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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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MAY -5 2008

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COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

2008 MAY -5 P 12: 08
AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF QWEST CORPORATION'S
PETITION FOR ARBITRATION AND APPROVAL
OF AMENDMENT TO INTERCONNECTION
AGREEMENT WITH ARIZONA DIALTONE, INC.
PURSUANT TO SECTION 252(b) OF THE
COMMUNICATIONS ACT OF 1934, AS
AMENDED BY THE TELECOMMUNICATIONS
ACT OF 1996 AND APPLICABLE STATE LAWS.

DOCKET NO. T-01051B-07-0693

DOCKET NO. T-03608A-07-0693

PROCEDURAL ORDER

BY THE COMMISSION:

On December 17, 2007, Qwest Corporation ("Qwest") filed with the Arizona Corporation Commission ("Commission") a Petition for Arbitration under 47 U.S.C. § 252(b) and Arizona Administrative Code ("A.A.C.") R14-2-1505 ("Petition"). In its Petition, Qwest requested that the Commission resolve issues related to the Interconnection Agreement ("ICA") between Qwest and Arizona Dialtone, Inc. ("Arizona Dialtone"), which Qwest asserts derive from Arizona Dialtone's refusal to enter into an amendment to the current ICA ("ICA Amendment") that would implement changes related to unbundled access to mass market local circuit switching, changes that Qwest asserts are mandated by federal law, specifically the Federal Communications Commission's ("FCC's") Triennial Review Remand Order¹ ("TRRO") and 47 C.F.R. § 51.319(d).²

On April 10, 2008, as a result of a Motion to Continue by Arizona Dialtone, a Procedural Order was issued vacating the hearing and oral argument scheduled for April 16, 2008; rescheduling the hearing and oral argument in this matter to proceed on May 1, 2008, at 9:00 a.m.; requiring Qwest and Arizona Dialtone to arrange to have the transcripts in this matter completed and delivered to the Commission's Hearing Division by the morning of May 5, 2008; and extending the deadline for the

¹ *In re* Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 20 F.C.C.R. 2533 (2005)(Order on Remand).

² For additional procedural history, please see the Procedural Order issued on March 27, 2008.

1 Commission's decision in this matter by 30 days.

2 On April 28, 2008, Qwest filed a Motion in Limine requesting that Arizona Dialtone be
3 prohibited from presenting any evidence relating to the validity of Qwest's existing rate for local
4 switching or the alleged effects of Qwest's rate on Arizona Dialtone's business or the Arizona market
5 for public access lines. Qwest stated that issues 14, 15, 16, 17, and 18 from Arizona Dialtone's
6 Statement of Issues in Dispute and Request to Present Testimony essentially call for the Commission
7 to set rates that the Commission does not have the authority to set as a result of the Arizona District
8 Court's ruling in *Qwest Corporation v. Arizona Corporation Commission*, 496 F. Supp. 2d 1069 (D.
9 Ariz. 2007), the "Covad decision."

10 On May 1, 2008, an evidentiary hearing in this matter commenced before the undersigned
11 Arbitrator, a duly authorized Administrative Law Judge of the Commission, at the Commission's
12 offices in Phoenix, Arizona. Qwest, Arizona Dialtone, and Staff appeared through counsel, and
13 evidence and testimony were obtained through two Qwest witnesses. The parties requested to forego
14 oral argument and instead file closing briefs by May 20, 2008. It was also agreed that a second day
15 of hearing would be held on May 7, 2008, at 1:00 p.m. and that the deadline for the Commission's
16 decision in this matter would be extended to allow for the matter to be considered on the
17 Commission's Open Meeting agenda of July 29 and 30, 2008. It was further determined that Qwest
18 and Arizona Dialtone would arrange and pay for the transcript for the May 7, 2008, hearing date to be
19 delivered to the Commission's Hearing Division electronically by noon on May 9, 2008, and in hard
20 copy by 9:00 a.m. on May 12, 2008. In addition, Qwest's Motion for Requested Relief was denied;
21 Qwest's Motion in Limine was denied; and it was ordered that Arizona Dialtone's issues 16, 17, and
22 18 were not properly before the Commission in this matter because they had not been raised in either
23 Qwest's Petition or Arizona Dialtone's Response.

24 **IT IS THEREFORE ORDERED** that the **second day of hearing in this matter shall**
25 **commence on May 7, 2008, at 1:00 p.m., or as soon thereafter as is practicable, in Room 100** at
26 the Commission's offices in Phoenix, Arizona.

27 **IT IS FURTHER ORDERED** that Qwest and Arizona Dialtone shall share equally the costs
28 for transcription of the second day of hearing and shall arrange and pay to have the **transcripts for**

1 the second day of hearing in this matter completed and delivered to the Commission's Hearing
2 Division electronically by noon on May 9, 2008, and in hard copy by 9:00 a.m. on May 12, 2008.

3 IT IS FURTHER ORDERED that the timeframe for the Commission's decision in this
4 matter is hereby extended by 36 days.

5 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
6 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
7 *pro hac vice*.

8 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113—Unauthorized
9 Communications) applies to this proceeding and shall remain in effect until the Commission's
10 Decision in this matter is final and non-appealable.

11 IT IS FURTHER ORDERED that the Arbitrator may rescind, alter, amend, or waive any
12 portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

13 DATED this 5th day of May, 2008.


SARAH N. HARPRING
ARBITRATOR

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16 Copies of the foregoing mailed/delivered
17 this 5th day of May, 2008, to:

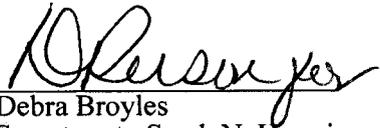
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