



0000109578

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

**MARC SPITZER**  
 Chairman  
**JAMES M. IRVIN**  
 Commissioner  
**WILLIAM A. MUNDELL**  
 Commissioner  
**JEFF HATCH-MILLER**  
 Commissioner  
**MIKE GLEASON**  
 Commissioner

2003 MAY 13 A 11: 37

AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

MAY 13 2003

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

**IN THE MATTER OF QWEST  
 CORPORATION'S COMPLIANCE WITH  
 SECTION 252(e) OF THE  
 TELECOMMUNICATIONS ACT OF 1996**

**DOCKET NO. RT-00000F-02-0271**

**MOTION TO STRIKE COMMENTS OF  
 MCLEODUSA  
 TELECOMMUNICATION  
 SERVICES, INC**

AT&T Communications of the Mountain States, Inc., and TCG Phoenix (collectively "AT&T") hereby move to strike the Comments of McLeodUSA Telecommunication Services, Inc ("McLeod") dated April 30, 2003.

McLeod did not participate in the proceeding. In fact, McLeod admits that "McLeod is not a formal party in this docket." McLeod Comments at 1. "It did not intervene in this docket. It also is not a party to the Qwest Arizona 271 docket, which could have provided McLeod USA with intervenor status in this docket even if it did not specifically apply for intervention here." *Id.* at 2. McLeod has no legal right nor standing to file comments<sup>1</sup> in this proceeding.

McLeod may believe the remedies proposed by Staff and RUCO are discriminatory, *id.* at 3; however, McLeod had notice of the proceeding and had every

---

<sup>1</sup> Although entitled "comments," McLeod's Comments are really a post hearing brief.

opportunity to intervene to protect its interest. It did not. It may have elected not to intervene for any number of reasons, *e.g.* to avoid discovery; however, having made that election, it cannot now claim the rights of a party.

It is ironic that McLeod, without legal justification, has come before this Commission at this late date to complain that it will be disadvantaged and competitively harmed by the proposed penalties, *id.* at 3, since it had no concern about the competitive harm to other competitive local exchange carriers when it secretly negotiated and received the 10% discount on all services it bought from Qwest.

McLeod has no standing in this proceeding. Accordingly, AT&T respectfully requests that its Comments be stricken; or, in the alternative, disregarded by this Commission in rendering its decision.

Respectfully submitted this 12<sup>th</sup> day of May, 2003.

**AT&T COMMUNICATIONS OF THE  
MOUNTAIN STATES, INC. AND TCG  
PHOENIX**

By: 

Mary B. Tribby  
Richard S. Wolters  
AT&T Law Department  
1875 Lawrence Street, Suite 1503  
Denver, Colorado 80202  
(303) 298-6741

**CERTIFICATE OF SERVICE**  
(Docket No. RT-00000F-02-0271)

I certify that the original and thirteen copies of AT&T Communications of the Mountain States, Inc. and TCG Phoenix's Motion to Strike Comments of McLeodUSA Telecommunication Services, Inc. were sent by overnight delivery on May 12, 2003 to:

Arizona Corporation Commission  
Docket Control – Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

and a true and correct copy was sent by overnight delivery on May 12, 2003 to:

Christopher Kempley, Chief Counsel  
Arizona Corporation Commission  
Legal Division  
1200 West Washington  
Phoenix, AZ 85007

Maureen Scott  
Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

Ernest G. Johnson, Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

Judge Jane Rodda  
Arizona Corporation Commission  
400 W. Congress  
Tucson, Arizona 85701

and a true and correct copy was sent by U.S. Mail, postage prepaid, on May 12, 2003 to:

Eric S. Heath  
Sprint Communications Company L.P.  
100 Spear Street, Ste. 930  
San Francisco, CA 94105

QWEST Corporation  
1801 California Street, #5100  
Denver, Colorado 80202

Joan Burke  
Osborn Maledon  
2929 North Central Avenue, 21<sup>st</sup> Floor  
P.O. Box 36379  
Phoenix, AZ 85012-2794

Maureen Arnold  
U S WEST Communications, Inc.  
3033 N. Third Street, Room 1010  
Phoenix, Arizona 85012

