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BEFORE THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

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Arizona Corporation Commission

DOCKETED

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IN THE MATTER OF QWEST
CORPORATION TARIFF FILING TO
AMEND ITS TERMS AND CONDITIONS
AND PERMIT CUSTOMERS THE
OPTION OF INSTITUTING A FREEZE OF
THEIR LOCAL SERVICE PROVIDER

Docket No. T-01051B-02-0073

BRIEF ON BEHALF OF WORLDCOM, INC.

1 WorldCom, Inc., on behalf of itself and its operating subsidiaries, hereby files this
2 brief on the issues arising out of the Local Service Freeze docket:

3
4 **INTRODUCTION**

5 The underlying rationale for the Local Service Freeze (“LSF”) docket is the
6 recognition by the Arizona Corporation Commission (“ACC”) that offering local service
7 freeze options may have an adverse effect on the development of local competition in
8 telecommunications markets in states such as Arizona where there has been no such
9 competition to date or only nascent competition. This investigation arose as a result of
10 Qwest Corporation’s (“Qwest”) attempt, on January 28, 2002, to file a tariff permitting it
11 to provide a local service freeze option to its customers. After formal protests to the tariff
12 by several interested CLECs, an order issued on March 26, 2002, establishing a hearing
13 date and schedule for testimony to be filed. On June 17, 2002, a hearing was held.
14 WorldCom, Inc. (“WorldCom”), AT&T Communications (“AT&T”), and Cox Arizona
15 Telecom, L.L.C. (“Cox”) presented testimony in response to Qwest’s proposed tariff
16 revision. The Staff of the Arizona Corporation Commission (“Staff”) also presented
17 testimony on this matter.

18
19 **DISCUSSION**

20 There are two essential issues in this docket, both of them involving significant
21 policy issues with major telecommunications implications for consumers in Arizona.
22 First, at this time, is it in the public interest to permit Qwest to file a tariff offering an LSF
23 option to its customers in Arizona? Secondly, if Qwest is permitted to file such a tariff, is
24 the tariff filed on January 28, 2002 by Qwest so lacking in specificity as to raise serious
25 concerns?
26

1 **A. The Overriding Issue Is Whether LSF Is in the Public Interest**

2 All parties have quoted paragraphs 135-137 of the Federal Communications
3 Commission Order that discussed the potential market effects of local service freezes. *In*
4 *the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of*
5 *the Telecommunications Act of 1996*, CC Docket No. 94-129, Second Report and Order
6 and Further Notice of Proposed Rulemaking (the “FCC Second Report and Order”)
7 (released December 23, 1998). For purposes of this docket, the following statement of
8 the FCC should be emphasized: “We make clear, however, that states may adopt
9 moratoria on the imposition or solicitation of intrastate preferred carrier freezes if they
10 deem such action appropriate to prevent incumbent LECs from engaging in
11 anticompetitive conduct.” FCC Second Report and Order, ¶ 137. WorldCom urges the
12 ACC, with its greater knowledge of the state of competition in Arizona, to impose a
13 moratorium on LSF since such a prohibition is vital to the health of competition in the
14 local market.

15 Clearly, through the testimony presented by witnesses for WorldCom, Cox, and
16 AT&T, the CLECs are in agreement that an LSF option by Qwest is anticompetitive and
17 would cause significant harm to possible local competition in the market. Qwest’s
18 witness, Scott McIntyre (“McIntyre”), rationalizes the necessity of the LSF option as a
19 consumer protection measure. McIntyre Cross-Examination, *In The Matter Of Qwest*
20 *Corporation’s Tariff Filing To Amend Its Terms And Conditions And Permit Customers*
21 *The Option Of Instituting A Freeze Of Their Local Service Provider, Docket No.T-*
22 *01051B-02-0073*, Hearing Transcript, June 17, 2002 (“Hearing Transcript”), at 38:5-39:7.
23 He further characterizes the procedure to lift an LSF as a “simple mechanism.” McIntyre
24 Cross-Examination, Hearing Transcript, at 90:14 - 91:1.

