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To: Docket Control

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From: Commissioner Marc Spitzer

2001 OCT 22 A 10:50

Date: October 22, 2001

AZ CORP COMMISSION  
DOCUMENT CONTROL

RE: Qwest Wholesale Pricing  
Docket No. T-00000A-00-0194  
Potential Resumption of Settlement Discussions

I have reviewed Mr. Kempley's October 18, 2001 Memorandum regarding potential settlement discussions in the above-referenced docket. The current procedural posture of this matter, upon a vigorously contested evidentiary hearing, is an imminent administrative determination of the contested factual and legal issues. Therefore, unless broad participation of the CLEC parties, if not a consensus, emerges, it is my view that settlement discussions would not be fruitful at this time.

cc: All parties, staff

Arizona Corporation Commission

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MEMORANDUM

TO: DOCKET CONTROL

FROM: CHRISTOPHER C. KEMPLEY *Christopher C. Kempley*  
CHIEF COUNSEL

DATE: OCTOBER 18, 2001

RE: QWEST WHOLESALE PRICING  
DOCKET NO. T-00000A-00-0194  
**POTENTIAL RESUMPTION OF SETTLEMENT DISCUSSIONS**

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On October 17, 2001, counsel for Qwest Corporation ("Qwest") submitted a letter to me requesting that settlement discussions be resumed in the above-referenced docket. This Memorandum is intended to satisfy the Commission's directive to Staff that we advise the Commissioners when Staff is approached by a Company to discuss settlement. Consistent with that policy, settlement discussions will not take place any earlier than three (3) business days following the provision of this Notice to the Commissioners. Accordingly, the earliest that such discussions would commence will be Wednesday, October 24, 2001.

Staff has previously submitted notice(s) that we had been approached by Qwest to engage in settlement discussions in this docket on July 9, 2001 and August 10, 2001. In each instance, the passage of time and cessation of settlement discussions has caused Staff to believe it prudent to submit an additional Notice to the Commissioners upon receipt of a renewed request to engage in settlement discussions. The hearing in this matter has concluded, and briefing is complete. The matter is at issue awaiting the issuance of a Recommended Opinion and Order from the Hearing Division.

In particular, Staff's involvement with the most recent prior series of settlement discussions concluded following an understanding that Qwest would be having ongoing discussions on a "business to business" basis in an attempt to resolve certain pricing issues. In its most recent approach to Staff, Qwest represents that the "business to business" discussions have failed to "move forward in a significant way". As a result, Qwest indicates a desire to resume settlement discussions with Staff.

Staff is, of course, willing to engage in settlement discussions with Qwest. Consistent with our policy, we will be notifying all parties to this docket of any discussions, and will encourage any interested parties to participate in discussions. This Memorandum will be circulated to the service list for this docket, so that all parties may have the opportunity to participate in any settlement discussions. Staff looks forward to hearing from any and all parties regarding their intent to participate in these anticipated settlement discussions. We request that Qwest contact all parties and coordinate an initial meeting to include any parties desirous of participating.

By way of conclusion, I am compelled to note that the fact that "business to business" discussions have failed to move forward seems an unlikely basis upon which to rely in recommencing settlement discussions. Staff would welcome input from any party as to the likely efficacy of these discussions. We are certainly willing to talk, but would prefer to not waste our scarce resources if the prospects of success are minimal.

To date, Staff has not engaged in any settlement discussions.

The parties to the docket are: the Company, Staff, RUCO, AT&T Communications of the Mountain States, Nextlink, XO Communications, Z-Tel Communications, Cox Arizona Telecom, Inc., e-spire Communications, MGC Communications, Echelon Telecom, Inc., Rhythms Links, Inc., Time Warner, WorldCom, Allegiance, Sprint Communications, Covad Communications, New Edge Networks, and Electric Lightwave, Inc.

cc: Chairman William Mundell  
Commissioner Jim Irvin  
Commissioner Marc Spitzer  
Mark DiNunzio  
Parties of Record