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EXCEPTION

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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

Arizona Corporation Commission

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AZ CORP COMMISSION
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JOHN T. WHEATLEY,
Complainant,
vs.
QWEST CORPORATION,
Respondent.

DOCKET NO. T-01051B-02-0001

Arizona Corporation Commission

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QWEST CORPORATION'S EXCEPTIONS TO PROPOSED ORDER

Qwest Corporation ("Qwest") hereby files the following exceptions to the December 31, 2002 Proposed Order in the above-captioned docket:

The Proposed Order makes clear that the Arizona Corporation Commission ("Commission") does not have jurisdiction over wireless charges in this case and grants Qwest's July 3, 2002 Motion to Dismiss all claims relating to wireless. (Order at 9:3-4) The Proposed Order, however, requires Qwest to waive the \$200.00 deactivation fee for a wireless service provided by Qwest Wireless, L.L.C. If as-acknowledged the Commission has no jurisdiction over Qwest Wireless, L.L.C., it cannot order the company to waive a wireless charge, which was authorized by and contracted for by Complainant when ordering the service.¹

Qwest did not charge Complainant a deactivation fee since Complainant authorized Qwest to disconnect his wireless service at the parties' March 6, 2002 procedural conference. Qwest,

¹ The Proposed Order specifically finds that the evidence showed that Complainant "authorized the wireless service." (Order at 11:23-24).

1 however, requests the record be made clear with respect to the jurisdictional issue and the hearing
2 officer's granting of Qwest's July 3, 2002 Motion to Dismiss all claims relating to wireless.
3 There is simply no basis, either factually or as a matter of jurisdiction, for this Commission to
4 order Qwest to waive Complainant's wireless deactivation fee. Accordingly, Qwest respectively
5 requests that the Proposed Order be amended as follows:

6 Findings of Fact at Paragraph 24 should be amended to read: "Because the Everywhere
7 Line service did not work as advertised, Qwest should credit Mr. Wheatley \$100 (the cost of the
8 package for the July/August 2001 timeframe) and for any late charges associated with its
9 regulated and unregulated services."²

10 Ordering paragraph, Page 16, line 2 should be amended as follows: "It is therefore ordered
11 that Qwest Corporation shall credit Mr. Wheatley's account \$100 for the Everywhere Line
12 Package: credit his account for all amounts charged for scheduled greetings; and for any late
13 payment charges associated with Qwest Corporation's regulated and unregulated services."

14
15 DATED this 9th day of January, 2003.

16 FENNEMORE CRAIG, P.C.

17
18
19 By 
20 Tim Berg
21 Darcy Renfro
22 3003 North Central Avenue
23 Suite 2600
24 Phoenix, AZ 85012
25 *Attorney for Qwest Corporation*

24 ² Although Qwest is not requesting any other amendment to these exceptions, it disputes the finding that the
25 Everywhere Line service did not work as advertised. In addition, Everywhere Line is billed at \$99.95 per month.
26 However, \$54.95 is billed for the Custom Choice package, \$9.75 for voice mail, and \$35.35 for wireless minutes.
(Order at 4: 6-12). Therefore, whether the Commission has jurisdiction to credit the \$35.35 for wireless charges
based on the findings regarding jurisdiction of wireless charges in this matter is arguable.

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ORIGINAL AND 13 COPIES
of the foregoing hand-delivered this
9th day of January, 2003, to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

COPY delivered this 9th day of January, 2003:

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Jason Gellman
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Lyn Farmer, Chief Hearing Officer
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

COPY to be faxed this:
9th day of January, 2003 to:

Jane L. Rodda, Administrative Law Judge
Hearing Division
ARIZONA CORPORATION COMMISSION
400 West Congress
Tucson, AZ 85701

COPY of the foregoing mailed this
9th day of January, 2003, to:

John Wheatley
5201 North Davis Avenue
Tucson, AZ 85705

