

ORIGINAL OPEN MEET



0000069628

LAW OFFICES

FENNEMORE CRAIG

A PROFESSIONAL CORPORATION

TIMOTHY BERG

Direct Phone: (602) 916-5421

Direct Fax: (602) 916-5621

tberg@fclaw.com

OFFICES IN:
PHOENIX, TUCSON,
NOGALES, AZ; LINCOLN, NE

3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913
PHONE: (602) 916-5000
FAX: (602) 916-5999

January 8, 2004

BY HAND DELIVERY

Hon. Marc Spitzer
Chairman
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Arizona Corporation Commission
DOCKETED

JAN - 8 2004

DOCKETED BY	
-------------	--

AZ CORP COMMISSION
DOCUMENT CONTROL

2004 JAN - 8 P 4: 12

RECEIVED

Re: Price Cap Plan
Docket No. T-01051B-03-0454

Dear Chairman Spitzer:

We have received your letter of December 15, 2003 concerning Qwest's Motion to Clarify, or in the Alternative, Terminate Price Cap Plan and want to answer the two questions raised in that letter.

1. What does Qwest intend to do vis-à-vis submitting financial statements to the ACC?

Under the Settlement Agreement and Price Cap Plan approved by the Commission in March of 2001, Qwest was obligated to provide certain financial information to Staff in July of 2003.

Qwest provided the required information including the statement of operating income and return on investment on that date with the statement that the information was subject to audit adjustments and any future restatement of financial information. Qwest is working diligently to prepare updated Arizona financial information that incorporates the adjustments to operating results caused by the audit of its calendar year 2000, 2001 and 2002 results of operations. Qwest cannot provide the updated financial information until the restatement of its financial statements is complete. We intend to file updated Arizona financial information in this docket within the first fifteen days of 2004. This update of the financial information required to be filed by the Settlement Agreement is the financial information referenced in the sentences you quote from

FENNEMORE CRAIG

BY HAND DELIVERY

Hon. Marc Spitzer

January 8, 2004

Page 2

the Motion. To be clear, Qwest intends to file this updated information without regard to the ruling made by the Commission on the motion.

Your letter also references R14-2-103 and asks if Qwest's statement that it intends to file updated financial information is a concession that a filing under the Rule is necessary for the Commission to make a decision in this docket. As is clear from the Motion and the Reply filed by Qwest, Qwest does not believe that an R 14-2-103 filing is necessary in this docket. The purposed of an R 14-2-103 filing is to provide the Commission with the information necessary to conclude a full, traditional rate of return rate case. Qwest does not believe that a full rate case filing is necessary at this time because the purpose of this Docket is to consider whether a new price cap plan should be substituted for the existing plan. That does not require a full traditional rate of return rate case.

Qwest believes that the information it has already provided in the form of proposed changes in the price cap plan and the updated financial information it will soon file will provide the Commission and the parties with the information necessary to evaluate and adopt a new price cap plan.

2. What is the status of retail line competition in Arizona?

The 525,000 access line loss set forth in the motion is a net access line loss number, not a gross number. In other words, the total count of Qwest's retail access lines, net of all connections and disconnections, decreased over 525,000 during the 31 month period between the end of March 2001 and the end of October of 2003. During the 33 month period of March 2001 through December 2003, Qwest had a net loss of 588,000 retail access lines.

While Staff and Qwest negotiated the Price Cap Plan, Qwest's access line count in Arizona was growing, as it had for decades. In fact, during the 33 month period leading up to March 2001, Qwest's retail access line count grew 270,000. The line count peaked at the end of February 2001. Since then, Qwest has experienced an unprecedented loss in access lines that clearly was not contemplated as the Price Cap Plan was being negotiated and when it was adopted.

The advent of competition through resale, use of UNEs and facility-based competition and wireless has dramatically changed the market in Arizona.

FENNEMORE CRAIG

BY HAND DELIVERY

Hon. Marc Spitzer
January 8, 2004
Page 3

We would be happy to provide any additional information you may require with respect to these and other questions.

Very truly yours,

FENNEMORE CRAIG



Timothy Berg

TB/jmw

ORIGINAL and 13 copies hand-delivered for
filing this 8th day of January, 2004 to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing delivered
this 8th day of January, 2004 to:

Jane Rodda
Administrative Law Judge
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

FENNEMORE CRAIG

BY HAND DELIVERY

Hon. Marc Spitzer
January 8, 2004
Page 4

Maureen A. Scott
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing mailed
this 8th day of January, 2004 to:

Scott S. Wakefield, Chief Counsel
Daniel W. Pozefsky, Esq.
RUCO
1110 West Washington, Suite 220
Phoenix, AZ 85007

Michael W. Patten
Roshka Heyman & DeWulf, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Mark A. DiNunzio
Cox Arizona Telcom, LLC
20401 North 29th Avenue
Phoenix, Arizona 85027

Thomas H. Campbell
Michael T. Hallam
Lewis and Roca
40 N. Central Avenue
Phoenix, Arizona 85004

FENNEMORE CRAIG

BY HAND DELIVERY

Hon. Marc Spitzer
January 8, 2004
Page 5

Thomas F. Dixon
WorldCom, Inc.
707 17th Street, 39th Floor
Denver, Colorado 80202

Richard S. Wolters
AT&T
1875 Lawrence Street, Room 1575
Denver, CO 80202-1847

Peter Q. Nyce, Jr.
Regulatory Law Office
U.S. Army Litigation Center
901 N. Stuart Street, Suite 713
Arlington, VA 22203-1837

Richard Lee
Snavelly King Majoros O'Connor & Lee
1220 L. Street N.W., Suite 410
Washington, DC 20005

Patrick A. Clisham
AT&T Arizona State Director
320 E. Broadmoor Court
Phoenix, AZ 85022



1498907.2/67817.336