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BEFORE THE ARIZONA CORPORATION COMMISSION

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AT&T CORP. COMPLIANCE
CHECKLIST CONTROL

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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
)
) AT&T'S RESPONSE TO QWEST'S
) COMMENTS ON STAFF'S FINAL
) REPORT ON QWEST'S
) COMPLIANCE WITH CHECKLIST
) ITEM NO. 5 - UNBUNDLED LOCAL
) TRANSPORT

AT&T Communications of the Mountain States, Inc., and TCG Phoenix (collectively "AT&T") hereby respond to Qwest Corporation's ("Qwest") comments regarding the "Staff's Final Report on Qwest's Compliance with Checklist Item No. 5 - Unbundled Local Transport."

1. On June 12, 2000, the Administrative Law Judge ("ALJ") issued a procedural order defining the filings and due dates in this proceeding. This order mandates that comments regarding Staff reports, if any, should be filed within ten days of issuance of the report. Procedural Order at 4. Thereafter, Staff is to submit its final report to the Hearing Division, with a procedural recommendation. *Id.* The Order does not contemplate further action by the parties unless the Hearing Division sets the matter for further briefing or argument. *Id.*

2. Staff issued its Final Report October 1, 2001. The Hearing Division has not assigned further briefing or argument in relation to the "Final Report on Checklist Item 5 - Unbundled Local Transport" issued on October 1.

3. Qwest filed more comments on October 11, 2001. In these comments, Qwest proceeds to take exception with, and seeks clarification of, the Staff's Final Report.

4. In her ruling on AT&T's earlier motions to strike, the ALJ set out the permissible reasons for filing an additional pleading. Regarding Disputed Issue 1 (TR-5 and CL2-10), because Staff added a new recommendation, it would appear appropriate, based on the ALJ's ruling, for Qwest to comment whether Qwest *agrees* to accept Staff's new recommendation. TR 13, II. 7-13 (Sept. 4, 2001). Regarding Disputed Issue 2, (TR-12), this issue was fully briefed the parties. Staff, in its draft report, failed to include a recommendation on the issue of Qwest's obligation to provide electronics on the competitive local exchange carrier's ("CLEC") end of unbundled transport. Staff provided a recommendation in its Final Report. Comment may be appropriate on whether Qwest agrees with Staff's new recommendation.

5. Regarding the recommendation in paragraph 79 of the Final Report, the recommendation is supported by the evidence and should be retained. In fact, it is supported, in part, by Qwest's own position.

In its Comments on Staff's draft report, Qwest stated that it agreed with the ruling on the Collocation Report at paragraph 418. This position was adopted in Staff's Final Report.¹ The holding would require Qwest "to remove the regeneration charge where there exists alternate 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."²

Staff's authentication requirement merely requires Qwest to state that such conditions do not exist before Qwest can charge CLECs for regeneration. This is an entirely reasonable requirement. The dispute resolution process that Qwest proposes to be used is a cumbersome process that is unnecessary when the more simple process proposed by Staff will work at less cost to the CLECs. Authentication is essentially no different than Qwest having to demonstrate

¹ Staff Final Report, ¶ 79.

² *Id.*

that no space is available for physical collocation by allowing CLEC central office inspections.³

SGAT § 8.2.1.11. Staff's authentication proposal is reasonable and should be retained.

6. Qwest inappropriately takes exception to the UDIT/EUDIT ruling by Staff. This issue was fully briefed by the parties. Qwest does not respond to a new position by Staff. Based on the ALJ's ruling, the comments by Qwest should be disregarded.⁴

7. Qwest seeks clarification of Staff's paragraph 94. Staff failed to address the issue of Qwest's obligation to provide electronics at the CLEC's end of dedicated transport. This issue was fully briefed by AT&T and Qwest. AT&T pointed out in its Comments on Staff's draft report that Staff failed to address and resolve this issue. Staff did so in its Final Report. AT&T does agree that Staff apparently confuses optical terminating equipment or electronics with channel regeneration, which are not the same. However, Staff does appropriately state AT&T's issue and cites the proper supporting authority. Staff needs to verify that it concluded that Qwest must provide the electronics at the CLEC end of dedicated transport, remove any ambiguity in its Final Report and remove the reference to channel regeneration.⁵

8. Qwest proposes deferring the issue of whether it must add electronics to the CLEC end of dedicated transport until the "obligation to build" issue is addressed in Checklist Item 2. AT&T opposes this suggestion for one simple reason -- the requirement to provide electronics is based on the Federal Communications Commission's ("FCC") definition of dedicated transport. It is not a generic "obligation to build" issue. The question is, does the

³ Furthermore, if there is a dispute regarding whether physical collocation space is available, the CLEC can take the dispute to the Commission. SGAT § 8.2.1.11. This forum should be available if there is a dispute regarding whether a channel regeneration charge is appropriate.

⁴ TR 13-14 (Sept. 4, 2001). However, AT&T believes the EUDIT/UDIT issue should be decided in the section 271 proceedings and is more than a simple rate design issue that should be deferred to the cost docket.

⁵ AT&T proposes the following changes: As to the issue of ~~channel regeneration~~dedicated transport and associated equipment for transport transmission facilities, Staff agrees with AT&T on this point, that according to the *UNE Remand Order*, ~~this is~~electronics are included within the definition of dedicated transport. This does not mean, however, that Qwest cannot recover its costs associated with ~~channel regeneration,~~electronics as part of its UNE rate.

FCC's definition of dedicated transport provide that when a CLEC orders dedicated transport, electronics, or as the FCC stated, "necessary components of the functionality," will be provided at both ends by the incumbent local exchange carrier. Qwest attempts to convert the issue to an "obligation to build" issue by ignoring, and attempting to redefine, dedicated transport.

The issue is appropriately dealt with in this Final Report.

9. Qwest argues it has additional legal precedent on the "obligation to build" issue. The appropriate procedural avenue is to file a motion for leave to file additional legal authority.⁶

Dated this 22nd day of October, 2001.

**AT&T COMMUNICATIONS OF THE
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⁶ TR 13-14 (Sept. 4, 2001).

CERTIFICATE OF SERVICE

I certify that the original and 10 copies of AT&T's Response to Qwest's Comments on Staff's Final Report on Qwest's Compliance with Checklist Item No. 5 – Unbundled Local Transport in Docket No. T-00000A-97-0238 were sent by overnight delivery on October 22, 2001 to:

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