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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

Arizona Corporation Commission

DOCKETED

DEC 09 2003

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF
QWEST LD CORPORATION dba QWEST LONG
DISTANCE FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
RESOLD INTEREXCHANGE SERVICE AND
FOR DETERMINATION THAT SERVICES OF
THE APPLICANT ARE COMPETITIVE.

DOCKET NO. T-04190A-03-0464

DECISION NO. 66613

ORDER

Open Meeting
December 4, 2003
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 8, 2003, Qwest LD Corporation dba Qwest Long Distance ("Applicant" or "QLDC") filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange service, except for local exchange service, and for determination that the services are competitive.

2. QLDC, a Delaware corporation, has had authority to transact business in the State of Arizona since September 16, 2002. QLDC is a wholly owned subsidiary of Qwest Services Corporation, which is a wholly owned subsidiary of Qwest Communications International, Inc. ("QCII").

3. On August 4, 2003, the Commission's Utilities Division Staff ("Staff") docketed a letter informing QLDC that its application was not sufficient, and requesting additional information.

4. On August 15 and 28, 2003, QLDC docketed responses to Staff's August 4, 2003

1 information request.

2 5. On August 29, 2003, Staff docketed a second letter informing QLDC that its
3 application was not sufficient, and requesting that QLDC provide responses to the Commission's July
4 14, 2003 updated reseller application form.

5 6. On September 11, 2003, QLDC filed an "informal response" to Staff's August 4, 2003
6 information request.

7 7. On September 24, 2003, QLDC filed an Affidavit of Publication indicating
8 compliance with the Commission's notice requirements by publication in the *Arizona Republic* on
9 September 18, 2003.

10 8. A Procedural Conference was held on November 3, 2003 for the purpose of discussing
11 the procedural schedule for the QLDC application, as well as for the pending application of QLDC's
12 affiliate Qwest Communications Corporation ("QCC") in Docket No. T-02811B-01-0895, which
13 requests authority to provide competitive facilities-based interexchange services within the State of
14 Arizona. At the Procedural Conference, Staff stated that it expected to file a Staff Report on the
15 QLDC matter by November 7, 2003.

16 9. On November 5, 2003, Staff docketed a letter indicating that QLDC's application was
17 administratively complete.

18 10. On November 6, 2003, Applicant filed supplemental pages to the proposed tariff filed
19 with its application. The supplemental tariff pages reflect new calling plans QLDC intends to offer to
20 its Arizona customers. QLDC requested that the proposed tariff filed with its application be amended
21 to include the additional pages.

22 11. On November 13, 2003, Staff filed a Staff Report on the QLDC application,
23 recommending approval of the application subject to certain conditions, and making other
24 recommendations.

25 12. On November 17, 2003, Staff filed an Errata to its November 13, 2003 Staff Report.

26 13. Neither the Staff Report nor the Errata included a Fair Value Rate Base ("FVRB")
27 finding for QLDC.

28 14. On November 17, 2003, Staff provided the Hearing Division with a confidential

1 version of its corrected November 13, 2003 Staff Report, which included confidential FVRB
2 information for QLDC.

3 15. On November 18, 2003, QLDC filed a Notice of Tariff Filing. QLDC stated therein
4 that it intends to rely on tariffs filed with its application on July 8, 2003 as supplemented by the
5 amendment filed on November 6, 2003. QLDC further stated that following a Commission Decision
6 granting it a CC&N, it will file compliance tariffs that indicate the tariffs' effective date. QLDC
7 added that the tariffs' effective date will not precede the effective date of the Federal
8 Communications Commission's ("FCC") Order granting QLDC authority to provide interLATA
9 service in Arizona.

10 16. A Procedural Order was issued in this matter on November 19, 2003, in both the
11 QLDC and QCC dockets, setting a Procedural Conference for the taking of oral argument on the
12 issues of how and why the Commission can/should make a FVRB finding for QCC and QLDC,
13 pursuant to Article XV, § 14 of the Arizona Constitution and *U.S. West Communications, Inc. v.*
14 *Arizona Corp. Comm'n*, 201 Ariz. 242, 34 P.3 351 (2001), when QCC and QLDC had not filed that
15 FVRB information in the public record.

