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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

OCT 20 2000

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CARL J. KUNASEK 2000 OCT 20 P 4: 04  
Chairman  
JIM IRVIN  
Commissioner  
WILLIAM A. MUNDELL  
Commissioner

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AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE GENERIC  
REVIEW OF PROCEDURES FOR  
COMPETITIVE TELECOMMUNICATIONS.

DOCKET NO. RT-00000D-00-0694

COMMENTS OF QWEST  
CORPORATION PURSUANT TO  
PROCEDURAL ORDER DATED  
SEPTEMBER 18, 2000

Qwest Corporation ("Qwest"), formerly U S WEST Communications, Inc., provides the following comments to the procedures outlined in the Procedural Order dated September 18, 2000 ("Order") in the above-captioned docket.

In light of the Opinion rendered by the Arizona Court of Appeals in Cause No. 1 CA-CV 98-0672 ("Opinion"), the Arizona Corporation Commission (the "Commission") should amend its rules and establish permanent procedures that require the Commission to ascertain the fair value of property within the state of each public service corporation before setting each such corporation's rates and charges. Until such time, the procedures outlined in the Order will permit the Commission to determine fair value rate base ("FVRB") on an interim basis while moving forward with pending applications for certificates of convenience and necessity.

Generally, Qwest has no objection to these interim procedures. However, the Commission should more specifically define the "information" required to demonstrate "how the fair

1 value rate base of the Company's plant and equipment (both  
2 current and projected" is related to its total service long-run  
3 incremental costs." An objective minimum standard should be  
4 established for any required information and that minimum should  
5 be applied equally to all companies.

6 Moreover, when setting rates, the Commission should  
7 determine whether the rates and charges are reasonable in light  
8 of the fair value of the assets of each public service  
9 corporation. The Commission should make a finding that both the  
10 minimum and maximum rates and charges are just and reasonable.  
11 The procedures set forth in the Order impose this requirement  
12 only on those maximum rates and charges that "are higher than  
13 those of the incumbent local exchange carrier for the same  
14 regulated service" and, therefore, do not comply with the  
15 Opinion.

16 With regard to the questions attached to the Order as  
17 Exhibit A, Qwest responds as follows:

18  
19 1. *Are any Commission rules and procedures affected by the  
20 Court of Appeals' Opinion; if so, should they be revised and how?*

21 Commission rules and procedures are affected by the  
22 Court of Appeals' Opinion. For example, the Commission's rules  
23 on competitive telecommunications services (specifically, A.A.C.  
24 R14-2-1104 through A.A.C. R14-2-1106; A.A.C. R14-2-1108 through  
25 A.A.C. R14-2-1110, and A.A.C. R14-2-1115) must be revised to  
26 ensure that the Commission determines fair value rate base for  
27 all telecommunications carriers prior to setting their rates and  
28 charges. Currently, a company provides economic justification or

1 cost support data for its rates at the discretion of the  
2 Commission or Staff. See A.A.C. R14-2-1104(A) and A.A.C. R14-2-  
3 1105.

4  
5 2. *What information would be helpful or necessary for the*  
6 *Commission to ascertain fair value and how should fair value be*  
7 *determined for the various types of providers in Arizona, i.e.,*  
8 *resellers, providers offering services through the use of the*  
9 *ILEC's unbundled network elements and/or a combination of*  
10 *unbundled network elements and their own facilities?*

11 The Commission should require the same information from  
12 both incumbent local exchange carriers ("ILECs") and competitive  
13 local exchange carriers ("CLECs") in determining fair value.  
14 With regard to resellers, the Commission should review  
15 information and data relative to any property/assets held by the  
16 company, its investments, its cost of service, and the rates paid  
17 to ILECs from which the Company purchases resold services.  
18 Carriers using unbundled network elements ("UNEs"), or a  
19 combination of UNEs and their own facilities, should be required  
20 to submit the same information as a public service corporation of  
21 their class under A.A.C. R14-2-103.

22  
23 3. *How can fair value rate base information be utilized for the*  
24 *purposes of setting rates consistent with the Court of Appeals'*  
25 *Opinion, with the Telecommunications Act, and with a transition*  
26 *to a competitive market?*

27 The Court of Appeals has determined that the fair value  
28 requirement established by the Arizona Constitution does not

1 conflict with the Telecommunications Act of 1996. The Commission  
2 can set minimum and maximum rates for a public service  
3 corporation based on fair value, and the public service  
4 corporation can develop its own rate designs and price services  
5 within the prescribed range(s).

