the Functionality Workshop are two-
15 fold. First, it states that Staff had no right to unilaterally reschedule the workshop through an e-
16 mail transmission. Second, it believes that delaying the workshop for a full three weeks is not
17 justified. Qwest Objection at p. 2. Staff admits that perhaps it could have worded its e-mail
18 differently. Staff cleared up any misunderstanding by indicating in a second e-mail that it would
19 be filing a formal Motion with the Hearing Division to change the Workshop dates.

20 In the past, Staff has oftentimes notified parties that it is changing workshop dates and no
21 objections have been raised. Staff has assumed that some degree of flexibility is inherent in the
22 schedule for a case of this magnitude, and that Staff has a certain amount of discretion to modify
23 dates to accommodate the parties and subsequent events. The only alternative would be for Staff
24 to be going to the Hearing Division on an almost weekly basis which would be inefficient in
25 many cases and a poor use of the Commission's resources. Staff has also found this flexibility
26 to be critical when having to react quickly to reserve dates because of competition for dates
27 among the 14 States in Qwest's region, all of whom are attempting to process Qwest's 271
28 applications simultaneously. In this case, Staff had been informed by several parties that another

1 State was considering scheduling a workshop for the week of November 26, 2001, so Staff
2 wanted to reserve the week to avoid conflict and any further delay of the Workshop.

3 With respect to Qwest's second objection, given the commitments made by both Staff
4 and Qwest, Staff determined that the week of November 26, 2001 was the only realistic option
5 for the Workshop. Staff did first consider moving the Functionality Workshop to the week of
6 November 12, 2001. However, in order to meet this date, Staff's consultants would have had to
7 provide their written responses to the questions submitted by the parties in approximately four
8 (4) business days. Staff and its consultants did not think that this was a realistic expectation. To
9 put this into perspective, the parties submitted 161 questions on the CGE&Y's Retail Parity
10 Report, 291 questions on CGE&Y's Relationship Management Report and 207 questions on the
11 Capacity Test Report. Given that the Functionality Test is generally the most controversial and
12 complex in any OSS Testing engagement, Staff and its Consultants estimate that the number of
13 questions submitted on this Report will likely be double or triple that submitted on any of the
14 other reports.

15 The week of November 19, 2001, was also an unattractive alternative because it is
16 Thanksgiving week. Staff anticipated that it would receive strenuous objection by all parties,
17 including Qwest, the CLECs, DCI, the Test Administrator and the Pseudo-CLEC, if it attempted
18 to schedule the Workshop for the week of Thanksgiving. Even if Staff scheduled the Workshop
19 for Thanksgiving week, it is unlikely that the Workshop could conclude in the limited time
20 available that week, and the Workshop would likely have to be continued until the week of
21 November 26, 2001, in any event.

22 Staff had apprised all parties that it would move for the Workshop to be rescheduled if
23 and when it became apparent that the commitments to the CLECs could not be met. Staff
24 informed Qwest's lawyers on three separate occasions that it would take a "wait and see"
25 approach but that if Staff learned that the majority of questions on the Functionality Report
26 would not be submitted until the deadline of November 1, 2001, Staff would request a delay of
27 the current Functionality Test Report workshop dates so that the commitments Staff and Qwest
28

1 had agreed to could be met. Each time, Qwest's lawyers stated in response that they would
2 vehemently oppose any extension of time proposed by the Staff.

3 Staff also consulted with and obtained input from its consultants about their ability to
4 meet scheduled commitments. As discussed above, given the volume of questions contemplated,
5 any time before the week of November 26, 2001 appeared unrealistic.

6 Finally, Staff talked to the CLECs, to ensure that the dates selected did not present a
7 conflict with any other workshops throughout the 14 State Qwest Region, since all 14 States are
8 attempting to process Qwest's 271 application simultaneously. While Qwest has routinely told
9 Staff that in order to expedite matters, it will make itself available no matter when Staff
10 schedules a particular workshop, the CLECs oftentimes have conflicts with the dates chosen by
11 Staff because of their involvement in other region-wide workshops. Therefore, it was necessary
12 for Staff to consult with the CLECs on any dates that were under consideration.

13 Paramount in Staff's considerations in recommending that the Functionality Workshop be
14 rescheduled, is first, the ability of Staff's consultants to meet the underlying commitments and
15 safeguards that had been agreed to by both Qwest and Staff. Second, parties should have
16 sufficient time to review the underlying data and reports, especially with the degree of overlap in
17 the current schedule. Third, Staff attempted to ensure fairness to Qwest by not delaying the
18 Workshop unnecessarily and by acting quickly to reserve the first week where all of these
19 objectives could be met.

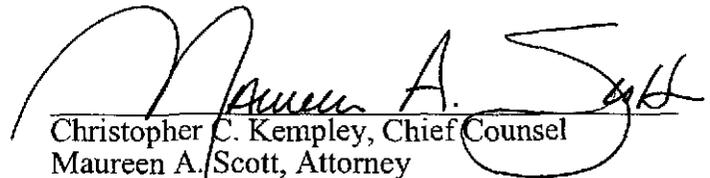
20 The dates agreed to by Staff and Qwest were recognized to be aggressive from the start.
21 They were made with the understanding and agreement of all parties that if events or issues arose
22 which Staff believed required additional time to resolve, Staff would request an extension of any
23 and all dates contained in the current schedule. Staff is unwilling to jeopardize the quality and
24 integrity of its analysis simply to meet certain dates. Nonetheless, Staff does recognize that in
25 fairness to the Applicant, Qwest, the Commission must complete its analysis of Qwest's 271
26 application in a reasonable timeframe. Still, the Commission must ensure that the intervenors
27 are accorded their full due process rights. To achieve this balance, Staff recommends that rather
28 than engaging in discovery or other efforts which are clearly designed only to apportion more

1 blame and fault for the schedule delays, that the scarce resources of the parties are much better
2 served in working out a fair and realistic schedule for completion of this case.

3 **III. CONCLUSION**

4 Staff respectfully requests that the Hearing Division convene a Procedural Conference on
5 an expedited basis to consider Staff's Motion and the other scheduling issues raised by the
6 parties.

7
8 RESPECTFULLY SUBMITTED this 24th day of October 2001.

9
10 

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