

EXCEPTION  
ORIGINAL



0000069626

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER  
Chairman

WILLIAM A. MUNDELL  
Commissioner

JEFF HATCH-MILLER  
Commissioner

MIKE GLEASON  
Commissioner

KRISTIN K. MAYES  
Commissioner

Arizona Corporation Commission  
DOCKETED

JAN - 8 2004

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AZ CORP COMMISSION  
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2004 JAN - 8 A 11: 48

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IN THE MATTER OF QWEST  
CORPORATION'S FILING OF  
RENEWED PRICE REGULATION PLAN

Docket No: T-<sup>01651B</sup>~~00151B~~-03-0454

MCI'S EXCEPTIONS TO RECOMMENDED OPINION AND ORDER

WorldCom, Inc., on behalf of its operating affiliates ("MCI"), respectfully requests that the Recommended Opinion and Order ("ROO") be modified in two respects. First, access charges should continue to be reduced after Qwest's price regulation plan initial term expires on March 30, 2004; and, second, MCI's proposed procedural schedule for the price regulation plan and access charge cases should be adopted.

**I. ACCESS CHARGE REFORM IS LONG OVERDUE.**

The need for access charge reform has been brought to the Arizona Corporation Commission's ("Commission") attention numerous times in the last few years, but the Commission has not yet undertaken a thorough investigation of this critical issue. A brief history is instructive.

1 On April 18, 1997, MCI filed a complaint against Qwest (then US WEST)  
2 contending that Qwest's access charges were unlawful, unjust, unreasonable and  
3 discriminatory. MCI maintained that access should be priced at economic cost. The  
4 Commission agreed that access charges were not set at their economic levels, but  
5 concluded that any adjustment must be done as part of an overall review of Qwest's rates.  
6 Thus, MCI's complaint was dismissed by the Commission in Decision No. 60596 (January  
7 14, 1998) with the promise that access charges would be reviewed in Qwest's next rate  
8 case. A copy of Decision No. 60596 is Attachment A. Significantly, the Commission also  
9 held that "... the pricing of access charges should be taken into consideration as part of  
10 any request by US WEST to enter into Arizona's interLATA toll market."

11 At the August 22, 2000 Open Meeting, former Chairman Kunasek requested an  
12 investigation into whether access charges for Arizona utilities reflect the cost of access.  
13 While a docket was opened on September 5, 2000 (Docket No. T-00000D-00-0672), it  
14 was suspended by a July 8, 2002 Procedural Order.

15 On March 30, 2001, in the Qwest rate case filed after MCI's access complaint was  
16 dismissed, the Commission, as part of a global settlement, approved a minimal access  
17 charge reduction (\$5 million per year) and stated that it was the intention of the  
18 Commission to continue to reduce intrastate access charges to interstate levels. (A.C.C.  
19 Decision No. 63487, March 30, 2001). Despite this minimal reduction, no significant  
20 evaluation of intrastate access charges was undertaken. Instead, the Commission  
21 concluded that access charge issues should be addressed in a global way in a generic  
22 docket. The Commission also ordered Staff to open a docket on the related topic of  
23 imputation. Imputation is important because Qwest must impute access charges to its own  
24 pricing structure to ensure a competitive long distance market in Arizona. The imputation  
25 investigation mandated in Decision No. 63487 has never been conducted.

26

1 The access charge issue was raised again at the September 19, 2003 Open Meeting  
2 at which Qwest's 271 approval was granted. Chairman Spitzer, after listening to price  
3 squeeze concerns, requested an expedited investigation of access charges. As a result, the  
4 previously suspended access charge investigation (Docket No. T-00000D-00-0672) was  
5 reactivated.

6 Despite repeated attempts to address access charge issues, no comprehensive,  
7 significant access charge case has been conducted in Arizona. For many reasons, a  
8 thorough review of access charges has always been delayed and, despite the  
9 Commissioner's direction that access charges be evaluated as part of any request by Qwest  
10 to enter the long distance market, Qwest was granted such entry without an access charge  
11 investigation.