6

7 4. *Does the Court of Appeals' Opinion affect more than the*  
8 *establishment of initial rates by the Commission? For instances,*  
9 *what is the impact on the Commission's competitive pricing rules,*  
10 *maximum-minimum rate pricing structures, transfer of assets*  
11 *applications, special contracts, or new tariff filings?*

12 Yes. The Opinion impacts the Commission's competitive  
13 pricing rules in the manner previously described. Maximum-  
14 minimum rate pricing structures are clearly permissible, but must  
15 be based on fair value determinations. Rate changes that fall  
16 within a minimum/maximum range will not require additional fair  
17 value analysis or an order of the Commission. New service tariff  
18 filings may be implemented consistent with the Opinion and A.R.S.  
19 § 40-250 in various ways. For example, where the Commission has  
20 conducted a fair value analysis in setting the weighted average  
21 for a class or category of service, a tariff filing introducing a  
22 new service in the class or category would not require an  
23 additional, separate fair value determination. The Opinion does  
24 not impact transfer of assets applications assuming no rates are  
25 adjusted during the asset transfer proceedings. The Opinion only  
26 affects proceedings in which the Commission adjusts rates.

27

28 5. *What rates need to be set using fair value (i.e.,*

1 *minimum rates; maximum rates; other?)?*

2

3           The Commission should ascertain and consider fair value  
4 when determining minimum and maximum rates and rates for services  
5 that are not flexibly priced.

6

7 6.           *Is flexible pricing permissible given the Court's*  
8 *Opinion? Would traditional price cap plans and incentive*  
9 *regulation plans be consistent with Article XV, Section 14 of the*  
10 *Arizona Constitution?*

11

12           So long as the Commission ascertains fair value when  
13 determining minimum and maximum rates, flexible pricing is not  
14 barred by the Court of Appeals' Opinion. Likewise, price cap and  
15 incentive regulation plans are consistent with the requirement  
16 that the Commission ascertains fair value when the Commission  
17 prescribes rates.

18

19 7.           *Is there an even more streamlined process than that set*  
20 *out herein which the Commission could implement which would be*  
21 *consistent with the Court's Opinion and with Section 253 of the*  
22 *Telecommunications Act of 1996?*

23

24           The Commission may develop a more streamlined process  
25 through further investigation and solicitation of comment on  
26 alternatives in this docket. Any such streamlined process should  
27 apply equally to CLECs and ILECs.

28

1 8. If there is an impact on CC&N applications already  
2 granted by the Commission, how should the Commission address it?

3

4 The Commission should conduct further proceedings for  
5 these carriers to determine fair value and adjust the rates  
6 established under the original decisions granting these  
7 certificates of convenience and necessity.

8 RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of October, 2000.

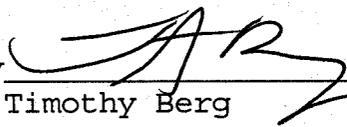
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FENNEMORE CRAIG, P.C.

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By   
Timothy Berg  
Theresa Dwyer  
3003 N. Central Avenue, Suite 2600  
Phoenix, AZ 85023  
Attorneys for Qwest Corporation

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17 ORIGINAL AND TEN COPIES  
18 of the foregoing hand-delivered for  
19 filing this 20th day of October, 2000, to:

20 ARIZONA CORPORATION COMMISSION  
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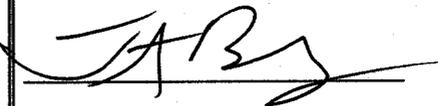
24 COPY of the foregoing  
25 hand-delivered this 20<sup>th</sup> day  
26 of October, 2000, to:

27 Jerry L. Rudibaugh, Chief Administrative Law Judge  
28 Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Lynn Farmer, Chief Counsel  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street

1 Phoenix, AZ 85007  
2 Deborah R. Scott, Director  
3 Utilities Division  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, AZ 85007

7 COPY of the foregoing  
8 mailed this 20<sup>th</sup> day  
9 of October, 2000, to  
10 the attached service  
11 list:  
12  
13  
14  
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**SERVICE LIST**  
**RE: GENERIC REVIEW OF PROCEDURES**  
**FOR COMPETITIVE TELECOMMUNICATIONS**

