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BEFORE THE ARIZONA CORPORATION COMMISSION

3076

COMMISSIONERS

MIKE GLEASON, Chairman
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JEFF HATCH-MILLER
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Arizona Corporation Commission
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IN THE MATTER OF THE PETITION OF)
DIECA COMMUNICATIONS, INC., d/b/a)
COVAD COMMUNICATIONS COMPANY FOR)
ARBITRATION OF AN INTERCONNECTION)
AGREEMENT WITH QWEST CORPORATION)

Docket Nos. T-03632A-04-0425
T-01051B-04-0425
(Phase II)

**COMMISSION STAFF'S MOTION TO CONSOLIDATE DOCKETS AND
RESPONSE TO COX ARIZONA TELCOM'S MOTION TO COMMENCE
PHASE III OF THE QWEST UNE PRICING DOCKET**

On February 26, 2007, Cox Arizona Telcom ("Cox") filed a Motion to Commence Phase III of this Docket. Cox asks the Commission to consider conducting an initial Phase IIIA to address only the UNE rates identified by Cox in its Motion, reserving other unresolved UNE rates for a subsequent "phase" of "Phase III"¹. The UNE rates identified by Cox in its Motion are non-recurring charges for "on premises wire" sub-loops, both for dispatch and non-dispatch circumstances, and a non-recurring charge for intra-building cable sub-loop.² Cox believes that the UNE rates it has identified need to be resolved by the Commission for purposes of the Qwest-Cox Complaint Docket.³ Qwest Corporation ("Qwest") filed a response on March 12, 2007, stating that "[t]he questions are whether the Phase III Cost Docket should be opened immediately and whether certain UNE rates should be addressed first if that occurs."⁴ In any event, according to Qwest, such a proceeding should not be an impediment to the prompt resolution of Qwest's complaint against Cox in Docket Nos. T-01051B-06-0045 and T-03471A-06-0045.⁵

In general terms, Staff supports Cox's Motion to commence Phase III of this Docket. There are several outstanding rate issues that are in need of the Commission's review and approval.

¹ See Cox Motion at p. 3.

² *Id.* at 2.

³ *Qwest Corporation v. Cox Arizona Telcom, LLC*, Docket Nos. T-01051B-06-0045 and T-03471A-06-0045.

⁴ Qwest Response at p. 1.

⁵ See Qwest Response at p. 2.

1 However, Staff believes that Phase III should address all outstanding UNE rate issues; and should not
2 be limited to only those network elements at issue in Qwest's complaint against Cox. Other UNE
3 rates need to be addressed in addition to premises wire and intra-building cable sub-loop non-
4 recurring charges. Outstanding UNE rate issues have been raised in several other recent dockets and
5 it would make sense to address those at the same time that the non-recurring charges for on premises
6 wire and intra-building cable sub-loop are addressed.

7 For instance, in the Qwest-Eschelon Complaint Docket⁶, the issue of permanent rates for
8 expedites has been raised as needing to be addressed by the Commission. In the Qwest-Eschelon
9 Arbitration Docket,⁷ a host of rate issues has been identified by the parties as needing to be addressed
10 by the Commission. The Commission has in the past utilized a generic wholesale cost proceeding to
11 resolve Section 251 and 252 rate issues since all CLECs will be impacted by any rates the
12 Commission sets and in a generic docket they can all participate in the determination of rates. In
13 contrast, resolving those issues in the context of an individual company arbitration, does not ensure
14 the broad participation from other industry members that is likely in a generic docket.

15 There are still other outstanding wholesale rate issues which should be addressed in Phase III
16 of this Docket. In the Qwest-Covad Arbitration Proceeding⁸, the Commission ordered that a Phase II
17 commence within 30 days for the purpose of setting rates for Section 271 network elements. In its
18 Staff Report on this issue, the Utilities Division recommended that Phase II of the Qwest-Covad
19 Arbitration Proceeding be deferred until Phase III of this Docket commenced and that Phase II of the
20 Qwest-Covad Arbitration Proceeding be consolidated into this Docket, which would give all CLECs
21 an opportunity to provide input into the development of rates for Section 271 network elements.

22 There are likely other outstanding wholesale rates issues which need to be addressed as well.
23 At the time it entered its Phase II Order in this Docket, the Commission acknowledged this:

24 to the extent that issues are not addressed by the Decision, such issues
25 are deferred to Phase III of this proceeding.....For new services

26 ⁶ *In the Matter of the Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, Docket Nos. T-
03406A-06-0257 and T-01051B-06-0257.

27 ⁷ *In the Matter of the Petition of Eschelon Telecom of Arizona, Inc. for Arbitration with Qwest Corporation, Pursuant to*
47 U.S.C. Section 252 of the Federal Telecommunications Act of 1996, Docket Nos. T-03406A-06-0572 and T-01051B-
06-0572.

28 ⁸ *In the Matter of the Petition of DIECA Communications, Inc., dba Covad Communications Company for Arbitration of*
an Interconnection Agreement with Qwest Corporation, Docket Nos. T-03632A-04-0425 and T-01051B-04-0425.

1 proposed by Qwest with a new rate that has not been reviewed and
2 approved by the Commission, the interim rate shall be no more than the
3 rate Qwest has proposed. Such 'interim' rates shall be subject to a
'true-up' and refund once permanent rates are established in Phase III.

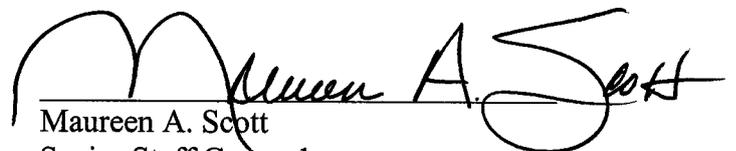
4 Qwest has likely included other rates in its Statement of Generally Available Terms and
5 Conditions ("SGAT") which have not yet been reviewed and approved by the Commission. These
6 rates should also be addressed in Phase III.

7 Staff recommends that the Commission immediately schedule a procedural conference to
8 discuss the scope of Phase III and to obtain comment on Staff's proposed procedural schedule which
9 follows:

10	Procedural Conference	4/16/07
11	Qwest Initial Testimony And Cost Studies	5/21/07
12	Staff and Intervenor Testimony	8/20/07
13	Qwest Rebuttal Testimony	9/19/07
14	Staff and Intervenor Surrebuttal Testimony	11/2/07
15	Qwest Rejoinder Testimony	11/16/07
16	Hearing	11/26/07

17
18 WHEREFORE, the Staff respectfully requests that the Commission grant Staff's motion to
19 consolidate dockets and convene a procedural conference to discuss the scope of this docket and
20 Staff's proposed procedural schedule.

21 RESPECTFULLY SUBMITTED this 3rd day of April, 2007.

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