12 Unfortunately, the ROO will continue to delay access reform because it does not  
13 require Qwest to get approval for its amended pricing plan by April 2004, as the  
14 Commission had intended when it approved the initial plan in March 2001. Because the  
15 implementation of access charge reform must take place in the pending Qwest renewed  
16 price regulation plan case, a delay in the price regulation plan case is a delay in access  
17 charge reform. This further delay will have a particularly negative impact on competition  
18 because Qwest is now offering long distance services. Qwest may charge its long distance  
19 competitors excessive access charges, substantially above costs, without imputing these  
20 same high access charges to its own long distance service prices.<sup>1</sup>

21 \_\_\_\_\_  
22 <sup>1</sup> For example, Qwest is offering and providing interLATA residential long distance  
23 services at 5 cents per minute with a maximum rate of \$20.00 per month (see Attachment  
24 B and Qwest Residential products and packages available in Arizona at  
25 [http://www.qwest.com/residential?npa=&nnx=&line=&qRegResi=regionIn&qInWireLine=&qCustomerSt  
26 ate=Arizona](http://www.qwest.com/residential?npa=&nnx=&line=&qRegResi=regionIn&qInWireLine=&qCustomerState=Arizona)) - a price that appears to be lower than the current switched access rates  
charged by Qwest to CLECs. Compare this 5 cent rate with Qwest's Arizona Access Price  
Cap Tariff, Section 6, and more specifically Rates, Terms and conditions for switched  
access that can be found at  
[http://tariffs.uswest.com:8000/docs/TARIFFS/Arizona/AZAPC/az\\_a\\_pc\\_s006p061.pdf#USW-  
TOC000081](http://tariffs.uswest.com:8000/docs/TARIFFS/Arizona/AZAPC/az_a_pc_s006p061.pdf#USW-TOC000081)

1 **II. THE COMMISSION SHOULD ADOPT A PROCEDURAL SCHEDULE TO**  
2 **RESOLVE THE PRICE REGULATION PLAN AND ACCESS CHARGE**  
3 **CASES BY APRIL 2004.**

4 MCI proposed an expedited schedule for the price regulation plan and access  
5 charge cases in its November 21, 2003 Response to Qwest's Motion to Clarify, but that  
6 schedule was not mentioned in the ROO. The ROO, at least on an interim basis, allows  
7 Qwest to charge existing access rates as a rate of return regulated entity without having  
8 first been required to establish that rates charged after April 1, 2004 are just and  
9 reasonable and consistent with a fair value determination conducted by the Commission  
10 before those rates become effective on April 1, 2004.

11 Qwest should be able to provide the necessary information and have this issue  
12 resolved by April 1, 2004. MCI proposed the following schedule. First, the price  
13 regulation plan case and phase one of the access charge case should be consolidated so  
14 that new access charges can be implemented as part of the new price regulation plan.  
15 Second, by February 3, 2004, Qwest should file its list of witnesses with a summary of the  
16 matters each witness will address and copies of the exhibits that it intends to offer into  
17 evidence. (pre-filed testimony by all parties should be allowed, but not required.) By  
18 February 12, 2004, each other party planning to offer witnesses and exhibits should file its  
19 list of witnesses with a summary of the matters each witness will address and copies of the  
20 exhibits that it intends to offer into evidence. A hearing should begin February 17, 2004,  
21 and continue on each business day thereafter for approximately two weeks. The hearing  
22 should conclude no later than March 2, 2004, and closing arguments should be delivered  
23 orally on March 3, 2004, or on the day after the last day of hearing if the case concludes  
24 sooner than March 2, 2004. If closing briefs are desired, they should be due by March 10,  
25 2004, to allow for a recommended opinion and order, for the filing of exceptions, and for a  
26 Commission decision prior to April 1, 2004. More details about the schedule proposed by

1 MCI are contained on pages 3 and 4 in Attachment C, Response to Qwest's Motion to  
2 Clarify.

3 **III. AN INTERIM SOLUTION MAY BE NECESSARY.**

4 While it is MCI's desire that the new Qwest price regulation plan evaluation be  
5 completed by April 1, 2004, if it cannot be and the current plan is extended, Qwest should  
6 agree to true-up any rates and charges after April 1, 2004, to any rates ultimately approved  
7 by the Commission, due to Qwest's failure to file timely and accurate financial reports  
8 necessary to determine whether Qwest's current rates are just and reasonable. This failure  
9 was wholly within the control of Qwest, and Qwest should not benefit from this delay,  
10 particularly by charging excessive switched access rates while offering residential  
11 customers intra- and interLATA long distance rates of 5 cents per minute.

