

ORIGINAL



0000034818

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

2005 OCT 31 A 8:38

AZ CORP COMMISSION
DOCUMENT CONTROL

- 1
- 2 JEFF HATCH-MILLER
CHAIRMAN
- 3 WILLIAM A. MUNDELL
COMMISSIONER
- 4 MARC SPITZER
COMMISSIONER
- 5 MIKE GLEASON
COMMISSIONER
- 6 KRISTIN K. MAYES
COMMISSIONER

7

8 IN THE MATTER OF QWEST
CORPORATION'S FILING OF RENEWED
PRICE REGULATION PLAN.

9

DOCKET NO. T-01051B-03-0454

10 IN THE MATTER OF THE
INVESTIGATION OF THE COST
11 OF TELECOMMUNICATIONS
ACCESS.

12

DOCKET NO. T-00000D-00-0672

NOTICE OF FILING TESTIMONY SUMMARY

13

14 The Residential Utility Consumer Office ("RUCO") hereby provides notice of filing the

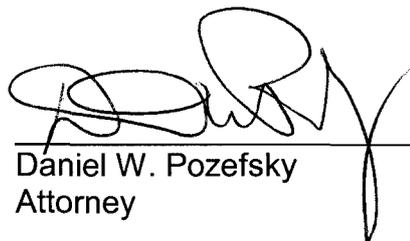
15 Testimony Summary of Marylee Diaz Cortez and Dr. Ben Johnson in the above-referenced

16 matter.

RESPECTFULLY SUBMITTED this 31st day of October, 2005.

17

18

19 

20 Daniel W. Pozefsky

21 Attorney

1 AN ORIGINAL AND FIFTEEN COPIES
2 of the foregoing filed this 31st day
3 of October, 2005 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/mailed
6 or *e-mailed this 31st day of October, 2005 to:

7 *Jane Rodda
8 Administrative Law Judge
9 Arizona Corporation Commission
10 400 West Congress
11 Tucson, Arizona 85701

Commissioner Spitzer
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

10 *Maureen A. Scott
11 Legal Division
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007

Commissioner Gleason
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

13 *Christopher Kempley
14 Legal Division
15 Arizona Corporation Commission
16 1200 West Washington
17 Phoenix, Arizona 85007

Commissioner Mayes
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

16 *Ernest Johnson, Director
17 Utilities Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

Dean Miller
Aide to Chairman Hatch-Miller
Arizona Corporation Commission

19 Chairman Hatch-Miller
20 Arizona Corporation Commission
21 1200 West Washington
22 Phoenix, Arizona 85007

Adam Stafford
Aide to Commissioner Mundell
Arizona Corporation Commission

21 Commissioner Mundell
22 Arizona Corporation Commission
23 1200 West Washington
24 Phoenix, Arizona 85007

Philip Dion
Aide to Commissioner Spitzer
Arizona Corporation Commission

Ken Rozen
Aide to Commissioner Gleason
Arizona Corporation Commission

Matthew Derr
Aide to Commissioner Mayes
Arizona Corporation Commission

1 *Timothy Berg
*Theresa Dwyer
2 Fennemore Craig, P.C.
3003 North Central Avenue
3 Suite 2600
Phoenix, Arizona 85012
4
5 Todd Lundy
Qwest Law Department
1801 California Street
6 Denver, Colorado 80202
7 *Thomas F. Dixon
WorldCom Inc.
8 707 17th Street
39th Floor
9 Denver, Colorado 80202
10 *Thomas H. Campbell
*Michael T. Hallam
11 Lewis & Roca
40 North Central Avenue
12 Suite 1900
Phoenix, Arizona 85004
13 *Michael W. Patten
14 Roshka DeWulf & Patten, PLC
One Arizona Center
15 400 East Van Buren Street
Suite 800
16 Phoenix, Arizona 85004
17 *Mark A. DiNunzio
Cox Arizona Telecom, LLC
18 1550 W. Deer Valley Rd.
MS:DV3-16; Bldg. C
19 Phoenix, Arizona 85027
20 *Peter Q. Nyce, Jr.
Regulatory Law Office
21 U.S. Army Litigation Center
901 North Stuart Street
22 Suite 713
Arlington, Virginia 22203
23
24 *Richard Lee
Snively King Majoros O'Connor & Lee, Inc.
1220 L Street NW
Suite 410
Washington, DC 20005

Eschelon Telecom of Arizona
730 2nd Avenue South
Suite 1200
Minneapolis, Minnesota 55402

Martin A. Aronson
Morrill & Aronson, P.L.C.
One East Camelback
Suite 340
Phoenix, Arizona 85012

*Brian Thomas
Vice President Regulatory
Time Warner Telecom, Inc.
223 Taylor Avenue North
Seattle, Washington 98109

*Walter W. Meek, President
Arizona Utility Investors Association
2100 N. Central Avenue, Suite 210
Phoenix, AZ 85004

Jon Poston
ACTS
6733 East Dale Lane
Cave Creek, AZ 85331

*Jeffrey W. Crockett
Snell & Wilmer
One Arizona Center
400 East Van Buren
Phoenix, Arizona 85004-2202

Albert Sterman, Vice President
Arizona Consumers Council
2849 E. 8th Street
Tucson, AZ 85716

*Joan S. Burke
Osborn Maledon P.A.
2929 N. Central Avenue
Suite 2100
Phoenix, Arizona 85012

By Cheryl Frawolob

QWEST CORPORATION
DOCKET NO. T-01051B-03-0454
SUMMARY OF THE TESTIMONY OF MARYLEE DIAZ CORTEZ

The following is a summary of the significant issues set forth in the supplemental testimony of Ms. Diaz Cortez. A full discussion of these issues and the underlying theory and rationales for her recommendations are contained in the referenced document.