16 17. On November 20, 2003, QLDC and QCC filed in both the QLDC and QCC dockets a
17 Notice of Designating Fair Value Rate Base Information as Non-Confidential. That filing included
18 an exhibit listing QLDC's estimated plant book value as \$0.00. The Notice states that as a reseller,
19 QLDC will lease any office equipment. The exhibit also stated that as of September 30, 2003, the
20 total company (14-state) cash capital of QLDC is approximately \$27 million, consisting of external
21 and internal receivables for in-region long-distance. No Arizona-jurisdictional cash capital amount
22 was provided.

23 18. On November 21, 2003, Staff filed a Non-Redacted Staff Report that includes Staff's
24 FVRB determination in this matter.

25 19. On November 24, 2003, QLDC filed a letter in this docket requesting authority to
26 provide service immediately after filing the required compliance tariffs and proof of bond
27 recommended by Staff. The letter also states that QLDC waives the 10-day period, pursuant to
28 A.A.C. R14-3-110(B), for filing exceptions to a Proposed Order granting a CC&N in this docket.

1 20. QLDC is a switchless reseller that will purchase telecommunications services for
2 resale to its customers. QLDC intends to initially offer its services only to customers who purchase
3 local exchange telecommunications services from Qwest Corporation, QLDC's affiliate Incumbent
4 Local Exchange Carrier ("ILEC") as defined by the Telecommunications Act of 1996 ("1996 Act").
5 Staff states that QLDC has chosen MCI as its underlying carrier.

6 21. In Decision No. 58926 (December 22, 1994), the Commission found that resold
7 telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
8 of the Commission. Reseller applications may be approved without a hearing pursuant to A.R.S. §
9 40-282.

10 22. In its Staff Report, Staff states that QLDC intends to rely on the financial resources of
11 its parent, Qwest Services Corporation, and that QLDC provided the consolidated audited financial
12 statements, with notes, for its ultimate parent QCII, for the year ending December 31, 2002. QCII's
13 consolidated financial statements list assets of \$29.3 billion, negative equity of \$2.8 billion, and a net
14 loss of \$38.4 billion.

15 23. In its Staff Report, Staff states that it considered QLDC's Arizona jurisdictional assets
16 as a measure of its FVRB. Staff recommended, based on QLDC's November 20, 2003 report of an
17 estimated plant book value of zero, that the Commission find that QCLD's FVRB is zero.¹ Staff
18 states that because it found QLDC's FVRB to be zero, it accorded the FVRB little weight in its
19 evaluation of QLDC's rates. Staff further states that in general, rates for competitive services are not
20 set according to rate of return regulation, but are heavily influenced by the market.

21 24. Based on its analysis, Staff concluded that QLDC has no market power in the
22 interexchange market and that the reasonableness of its rates will be evaluated in a market with
23 numerous competitors. In light of the competitive market in which the Applicant will be providing
24 its services, Staff believes that the rates in Applicant's proposed tariffs for its competitive services
25 will be just and reasonable, and recommends that the Commission approve them.

26 25. Based on its evaluation of the Applicant's technical and financial capabilities to

27 ¹ Staff elaborated that QLDC had originally reported to Staff total QLDC assets of \$65.4 million, as was reflected in the
28 confidential Staff Report dated November 17, 2003, but that QLDC clarified in its November 20, 2003 filing that this
number represented start-up cash capital.

1 provide resold intrastate interexchange services, Staff recommend approval of QLDC's application
2 subject to the following:

3 (a) The Applicant should be ordered to comply with all Commission rules, orders,
4 and other requirements relevant to the provision of intrastate telecommunications
5 service;

6 (b) The Applicant should be ordered to maintain its accounts and records as
7 required by the Commission;

8 (c) The Applicant should be ordered to file with the Commission all financial and
9 other reports that the Commission may require, and in a form and at such times as the
10 Commission may designate;

11 (d) The Applicant should be ordered to maintain on file with the Commission all
12 current tariffs and rates, and any service standards that the Commission may require;

13 (e) The Applicant should be ordered to comply with the Commission's rules and
14 modify its tariffs to conform to these rules if it is determined that there is a conflict
15 between the Applicant's tariffs and the Commission's rules;

16 (f) The Applicant should be ordered to cooperate with Commission investigations
17 of customer complaints;

18 (g) The Applicant should be ordered to participate in and contribute to a universal
19 service fund, as required by the Commission;

20 (h) The Applicant should be ordered to notify the Commission immediately upon
21 changes to the Applicant's address or telephone number;

22 (i) The Applicant's intrastate interexchange service offerings should be classified
23 as competitive pursuant to A.A.C. R14-2-1108;