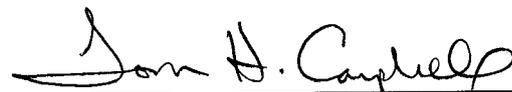
12 In addition, and on an interim basis, Qwest should be required to reduce access  
13 charges by an additional \$5 million in April 2004, pursuant to the current Qwest price  
14 regulation plan. The current plan approved by the Commission states that there will be  
15 "... further reductions in intrastate switched access service rates taking place during any  
16 subsequent term of the price cap plan with the objective of obtaining parity with interstate  
17 switched access rates." (emphasis added). The initial plan approved by the Commission  
18 clearly contemplates additional reductions in switched access rates after the initial three  
19 year term expires on March 30, 2004. If the plan is continued as authorized in the ROO,  
20 that continuation will be a "subsequent term" and further access charge reductions are  
21 mandated. While an additional \$5 million reduction in access charges on April 1, 2004  
22 will not reach the goal of achieving parity with interstate switched access rates, it will be a  
23 step in the right direction—a direction adopted by the Commission when it approved the  
24 current Qwest price regulation plan.

1 **IV. CONCLUSION.**

2 MCI respectfully takes exception to the ROO because it does not adopt a schedule  
3 that will allow the Commission to complete its duty of reviewing the amended Qwest price  
4 regulation plan in a timely manner to ensure Qwest's Arizona customers are not  
5 improperly charged for regulated telecommunication services. As an alternative, if the  
6 Commission cannot review this matter by April 1, 2004, it should require that Qwest agree  
7 to true up the rates it charges after April 1, 2004, and to reduce switched access on an  
8 interim basis by an additional \$5 million.

9 RESPECTFULLY SUBMITTED this 8<sup>th</sup> day January, 2004.

10 LEWIS AND ROCA LLP

11 

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14 Michael T. Hallam  
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17 Attorneys for WorldCom, Inc.

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19 of the foregoing filed this 8<sup>th</sup> day  
20 of January, 2004, with:

21 Arizona Corporation Commission  
22 Docket Control – Utilities Division  
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24 Phoenix, Arizona 85007

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26 this 8<sup>th</sup> day of January, 2004, to:

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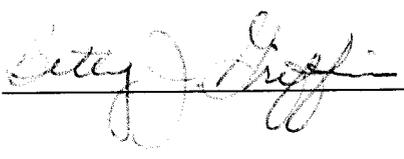
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**ATTACHMENT A**

JAN 16 1998

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission  
DOCKETED

JAN 14 1998

JIM IRVIN  
COMMISSIONER - CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

DOCKETED BY *JAL*

IN THE MATTER OF MCI )  
TELECOMMUNICATIONS CORPORATION )  
AGAINST U S WEST COMMUNICATIONS, )  
INC. REGARDING INTRASTATE ACCESS )  
CHARGES OR, IN THE ALTERNATIVE, )  
REQUEST THAT THE COMMISSION )  
INVESTIGATE U S WEST'S INTRASTATE )  
ACCESS CHARGES. )

DOCKET NO. T-01051B-97-200

DECISION NO. 60596

**OPINION AND ORDER**

DATES OF HEARING: October 27, 1997 (Oral Arguments)  
PLACE OF HEARING: Phoenix, Arizona  
PRESIDING OFFICER: Jerry L. Rudibaugh, Chief Hearing Officer and  
Lyn Farmer, Assistant Chief Hearing Officer  
APPEARANCES: Mr. Thomas H. Campbell, LEWIS & ROCA, LLP,  
on behalf of MCI Telecommunications  
Corporation; and  
Mr. Timothy Berg, FENNEMORE CRAIG, Mr.  
William Ojile, U S West Law Department and Ms.  
Pamela Hedlin, U S West Public Policy on behalf  
of U S West Communications, Inc.

**BY THE COMMISSION:**

On April 18, 1997, MCI Telecommunications Corporation ("MCI") filed a Complaint with the Arizona Corporation Commission ("Commission") alleging that U S West Communications, Inc.'s ("U S WEST") intrastate switched access charges are unlawful, unjust, unreasonable, and discriminatory. On May 12, 1997, MCI filed an Errata to its Complaint. On May 14, 1997, U S WEST filed a Motion to Dismiss ("Motion") and Response to the Complaint. On June 4, 1997, MCI filed a Motion to Amend Complaint and a Response to the U S WEST Motion. On June 16, 1997, U S WEST filed a Reply to the MCI Response. Also, on June 16, 1997, U S WEST filed a Response to the Motion to Amend Complaint filed by MCI. On October 6, 1997, MCI filed a Request for Hearing or, in the alternative, Procedural Order ("Request"). Oral arguments were held on the Request on October 27, 1997. U S WEST filed a Supplemental Brief on December 4, 1997.