Jon Poston  
ACTS  
6733 E. Dale Lane  
Cave Creek, Arizona 85331-6561

Timothy Berg  
FENNEMORE CRAIG  
3003 N. Central Ave., Suite 2600  
Phoenix, Arizona 85016

Thomas F. Dixon  
MCI TELECOMMUNICATIONS CORP  
707 17th Street, #3900  
Denver, Colorado 80202

Michael M. Grant  
GALLAGHER AND KENNEDY  
2575 East Camelback Road  
Phoenix, Arizona 85016-9225

Bradley Carroll  
Cox Arizona Telcom, L.L.C.  
20401 N. 29<sup>th</sup> Avenue, Suite 100  
Phoenix, Arizona 85027

Mark Dioguardi  
TIFFANY AND BOSCO PA  
500 Dial Tower  
1850 N. Central Avenue  
Phoenix, Arizona 85004

Curt Huttzell  
Electric Lightwave, Inc.  
4 Triad Center, Suite 200  
Salt Lake City, UT 84111

Darren S. Weingard  
Stephen H. Kukta  
SPRINT COMMUNICATIONS CO L.P.  
1850 Gateway Drive, 7<sup>th</sup> Floor  
San Mateo, California 94404-2467

Thomas H. Campbell  
LEWIS & ROCA  
40 N. Central Avenue  
Phoenix, Arizona 85007

Scott S. Wakefield, Chief Counsel  
Dan Pozefsky  
RUCO  
1110 W. Washington, Suite 220  
Phoenix, Arizona 85007

Andrew O. Isar  
TRI  
4312 92<sup>nd</sup> Avenue, N.W.  
Gig Harbor, Washington 98335

Richard M. Rindler  
Morton J. Posner  
SWIDER & BERLIN  
3000 K Street, N.W. Suite 300  
Washington, DC 20007

Michael W. Patten  
ROSHKA HEYMAN & DEWULF  
400 E. Van Buren, Suite 800  
Phoenix, Arizona 85004

Thomas L. Mumaw  
Jeffrey W. Crockett  
SNELL & WILMER  
One Arizona Center  
Phoenix, Arizona 85004-0001

Joyce Hundley  
UNITED STATES DEPARTMENT OF  
JUSTICE  
Antitrust Division  
1401 H Street NW, Suite 8000  
Washington, DC 20530

Mark P. Trincherro  
DAVIS WRIGHT TREMAINE LLP  
1300 S.W. Fifth Avenue, Suite 2300  
Portland, Oregon 97201

Jon Loehman  
Managing Director-Regulatory  
SBC Telecom, Inc.  
5800 Northwest Parkway, Ste 135, Rm. 1.S.40  
San Antonio, Texas 78249

Kimberly M. Kirby  
Davis Dixon Kirby LLP  
19200 Von Karman Avenue, Suite 600  
Irvine, CA 92612

M. Andrew Andrade  
5261 S. Quebec Street, Suite 150  
Greenwood Village, CO 80111  
Attorney for TESS Communications, Inc.

Diane Bacon, Legislative Director  
COMMUNICATIONS WORKERS OF  
AMERICA  
5818 North 7<sup>th</sup> Street, Suite 206  
Phoenix, Arizona 85014-5811

Al Sterman  
ARIZONA CONSUMERS COUNCIL  
2849 E 8th Street  
Tucson Arizona 85716

Brian Thomas  
Vice President – West  
Time Warner Telecom, Inc.  
223 Taylor Avenue North  
Seattle, WA 98109

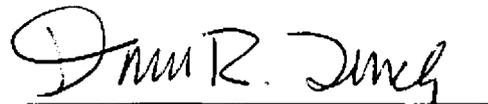
Daniel Waggoner  
DAVIS WRIGHT TREMAINE  
2600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101-1688

Jim Scheltema  
Blumenfeld & Cohen  
1625 Massachusetts Ave. N.W., Suite 300  
Washington, DC 20036

Todd C. Wiley  
GALLAGHER & KENNEDY  
2575 E. Camelback Road  
Phoenix, Arizona 85016-9225

Harry L. Pliskin  
COVAD COMMUNICATIONS CO  
7901 Lowry Blvd.  
Denver, CO 80230

Mark N. Rogers  
Excell Agent Services, L.L.C.  
P.O. Box 52092  
Phoenix, AZ 85072-2092

---