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Arizona Corporation Commission
BEFORE THE ARIZONA CORPORATION COMMISSION

NOV 01 2000

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

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AZ CORP COMMISSION
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IN THE MATTER OF THE GENERIC REVIEW) DOCKET NO. RT-00000D-00-0694
OF PROCEDURES FOR COMPETITIVE)
TELECOMMUNICATIONS) **REPLY COMMENTS OF ALLTEL**
) **COMMUNICATIONS, INC.**

ALLTEL Communications, Inc. ("ACI") submits these Reply Comments concerning the procedures the Arizona Corporation Commission ("Commission") should follow in light of the Arizona Court of Appeals Opinion in *U.S. West Communications, Inc. v. Arizona Corporation Commission*, Cause No. 1 CA-CV 98-0672.

ACI reaffirms its position as stated in its Comments, and agrees with the comments of other competitive local exchange carriers ("CLECs") that the Commission should postpone the requirement for new entrants to establish rates based on Fair Value Rate Base ("FVRB"). As demonstrated by several parties, there are too many unknowns to begin addressing this issue now and doing so would cause wasted time, effort and resources for all parties involved.

Requiring FVRB information and calculations is premature at this point because the *U.S. West* case is under review by the Arizona Supreme Court, and no mandate will issue until the Court either denies the petition for review or issues a final decision in the case. See Rule 24, Arizona Rules of Civil Appellate Procedure. No one knows how the Supreme Court will

1 ultimately rule on this issue of critical statewide importance. At this point, because the *U.S. West*
2 case is not final, the Commission has no obligation to impose any new requirements on CLECs.

3 The requirement that FVRB be established for new applications may cause new entrants to
4 evaluate their participation in the Arizona market. CLECs and resellers consider a number of
5 factors in deciding whether to do business in Arizona, and high on the list are the regulatory
6 barriers a company must overcome in order to compete. The FVRB requirement for competitive
7 providers is a barrier to entry not previously present, and makes Arizona much less attractive than
8 neighboring states which do not impose such an onerous burden on new entrants. For example, as
9 a result of this issue, ACI has sought a stay of its pending application for a certificate of
10 convenience and necessity, and the Commission granted the stay on October 19, 2000. It is likely
11 that other companies considering the Arizona market will take similar actions.

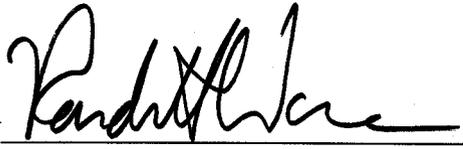
12 If the Commission ultimately determines that it must require competitive carriers to
13 establish FVRB, the requirement would be discriminatory unless it applies to all
14 telecommunications carriers, not just new applicants. The many interexchange resellers and
15 CLECs already certified in Arizona were not subject to a FVRB review. They would enjoy a
16 competitive advantage over new companies who would be required to justify their rates based on
17 FVRB.

18 In summary, the Commission should continue to apply its rules in their present form until a
19 final order issues from the Arizona Supreme Court and the unknowns surrounding the FVRB issue
20 are resolved. This is the only reasonable approach under the circumstances and will result in saved
21 time, effort and expense should the ruling of the Court of Appeals be overturned.

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RESPECTFULLY SUBMITTED this 1st day of November, 2000.

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