## DISCUSSION

### Introduction

MCI alleged that U S WEST's access charges violate A.R.S. §§40-334 and 40-361 because they are excessive in relation to the economic cost of providing service and as a result unduly discriminate against interexchange carriers ("IXCs") and their customers. MCI estimated that U S WEST's access charges in Arizona must be reduced by approximately \$33 million per year. According to MCI, the IXCs are currently subsidizing their intraLATA competition and potential interLATA competition (U S WEST). MCI asserted that pricing at economic cost is efficient, consistent with the Commission's preferred pricing standard, and consistent with the Telecommunications Act of 1996 ("Act"). MCI indicated that the Federal Communications Commission ("FCC") has identified access reform as one of the reforms that must occur for effective competition to develop across the country.

In its May 14, 1997 Motion, U S WEST asserted that the Complaint must be dismissed pursuant to A.R.S. §40-246 since the Complaint was not signed by at least 25 consumers of access services. Further, U S WEST indicated the Complaint was an impermissible collateral attack on Decision No. 58927, dated January 3, 1995. According to U S WEST, MCI argues that the access charges give U S WEST an advantage over IXCs but MCI fails to acknowledge that U S WEST bears the burden of being the carrier of last resort. Finally, U S WEST concluded that above-cost access rates have been established by the Commission for sound policy reasons such as the subsidation of local residential and rural service.

In its June 4, 1997 Motion to Amend Complaint, MCI attached signatures of at least 25 customers in support of its Complaint. In Response to the U S WEST Motion, MCI emphasized that it was entitled to bring its Complaint pursuant to A.R.S. §40-246. Furthermore, MCI asserted that A.R.S. §40-252 authorizes the Commission to rescind, alter or amend any Order or Decision made by it.

### Analysis

MCI was a party to U S WEST's last rate case (Decision No. 58927). In that Decision, intrastate switched access charges were established as part of the overall rate design to support the approved revenue levels of U S WEST. MCI did not file an appeal of the access charges set in that case. As a result, we would normally conclude that MCI was collaterally estopped from relitigating the access

1 charges established in Decision No. 58927.

2 The enactment of the Act established a policy to move competition into monopoly markets. In  
3 a competitive environment, prices of services such as access charges would need to be set at economic  
4 cost levels. MCI alleged and U S WEST did not dispute that access charges for U S WEST exceed  
5 economic costs. As a result, MCI has challenged the reasonableness of the access charges pursuant to  
6 A.R.S. §40-246.

7 Based on the filed motions, responses, replies, oral arguments, etc., it is apparent that the access  
8 charges are not set at their economic cost levels. We could hold a hearing to confirm what is not in  
9 dispute. While the Commission agrees there is a need to review the level at which access charges are set,  
10 we cannot change those cost levels without consideration of the overall impact of any rate change upon  
11 the rate of return on the fair value rate base of U S WEST.<sup>1</sup> Consequently, the access charges which were  
12 determined to be just and reasonable as part of Decision No. 58927 will need to be reviewed as part of  
13 a U S WEST rate case. The filing of a rate case is entirely within the power of U S WEST (or by Order  
14 of the Commission). We find that the pricing of access charges should be taken into consideration as part  
15 of any request by U S WEST to enter into Arizona's interLATA toll market. Based on the Discussion  
16 above, we find that U S WEST's Motion should be granted.

17 \* \* \* \* \*

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

- 21 1. U S WEST is a Colorado corporation engaged in providing telephone and other
- 22 telecommunication service to the public within Arizona.
- 23 2. On April 18, 1997, MCI filed a Complaint with the Commission alleging that U S
- 24 WEST's rates for switched access charges are unlawful, unjust, unreasonable, and discriminatory.
- 25 3. On May 12, 1997, MCI filed an Errata to its Complaint.
- 26 4. On May 14, 1997, U S WEST filed its Motion and Response to the Complaint.

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<sup>1</sup> See Scates v. Arizona Corporation Commission (App. 1978) 118 Ariz. 531, 578 P.2d 612.