Docket No. RT-00000D-0694

Thomas C. Peltó  
Richard S. Wolters  
1875 Lawrence Street, Suite  
1575  
Denver, CO 80202

Pam Gregg  
ALLTel Communications  
One Allied Drive  
Little Rock, Arkansas 72202

Michael Patten  
Brown & Bain  
P.O. Box 400  
2901 N. Central Ave.  
Phoenix, AZ 85001-0400

Joan Burke  
Osborn Maledon  
2929 N. Central Ave.  
Phoenix, AZ 85012

Daniel Waggoner  
Davis Wright Tremaine  
2600 Century Square  
1502 Fourth Avenue  
Seattle, WA 98101-1688

Paul B. Hudson  
Swidler & Berlin  
3000 K Street, N.W., Ste. 300  
Washington, D.C. 20007-5116

Thomas H. Campbell  
Lewis and Roca, L.L.P.  
40 N. Central Avenue  
Phoenix, AZ 85004-4429

Thomas F. Dixon  
MCI WorldCom  
707 Seventtenth St.  
Denver, CO 80202

Darren Weingard  
Sprint Communications  
1850 Gateway Dr., 7<sup>th</sup> Floor  
San Mateo, CA 94404

Lindy Funkhouse  
RUCO  
2828 N. Central Ave., Ste.  
1200  
Phoenix, AZ 85012

Philip Carrington  
Cox Communications  
1400 Lake Hearn Drive, N.E.  
Atlanta, GA 30319

J. Walter Hyer  
AT&T Wireless  
10210 N.E. Points Drive, Ste.  
400  
Kirkland, WA 98033

Joseph S. Faber  
Davis Wright Tremaine  
One Embarcardo Center, Suite  
600  
San Francisco, CA 94111

John Kelly  
Office of the Governor  
1700 W. Washington St.  
Phoenix, AZ 85007

Richard Silverman  
Salt River Project T-PAB 300  
P.O. Box 52025  
Phoenix, AZ 85072

Patricia van Midde  
AT&T  
111 W. Monroe St., Ste. 1201  
Phoenix, AZ 85003

Raymond Heyman

Randall H. Warner  
Roshka, Heyman & DeWulf  
400 N. 5<sup>th</sup> St., Ste. 1000  
Phoenix, AZ 85004

Penny Bewick  
Electric Lightwave  
4400 N.E. 77<sup>th</sup> Avenue  
Vancouver, WA 98662

Alan Sparks  
Cox Communications  
17602 N. Black Canyon Hwy.  
Phoenix, AZ 85023

Joan Hinson  
John C. Lincoln Hospital  
250 E. Dunlap  
Phoenix, AZ 85020

Leroy Pilant  
Valley Telephone Cooperative  
P.O. Box 970  
752 E. Maley  
Wilcox, AZ 85644

Kenneth Melley  
U.S. Long Distance, Inc.  
9311 San Pedro, Ste. 300  
San Antonio, TX 78216

Jean L. Kiddoo  
Swidler & Berlin  
3000 K St., N.W., Ste. 300  
Washington, D.C. 20007

Bob Whipple  
Stenocall  
1515 Avenue J  
P.O. Box 10127  
Lubbock, TX 79408

Mile Schulties  
AllTel Services  
1 Allied Drive  
Little Rock, AR 72203

Rick McAllister  
AllTel Western Region  
P.O. Box 3373  
Little Rock, AR 72203

Steve Wheeler  
Snell & Wilmer  
One Arizona Center  
400 E. Van Buren St.  
Phoenix, AZ 85004

Craig Marks  
Citizens Utilities Co.  
2901 N. Central Ave., Ste.  
1600  
Phoenix, AZ 85012

Charles Born  
Citizens Utilities Co.  
7901 Freeport Blvd., Ste. 200  
Sacramento, CA 95832

Jamal Allen  
The Cavanagh Law Firm, P.A.  
One E. Camelback Rd., Ste.  
900  
Phoenix, AZ 85012

Tony Dittirro  
MCI WorldCom  
201 Spear St., 9<sup>th</sup> Floor  
San Francisco, CA 94105