24 (j) The maximum rates for Applicant's intrastate interexchange service offerings
25 should be the maximum rates proposed by the Applicant in its proposed tariffs. The
26 minimum rates for the Applicant's competitive services should be the Applicant's
27 total service long run incremental costs of providing those services as set forth in
28 A.A.C. R14-2-1109;

(k) In the event that the Applicant states only one rate in its proposed tariff for a
competitive service, the rate stated should be the effective (actual) price to be charged
for the service as well as the service's maximum rate; and

(l) QLDC's authority to provide interLATA interexchange service should be
conditioned upon FCC approval of its § 271 application and a finding by the FCC of
its compliance with § 272 of the 1996 Act.

1 26. Staff further recommended that the Applicant be ordered to comply with the
2 following, and that if it does not do so, the Applicant's CC&N shall be null and void without further
3 order of the Commission and no time extensions shall be granted.

4 (a) Applicant shall procure a performance bond equal to \$10,000. The minimum
5 bond amount of \$10,000 should be increased if at any time it would be insufficient to
6 cover advances, deposits, and/or prepayments collected from the Applicant's
7 customers. The bond amount should be increased in increments of \$5,000. This
8 increase should occur when the total amount of the advances, deposits, and
9 prepayments is within \$1,000 of the bond amount;

10 (b) Applicant shall docket proof of the performance bond within 365 days of the
11 effective date of an Order in this matter or prior to the provision of service, whichever
12 comes first, and the bond must remain in effect until further order of the Commission.
13 However, if at some time in the future, the Applicant does not collect from its
14 customers an advance, deposit, and/or prepayment, Staff recommends that the
15 Applicant be allowed to file a request for cancellation of its established performance
16 bond regarding its resold interexchange service. Such request should be filed with the
17 Commission for Staff's review. Upon receipt of such filing and after Staff's review,
18 Staff will forward its recommendation to the Commission; and

19 (c) Applicant shall file conforming tariffs for its resold interexchange CC&N
20 within 365 days from the date of an Order in this matter or prior to providing service,
21 whichever comes first, and in accordance with the Decision. Also, the Applicant shall
22 reference this Docket Number and the Decision Number on the Docket Control cover
23 sheet. The Applicant shall mail the Docket Control cover sheet with an Original and
24 thirteen (13) copies of the tariffs to Docket Control, Arizona Corporation Commission,
25 1200 W. Washington Street, Phoenix, AZ 85007-2927.

26 27. The rates proposed by this filing are for competitive services.

27 28. Staff's recommendations as set forth herein are reasonable.

28 29. In addition to Staff's recommendations, Applicant should also be ordered to cooperate
with Commission investigations including, but not limited to, customer complaints.

 30. QLDC's fair value rate base is zero.

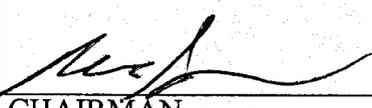
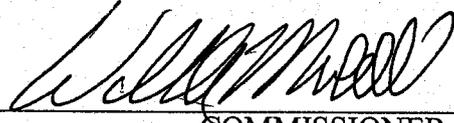
CONCLUSIONS OF LAW

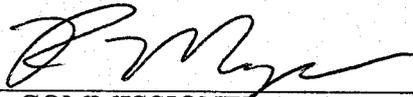
1 1. Applicant is a public service corporation within the meaning of Article XV of the
2 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

3 2. The Commission has jurisdiction over Applicant and the subject matter of the
4 application.

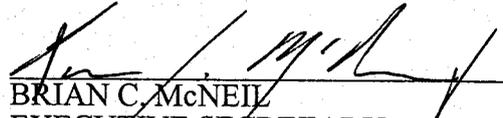
1 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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 4   
 5 CHAIRMAN COMMISSIONER COMMISSIONER

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 7 COMMISSIONER COMMISSIONER

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 10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 11 Secretary of the Arizona Corporation Commission, have
 12 hereunto set my hand and caused the official seal of the
 13 Commission to be affixed at the Capitol, in the City of Phoenix,
 14 this 9th day of December, 2003.

13 
 14 BRIAN C. McNEIL
 EXECUTIVE SECRETARY

15 DISSENT _____

16 DISSENT _____
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1 SERVICE LIST FOR: QWEST LD CORPORATION dba QWEST LONG DISTANCE

2 DOCKET NO.: T-04190A-03-0464

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