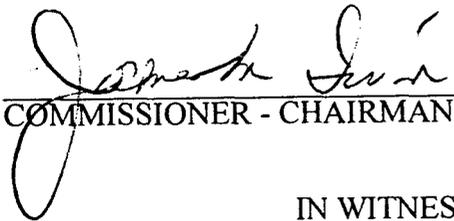


ORDER

IT IS THEREFORE ORDERED that the Complaint filed on April 18, 1997, by MCI Telecommunications Corporation against U S WEST Communications, Inc. be, and the same is hereby dismissed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
COMMISSIONER - CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 14th day of January 1998.

  
JACK ROSE  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
JLR:dap

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SERVICE LIST FOR:

MCI TELECOMMUNICATIONS CORPORATION vs.  
U S WEST COMMUNICATIONS, INC.

DOCKET NO.:

T-01051B-97-200

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**ATTACHMENT B**



HOME

RESIDENTIAL

SMALL BUSINESS

LARGE BUSINESS

PARTNERS

WHOLESALE

Products &amp; Services

Order Online

Manage Your Account

Customer Service

## Qwest Packages for Your Home

As part of our new Qwest Promise of Value™, we're committed to bringing your business better service and savings. Part of this effort is our new Qwest Packages—combining the services you use most with substantial savings.

Product Information	Description	Price
<p>▶ <b>Qwest Choice™ Home</b></p> <ul style="list-style-type: none"> <li>• Home phone line</li> <li>• Unlimited local calls</li> <li>• LineBacker</li> </ul> <p>Choose 3 Calling Features:</p> <ul style="list-style-type: none"> <li>• Caller ID - With Security Screen</li> <li>• Call Waiting</li> <li>• Voice Mail</li> <li>• Custom Ringing</li> <li>• 3-Way Calling</li> <li>• Call Forwarding</li> <li>• Call Rejection</li> <li>• Last Call Return</li> <li>• Directory Assistance Call Allowance</li> </ul>	<p>You'll get more for less with Qwest Choice™ Home. This package includes your phone line, unlimited local calls, plus your choice of three calling features.</p>	<p><b>1-Line</b> \$25.99/month (plus tax, regulatory and other surcharges).</p> <p><b>2-Lines</b> \$35.99/month plus regulatory and other surcharges (\$40.99/month in MT, ND, WY, SD, South ID).</p>
<p>▶ <b>Qwest Choice™ Long Distance</b></p> <ul style="list-style-type: none"> <li>• Long-distance calling just 5¢ a minute</li> <li>• No monthly fee</li> <li>• One simple calling plan for everyone</li> </ul>	<p>Our best value ever. Talk a little or a lot, we've got one long-distance plan now that offers substantial savings to everyone.</p>	<p>Just 5¢ a minute, never more than \$20 a month with a Qwest home phone package (\$25 a month without)</p>
<p>▶ <b>Qwest DSL® Products</b></p> <ul style="list-style-type: none"> <li>• Qwest Choice™ DSL</li> <li>• Qwest Choice™ DSL Deluxe</li> <li>• Qwest DSL with MSN Premium</li> <li>• Qwest DSL Deluxe with MSN Premium</li> </ul>	<p>You'll find our best prices ever on reliable, 256K or 640K high-speed Internet access. Choose your own ISP with Qwest Choice DSL, or get unlimited Internet access through MSN Premium.</p>	<p><b>Qwest Choice DSL Starting at:</b> \$15.00/month (plus tax, regulatory and other surcharges - ISP additional).</p> <p><b>Qwest DSL with MSN Premium Starting at:</b> \$26.99/month (with Qwest home phone package - ISP included. Tax, regulatory and other surcharges additional).</p>

As a Qwest Choice™ Home customer you may be eligible for additional discounts on other Qwest services such as DSL, Wireless and more.

**ATTACHMENT C**

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2003 NOV 21 P 4:40

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER  
Chairman

WILLIAM A. MUNDELL  
Commissioner

JEFF HATCH-MILLER  
Commissioner

MIKE GLEASON  
Commissioner

KRISTIN K. MAYES  
Commissioner

IN THE MATTER OF QWEST  
CORPORATION'S FILING OF  
RENEWED PRICE REGULATION PLAN

Docket No: T-01051B-03-0454

**WORLDCOM'S RESPONSE TO  
QWEST'S MOTION TO CLARIFY, OR IN THE ALTERNATIVE,  
TERMINATE PRICE CAP PLAN**

WorldCom, Inc., on behalf of its operating affiliates, ("MCI") responds to Qwest Corporation's ("Qwest") Motion to Clarify, or in the Alternative, to Terminate the Price Cap Plan.