John Coleman  
Electric Lightwave  
2600 N. Central Ave., Ste.  
300  
Phoenix, AZ 85012

John Laue  
City of Tempe  
132 E. 6<sup>th</sup> St., Ste. B109  
Tempe, AZ 85280

Joe Hommel  
Electric Lightwave  
8100 N.E. Parkway, Ste. 200

Vancouver, WA 98662

Fred Shepherd  
Tohono O'Odahm Utility  
Authority  
P.O. Box 816  
Sells, AZ 85634

Darel Eschback  
Arizona State University  
Box 870201  
Tempe, AZ 85287

Tim Delany  
Brown & Bain  
P.O. Box 400  
2901 N. Central Ave.  
Phoenix, AZ 85001

Paul Schneider  
Arizona Business Gazette  
P.O. Box 1950  
Phoenix, AZ 85001

Jeffrey Weir  
S. Gila County Economic Dev.  
P.O. Box 1351  
Globe, AZ 85502

Sue Williams  
Teltrust Communications  
221 N. Charles Lindbergh  
Salt Lake City, UT 84116

Ivan Johnson  
Times Mirror Cable Television  
17602 N. Black Canyon Highway  
Phoenix, AZ 85023

Jim Wortham  
City of Phoenix, Legal Dept.  
150 S. 12<sup>th</sup> St.  
Phoenix, AZ 85034

Jim Wortham  
TEP, Legal Department  
220 W. 6<sup>th</sup> St.

P.O. Box 711  
Tucson, AZ 85702

Terry Ross  
Center for Energy & Economic  
Dev.  
7853 E. Arapahoe Court, Ste.  
2600  
Englewood, CO 80112

Peter Glaser  
Doherty, Rumble & Butler  
1401 New York Ave., N.W.,  
Ste. 1100  
Washington, D.C. 20005

Tom Bade  
GCB Communications  
1025 E. Broadway, Ste. 201  
Tempe, AZ 85282

Martin Aronson  
Morrill & Aronons  
One E. Camelback Rd., Ste.  
340  
Phoenix, AZ 85012

Jodie Caro  
MFS Communications Co., Inc.  
999 Oakmount Plaza Dr., Apt.  
400  
Westmont, IL 60519

Ian Calkins  
Phoenix Chamber of Commerce  
201 N. Central Ave., 27<sup>th</sup>  
Floor  
Phoenix, AZ 85073

Jack Trahan  
Western Electronics &  
Communications  
2332 Kingman Ave.  
Kingman, AZ 86401

David Porter  
WorldCom, Inc.

1120 Connecticut St., N.W.,  
Ste. 400  
Washington, D.C. 20036

Jesse Sears  
City of Phoenix  
200 W. Washington St., 13<sup>th</sup>  
Floor  
Phoenix, AZ 85003

Peter Nyce, Jr.  
U.S. Army Litigation Center  
901 N. Stuart St., Ste. 713  
Arlington, VA 22203

Charles Best  
Attorney at Law  
1220 S.W. Morrison St., Ste.  
805  
Portland, OR 97205

William Pollard  
KLP & Associates  
8526 Torwoodlee Court  
Dublin, OH 43017

Bill Meek  
AUIA  
2100 N. Central Ave., Ste.  
210  
Phoenix, AZ 85004

M. Kimberly Roberts  
GTE Communications  
5221 N. O'Connor Blvd.  
Irving, TX 75039

Terry Forthun  
Arizona State AFL-CIO  
5818 N. 7<sup>th</sup> St., Ste. 200  
Phoenix, AZ 85014

Bradley Carroll  
Cox Communications  
1550 W. Deer Valley Rd.  
Phoenix, AZ 85027

Doug Hsiao  
Rhythms Links, Inc.  
6933 S. Revere Parkway  
Englewood, CO 80112

Karen L. Caluson  
Eschelon Telecom, Inc.  
730 2<sup>nd</sup> Ave., South, Ste. 120  
Minneapolis, MN 55402

Timothy Hogan  
Arizona Center for Law in the  
Public Interest  
202 E. McDowell Rd., Ste. 153  
Phoenix, AZ 85004

Robert Tanner  
Davis Wright Tremaine, L.L.P.  
17203 N. 42<sup>nd</sup> St.  
Phoenix, AZ 85032