25 Both WorldCom’s Mindy Chapman (“Chapman”) and AT&T’s Dawn Russell
26 (“Russell”) testified that Mr. McIntyre unfairly and inappropriately minimizes the

1 inconvenient and time-consuming process to switch a customer from Qwest to a
2 competitor. Ms. Russell described the process to interview a customer for a change in
3 local service and stated that the average data-gathering interval is about a “20-minute”
4 conversation. Russell Cross-examination, Hearing Transcript, at 96:11 - 98:3. In
5 concurring with the time estimate, Ms. Chapman stated,

6 So, when I keep hearing the statement it's just one more
7 simple step, you have to realize that the customer is – in their
8 mind, they're not counting the steps. It's the entire experience.
9 And for them to have to make yet another call and possibly be
10 transferred two more time because they may call into a
11 business office and then be transferred to Qwest's third-party
12 vendor, it's now that they have—now they've had to talk to
13 four parties to change their service. So I think it's important to
14 understand that from a consumer's perspective, they're not
15 thinking it's just one more step.

16 And that step of lifting the freeze, many consumers really
17 don't understand because they don't know they have the freeze
18 or they don't remember or they don't really understand. If
19 they did accept it and they do remember accepting it, they
20 really don't understand the consequences of what it will take
21 for them to get past when they make an educated decision to
22 change carriers.

23 Chapman Direct, Hearing Transcript, at 182:12 – 183:6.

24 All the CLEC witnesses pointed to the anticompetitive effect of an LSF on local
25 competition because of the practical problems with sales, telemarketing, installation,
26 and/or internal operating procedures. Further, there is no problem with local slamming in
Arizona, as even Mr. McIntyre admits. McIntyre Direct Testimony, Hearing Transcript, at
39:8-12. Qwest points to other states that have already required some version of LSF, but
those states may have market conditions that are different than Arizona. For Arizona, at
least for now, the anticompetitive effect of an LSF would make it premature, at best, to
permit Qwest to offer that option. Perhaps, in the future, different economic and market
conditions may arise, calling for a reconsideration of the issue.

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B. If the Concept of LSF Is Approved, More Protections Need To Be Inserted

If, despite the unified opposition of the CLECs, Qwest is permitted to offer this service, then the tariff should be revised and improved in order to implement safeguards in the marketing and implementation of LSF. Further, Arizona should consider rules to prevent inappropriate policies that will damage local competition in Arizona. WorldCom strongly endorses Staff's testimony in which it discussed inserting terms and conditions of LSF in any proposed tariff and in which it stated that the tariff should at least comply with the FCC's standards and that additional rules and other safeguards should be created to minimize the anti-competitive effects of LSF. Hearing Transcript, at 213:15-215:15.

Furthermore, Qwest should be prevented from offering LSF on every single incoming call. The fact that all telephone users must communicate with the incumbent LEC to obtain equipment and service on their premises gives Qwest a built-in advantage that would be unfair to the CLECs.

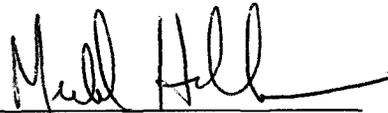
CONCLUSION

For WorldCom, these problems are not just theoretical. WorldCom has recently demonstrated its commitment to the Arizona local market by launching The Neighborhood, the marketing title of its entry into the local residential and small business market. Administrative notice is requested that WorldCom filed tariffs, effective April 15, 2002, to meet the legal requirements for entry into the local market. It is in the public interest for WorldCom to enter into and become an active and viable competitor in the local market. LSF is an unnecessary and unwarranted obstacle at this very sensitive point in time.

1 For the foregoing reasons, WorldCom respectfully asks that Qwest be prohibited
2 from filing a tariff offering LSF to its Arizona customers.

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4 RESPECTFULLY submitted this 22nd day of July, 2002.

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