Qwest has asked the Arizona Corporation Commission ("Commission") either to allow the current price cap plan (the "Plan") to continue after April 1, 2004, with certain modifications, or to terminate the Plan. Several parties, including AT&T and RUCO, have

1 already responded to Qwest's Motion. What seems evident from these filings is that the  
2 Plan, and related Settlement Agreement, are susceptible to differing interpretations.

3  
4 With the plan set to expire, Qwest's proposal to extend the plan with modifications  
5 is unnecessary and unwarranted. By April 1, 2004, Qwest must be operating under either  
6 a Commission-approved pricing flexibility plan or under full rate regulation (or what  
7 Qwest calls traditional rate-of-return regulation) and be charging Commission-approved  
8 just and reasonable rates consistent with a fair value determination as required by Arizona  
9 law.

10  
11 What Qwest cannot be allowed to do is force the Commission to accept, even on an  
12 interim basis, either its modified price cap plan or to continue to charge its existing rates as  
13 a rate-of-return regulated entity without having first been required to establish that rates  
14 charged after April 1, 2004, are just and reasonable and consistent with a fair value  
15 determination conducted by the Commission before those rates become effective on April  
16 1, 2004.

17  
18 Therefore, in order for the Commission to perform a timely fair value evaluation  
19 and establish just and reasonable rates for Qwest, which will be necessary whether Qwest  
20 is regulated under a new pricing flexibility plan or under traditional rate-of-return  
21 regulation,<sup>1</sup> the Commission should order Qwest to file in this docket or a new docket all  
22  
23

24 <sup>1</sup> MCI does not take a position in this Response whether a fair value finding is necessary  
25 for a revised price plan that is revenue neutral such as a plan that, for example, maintained  
26 the same rates for Basket 1 services, that provided for decreases to rates for Basket 2  
services, and that allowed Qwest to recover revenues lost to Basket 2 revenue reductions  
from Basket 3 services.

1 necessary and required financial data to support a fair value determination. In order to  
2 resolve this matter by April 1, 2004, Qwest should be required to file this information with  
3 the Commission, and serve it on all parties to the case, by December 15, 2003.  
4

5 In order to process this matter expeditiously, MCI proposes that Qwest not be  
6 required to pre-file any written testimony and exhibits by the December 15, 2003 deadline,  
7 but should be permitted to do so if it chooses. Likewise, other parties in this case should  
8 not be required to pre-file testimony and exhibits (except as noted below), but may choose  
9 to do so at their option.  
10

11 To complete this matter prior to April 1, 2004, MCI proposes a hearing schedule  
12 and procedure as follows. MCI proposes that a hearing be set to begin February 17, 2004  
13 and continue on each business day thereafter for approximately two weeks. By February  
14 3, 2004, Qwest should file its list of witnesses with a summary of the matters each witness  
15 will address and copies of the exhibits that it intends offer into evidence (if it has not  
16 otherwise pre-filed its testimony and exhibits). By February 12, 2004, each other party  
17 planning to offer witnesses and exhibits should file its list of witnesses with a summary of  
18 the matters each witness will address and copies of the exhibits that it intends to offer into  
19 evidence (if it has not otherwise pre-filed testimony and exhibits). A pre-hearing  
20 conference should be set for February 13, 2004, to address all unresolved procedural  
21 matters relating to the hearing. The Commission should order Qwest to obtain, at its  
22 expense, and arrange to provide to the Commission, a "daily copy" of the transcript of all  
23  
24  
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26

1 hearings in the case.<sup>2</sup> The hearing should conclude no later than March 2, 2004, and  
2 closing arguments should be delivered orally on March 3, 2004, or on the day after the last  
3 day of hearing if the case concludes sooner than March 2, 2004. If closing briefs are  
4 desired, they should be due by March 10, 2004 to allow for a recommended opinion and  
5 order, for the filing of exceptions, and for a Commission decision prior to April 1, 2004.  
6

