



Arizona Utility
Investors Association

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ORIGINAL

OPEN MEETING AGENDA ITEM

September 2, 2003

Marc Spitzer, Chairman
Jim Irvin, Commissioner
William Mundell, Commissioner
Mike Gleason, Commissioner
Jeff Hatch-Miller, Commissioner

Re: The Sale of Qwest Dex
Docket No. T-01051B-02-0666

Gentlemen:

I am writing to express the views of the Arizona Utility Investors Association regarding the above captioned matter. Since AUIA is not party to this case, this letter is not an ex parte communication, but should be regarded as public comment. I will be unable to attend the September 5 Open Meeting which has been noticed for consideration of this matter.

In summary, AUIA believes that the financial future of Qwest Communications is directly dependent on completing the sale of Qwest Dex and we urge you to approve the stipulated settlement agreement as recommended by Administrative Law Judge Jane Rodda in her Recommended Opinion and Order dated August 21, 2003.

We would not support the settlement if Qwest's financial condition were not so threatened. As you must know, Qwest experienced a "perfect storm" of financial setbacks in 2002, including severe earnings erosion, debt accumulation of \$25 billion, exhaustion of its \$4 billion line of credit, free fall of its market capitalization, its bonds reduced to junk status and exclusion from the commercial paper market. Qwest avoided default and possible bankruptcy by renegotiating its credit facility, based substantially on the reduction of long-term debt through the sale of assets.

In our view, the sale of Dex is a critical component of Qwest's amended credit agreement and its continued financial viability.

If this were not the case, AUIA would oppose the proposed settlement for the following reasons:

- We agree with the company that the Commission lacks jurisdiction over the sale of Qwest Dex because it is and has been an unregulated entity since its transfer in 1984 to US West Direct. We

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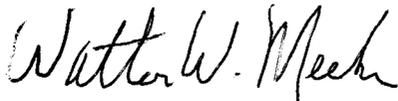
believe the 1996 decision of the Arizona court of Appeals was dispositive in this regard.

- AUIA has consistently and often successfully opposed proposals to share with ratepayers the gains on the sale of assets in cases, like this one, where a) the seller is disposing of a complete line of business rather than a hard asset, and b) the ratepayers have not shared or invested in the risk of the enterprise.
- Under any construction favorable to the Commission, its jurisdiction would be restricted narrowly by the terms of the 1988 settlement agreement. Therefore, any increase in imputed revenues above the \$43 million level established in 1988 would be unlawful if not for the fact that the proposed settlement purports to supercede the previous agreement.

For the reasons cited above, AUIA agrees with ALJ Rodda's finding that the litigation risks to the Commission are substantial if this agreement is not adopted or if it is amended in a way that makes it unacceptable to the applicant. We also agree that both the ratepayers and Qwest receive more benefits from the 15-year imputation period proposed in the settlement than from a one-time credit based on present value.

As ALJ Rodda noted, no party to this proceeding proposed to deny approval of the sale of Dex to Dex Holdings. Further, no one has suggested that Qwest shareholders or its customers would benefit if the company were driven into bankruptcy. AUIA urges you to find that the sale is in the public interest and to approve the proposed settlement agreement.

Sincerely,



Walter W. Meek
President

cc: Docket Control
Timothy Berg
Pat Quinn
Jane Rodda
Chris Kempley
Ernest Johnson