Ms. Diaz Cortez recommends that the Settlement Agreement's proposed treatment of the suspended April 1, 2005 productivity adjustment be rejected. Decision No. 67734, which suspended the April 1, 2005 productivity adjustment, required the terms of any Renewed Plan to "include full credit for the value of the April 1, 2005 productivity adjustment". The Settlement Agreement purports to satisfy this requirement with a provision that merely restricts the amount that Qwest can *raise* its prices in Basket 2. The April 1, 2005 productivity adjustment would have *reduced* Basket 1 prices by \$12 million. Ms. Diaz Cortez concludes that a cap on the amount Qwest can *raise* prices does not give "full credit for the value of the April 1, 2005 productivity adjustment", which called for a \$12 million *reduction* in prices.

SUMMARY OF TESTIMONY
OF BEN JOHNSON, PH.D.
On Behalf of
THE STATE OF ARIZONA
RESIDENTIAL UTILITY CONSUMER OFFICE
Before the
ARIZONA CORPORATION COMMISSION

Docket No. T-01051B-03-0454

Docket No. T-00000D-00-0672

I recommend that the Commission reject the proposed settlement.

The settling parties propose to group services into 4 baskets. Prices for services in Basket 1 cannot increase over the term of the plan. Prices for individual services in Basket 2 cannot increase more than 25% per year. Combined revenue increases for all services in Basket 2 are limited by an overall revenue cap. Price increases for individual services in Basket 3 are not constrained, but revenue increases for all services are limited by an overall revenue cap that includes Basket 3. Prices for

services in Basket 4 (Wholesale Services) are capped at current tariff or contract levels for the duration of the plan.

When analyzing the proposed settlement, the Commission should determine whether the proposal is in the public interest by comparing it to the statu quo. In evaluating whether the settlement is an improvement over the status quo, the Commission should focus on whether or not the proposed settlement furthers important public policy objectives, such as establishing robust and effective competition in the telecommunications market, preventing the exploitation of monopoly power where competition is not fully effective, and preserving and promoting universal service. After careful review of the revised plan proposed by the settling parties, I have concluded that, from a public interest perspective, it does not represent an improvement over the current Plan. To the contrary, the plan attached to the proposed settlement would have a harmful net impact on residential and other mass market customers, as well as the public generally.

The proposed plan will provide Qwest with greater freedom to exploit its remaining monopoly power, by increasing prices for services where it faces relatively little competition. And, the proposed plan includes very few, if any, changes which would benefit residential and other mass market customers. Some

services that are currently subject to a hard cap would be moved into Basket 2, where they will be subject to prices of as much as increase by 25% per year. Further, the settling parties propose to move some services that are currently in Basket 1 to Basket 3, where Qwest would have virtually unlimited freedom to increase prices.

Under the terms of the proposed settlement, services that are being provided in markets where competition is relatively weak or non-existent will nevertheless be placed in baskets 2 or 3. As a result, prices could increase sharply, if Qwest decides to use this newfound upward pricing flexibility to exploit its market power, to the detriment of its customers and the public generally.

As I explained in my direct testimony, significant barriers to entry remain in many portions of the Arizona telecommunications market – and continue in residential areas and rural parts of the state. While exceptions certainly exist, by and large, most local competitors have not yet enjoyed much success in penetrating the local exchange market, developing a market presence, gaining large numbers of customers, or building substantial revenues. The high degree of pricing freedom that would be granted Qwest under the proposed settlement is not consistent with

the limited, inconsistent state of competition in much of Qwest's Arizona service territory.

Further, the proposed settlement does not even attempt to resolve pressing issues, such as geographic differences in cost, geographic differences in competitive pressure, and the need for an improved Arizona Universal Service Fund. Qwest's service Arizona territory covers a very large geographic area which encompasses a range of different market conditions. As a result of differences in the underlying characteristics of each geographic area and differences in the mix of customers that are present in each area, competitive pressures vary widely within Qwest's Arizona service territory.

By failing to consider differences in competitive conditions, the proposed settlement leaves residential customers vulnerable to excessive price increases – a problem that is exacerbated by other aspects of the proposed settlement, including removal of the productivity offset and changes in the basket structure. The proposed settlement and price cap plan does not go far enough in protecting consumers who have few, if any, competitive alternatives – particularly those living in high cost, rural parts of the state.

Aside from the hard cap on prices of certain services (a cap which applies to all geographic areas regardless of the extent of competition) the settlement proposal offers very little protection from monopoly power for customers in markets where competition is weak or non-existent. Nor do the proposed changes to the existing price cap plan improve the prospects for effective competition in these markets.

I conclude that the public interest would not be served by approving the proposed settlement. The proposed settlement is not an improvement over the existing plan; nor does it address some important issues pending in this proceeding which are central to the future viability of competition in the Arizona telecommunications market. I recommend that the Commission reject the proposed settlement, and proceed to a hearing on the full record in this matter.