7 MCI proposes that discovery commence on December 16, 2003, and that the  
8 response time to discovery be 20 calendar days. Objections to discovery should be due in  
9 seven calendar days. The Commission should immediately issue a protective order to  
10 allow parties to sign necessary non-disclosure agreements prior to December 15, 2003, so  
11 that they can obtain any of Qwest's confidential material. The proposed protective order  
12 should be similar to that proposed by AT&T in the 9-month Triennial Review Order  
13 proceeding, Docket No. T-00000A-03-0369. Service of non-confidential pleadings or  
14 other documents should be by e-mail or other electronic means. Service of confidential  
15 materials should be by hand-delivery for parties in the metro-Phoenix area, and by  
16 overnight delivery to all other parties or by e-mail to all parties at the option of the  
17 provider of such materials. Discovery disputes or any other disputes should be addressed  
18 expeditiously by telephone hearings held by an Administrative Law Judge.  
19  
20  
21

22 In the alternative, if a fair value determination cannot be completed by April 1,  
23 2004, MCI suggests that it is in the best interest of Arizona for the Commission to focus  
24

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25 <sup>2</sup> Copies of the transcript should be available to other parties from the court reporting  
26 service, but copy rates should not include any additional "daily copy" fees, and should be  
priced at a rate for a normal, non-expedited transcript.

1 on approving a new Qwest pricing plan prior to the termination of the existing Plan.  
2 Currently pending proceedings regarding access charges and a new Qwest pricing plan  
3 should receive expedited treatment in an attempt to resolve them prior to April 1, 2004.  
4

5 If a new Qwest price regulation plan cannot be completed by April 1, 2004, and the  
6 current Plan is extended, Qwest must agree to true-up any rates it charges after April 1,  
7 2004, to any rates ultimately approved by the Commission in a fair value proceeding. In  
8 addition and on an interim basis, Qwest should be required to reduce access charges by an  
9 additional \$5 million in April 2004, pursuant to the current Plan, which states that there  
10 will be “. . . further reductions in intrastate switched access service rates taking place  
11 during any subsequent term of the price cap plan with the objective of obtaining parity  
12 with interstate switched access rates.” (emphasis added). If the Plan is continued after  
13 April 1, 2004, that continuation will be a “subsequent term.” The Plan clearly requires  
14 additional reductions in switched access rates in subsequent terms. While an additional \$5  
15 million reduction in access charges on April 1, 2004 will not reach the goal of achieving  
16 parity with interstate switched access rates, it will be a step in the right direction—a  
17 direction adopted by the Commission when it approved the Plan and affirmed at the  
18 September 2003 Open Meeting in which Qwest was given § 271 approval. In that Open  
19 Meeting, the Commission directed the Staff to address the concerns raised by  
20 interexchange carriers about a potential price squeeze unless Qwest access charges were  
21 reduced to cost. In sum, an additional reduction of access charges is consistent with  
22 Commission policy and the language and intent of the Plan.  
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26

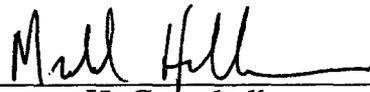
1 CONCLUSION

2 For the foregoing reasons, MCI requests the Commission adopt MCI's proposed  
3 schedule to perform a fair value determination by April 1, 2004, and order Qwest to make  
4 the necessary and appropriate filings as proposed. Since a fair value determination is  
5 necessary whether Qwest is regulated under traditional rate-of-return regulation or if it  
6 operates under a new pricing flexibility plan, adopting that schedule will further either  
7 possibility proposed by Qwest in a timely manner and will allow the Commission to  
8 complete its duty in a timely manner to ensure Qwest's Arizona customers are not  
9 improperly charged for regulated telecommunications services.  
10  
11

12 As a reluctant alternative, MCI requests that, if the Commission agrees to extend  
13 the plan beyond April 1, 2004, it do so only if Qwest agrees to true-up the rates it charges  
14 after April 1, 2004, and if Qwest agrees to reduce switched access rates on an interim  
15 basis.  
16

17 RESPECTFULLY SUBMITTED this 21<sup>st</sup> day November, 2003.

18 LEWIS AND ROCA

19  
20 

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1 ORIGINAL and thirteen (13) copies  
2 of the foregoing filed this 21<sup>st</sup> day of  
3 November, 2003, with:

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8 COPY of the foregoing hand-delivered  
9 this 21<sup>st</sup> day of November, 2003, to:

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