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BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission

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AZ CORP COMMISSION
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6 IN THE MATTER OF INVESTIGATION INTO
7 QWEST CORPORATION'S COMPLIANCE WITH
8 CERTAIN WHOLESALE PRICING
REQUIREMENTS FOR UNBUNDLED
NETWORK ELEMENTS AND RESALE
DISCOUNTS.

DOCKET NO. T-00000A-00-0194

PROCEDURAL ORDER

9 **BY THE COMMISSION:**

10 Our Procedural Order dated August 21, 2000, established procedural guidelines for Phase II
11 of this proceeding. On November 21, 2000, the Arizona Corporation Commission ("Commission")
12 Utilities Division Staff ("Staff") filed a Motion for Clarification of Procedural Order and For
13 Extension of the Deadline for Filing Testimony. Staff believed that the Commission intended Phase
14 II to include a review of the present unbundled network element ("UNE") rates for compliance with
15 the reinstated FCC pricing rules, but that such intent was unclear in the August 21, 2000 Procedural
16 Order. WorldCom, Inc. ("WorldCom") and AT&T Communications of the Mountain States, Inc.
17 ("AT&T") filed memorandums in support of Staff's Motion. Qwest filed a Response to Staff's
18 Motion and a Reply to WorldCom's and ATT's Response to Staff's Motion. The parties presented
19 their positions at a procedural conference on December 7, 2000.

20 On December 14, 2000, the Hearing Division issued a Procedural Order that stated that Phase
21 II of the above-captioned proceeding should include a review of whether Qwest's rates for unbundled
22 network elements ("UNEs") approved in Decision No. 60635 comply with FCC pricing rules.

23 On January 11, 2001, Qwest filed a Motion for Reconsideration of the December 14, 2000,
24 Procedural Order. In its Motion Qwest argues that the Commission has already determined that the
25 UNE rates are consistent with the FCC pricing requirements and to re-examine those rates would be
26 duplicative and would improperly prolong Phase II and impose substantial, unnecessary burdens on
27 the Commission and the parties.

28 WorldCom, AT&T and Staff filed Responses to the Motion for Reconsideration on January

1 19 and 22, 2001. These parties argued that in its Motion, Qwest merely repeats its earlier written and
2 oral arguments made in response to Staff's Motion for Clarification. Staff reiterated that the
3 Commission has never made a determination that the UNE rates comply with the FCC's pricing
4 rules. Staff believed that the Commission had expressed an intent that it would look at the UNE rates
5 at a later date, and argued that it does not make sense to adopt permanently geographically de-
6 averaged rates without conducting a review of the underlying UNE rates.

7 On January 25, 2001, Staff filed a Request for a Procedural Order approving a proposed
8 schedule for filing testimony and setting a hearing for Phase II. On January 29, 2001, Qwest filed a
9 Response to Staff's Request for a Procedural Order. Qwest stated that it did not object to Staff's
10 proposed schedule, but requested that the Hearing Division refrain from acting on Staff's Request for
11 Procedural Order until after reviewing Qwest's Reply on the issue of reconsideration.

12 On January 31, 2001, Qwest filed a Reply to AT&T, WorldCom and Staff. Qwest argued that
13 its Motion for Reconsideration was not a rehash of prior arguments, but for the first time presented
14 detailed references to the Commission's reliance on the FCC Pricing rules in Decision No. 60635.
15 Qwest also offered a new FCC Decision in which the FCC found that the relevant inquiry for
16 purposes of an application under section 271 of the Telecommunications Act of 1996, is whether the
17 rates comply with the cost-based standards in the FCC's pricing rules and not whether the rates are
18 set at a level that permits CLECs to earn profits.

19 After careful consideration of the August 21, 2000 Procedural Order, the arguments made in
20 connection with Staff's Motion for Clarification, and Qwest's Motion for Reconsideration, it appears
21 that the intent of the August 21, 2000 Procedural Order was to include a review of the UNE rates
22 approved in Decision No. 60635. That intent remains reasonable. When the Commission approved
23 Qwest's current UNE rates in Decision No. 60635, the FCC's pricing rules were not in effect. This
24 Commission has not to date found that Qwest's UNE rates comply with the FCC pricing rules.
25 Although, Qwest argued no party has cited a specific problem or error with the current rates which
26 would justify re-examining them, neither does Qwest cite any legal impediment to the Commission
27 exercising its authority to do so. The record indicates that the Commission has always contemplated
28 that it would review the statewide UNE rates. Even if the Commission had not in its public

1 deliberations expressed such intent, since the Commission originally approved the UNE rates there
2 have been factual and legal changes that support a review at this time. Phase II has always
3 indisputably included the issue of permanent statewide de-averaging; efficiency and logic dictate a
4 re-examination of the underlying UNE rates.

5 IT IS THEREFORE ORDERED that the Phase II proceeding shall include a review of
6 current rates for unbundled network elements and interconnections.

7 IT IS FURTHER ORDERED that the Phase II arbitration shall commence on July 9, 2001 at
8 10:00 a.m. at the Commission's offices at 1200 West Washington Street, Phoenix, Arizona.

9 IT IS FURTHER ORDERED that a pre-arbitration conference on Phase II shall be held
10 commencing at 1:30 p.m. on June 28, 2001, at the Commission's offices in Phoenix.

11 IT IS FURTHER ORDERED that Qwest shall file direct testimony on UNE costs, wholesale
12 discounts, collocation and linesharing and permanent UNE de-averaging by 4:00 p.m. on March 15,
13 2001.

14 IT IS FURTHER ORDERED that Qwest shall file direct testimony on remaining issues,
15 including, any issues deferred to this or the SGAT Docket from the 271 workshops (such as
16 reciprocal compensation for ISP traffic and switched access issues), SGAT General Terms and
17 Conditions to the extent not addressed in 271 Workshops or other proceedings, and market-based
18 prices, where applicable, by 4:00 p.m. on April 16, 2001.

19 IT IS FURTHER ORDERED that all parties other than Qwest and Staff shall file direct
20 testimony by 4:00 p.m. on May 16, 2001.

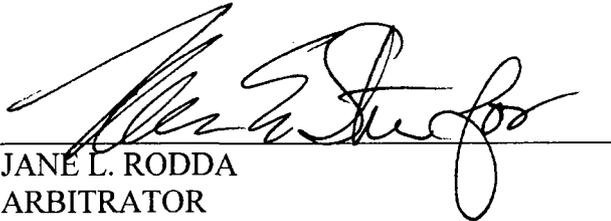
21 IT IS FURTHER ORDERED that Staff shall file direct testimony by 4:00 p.m. on June 6,
22 2001.

23 IT IS FURTHER ORDERED that all parties shall file rebuttal testimony by 4:00 p.m. on June
24 27, 2001.

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1 IT IS FURTHER ORDERED that the Arbitrator(s) may rescind, alter, amend, or waive any
2 portion of this Procedural Order either by subsequent Procedural Order or by ruling at arbitration.

3 DATED this 15th day of February, 2001.

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7 JANE L. RODDA
8 ARBITRATOR

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11 Copies of the foregoing mailed/delivered
12 this 15th day of February, 2001 to:

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