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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

2002 APR 29 P 3: 36

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Commissioner

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Commissioner

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IN THE MATTER OF
 U S WEST COMMUNICATIONS, INC.'S
 COMPLIANCE WITH SECTION 271 OF THE
 TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-238

MOTION TO STRIKE

Qwest Corporation ("Qwest") respectfully submits this motion to strike WorldCom, Inc.'s Response to Qwest's Comments on the Administrative Law Judge's ("ALJ") Recommended Opinion and Order on Qwest's Performance Assurance Plan for Arizona ("QPAP").¹

On April 4, 2002, the ALJ issued her Recommended Opinion and Order on the QPAP in which she proposed resolutions to each of the sixteen disputed QPAP issues.² The Commission's rules provide that "[a]ny party to the proceeding may serve and file five copies of exceptions to [the recommendation of a Hearing Officer] within ten days

¹ See WorldCom, Inc.'s Response to Qwest Corporation's Comments on Recommended Opinion and Order of the Administrative Law Judge on Qwest's Performance Assurance Plan, *In the Matter of U.S. WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. T-00000A-97-0238 (Apr. 22, 2002) ("WorldCom's Response").

² Recommended Opinion and Order of the Hearing Division on Qwest's Performance Assurance Plan, *In the Matter of U.S. WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. T-00000A-97-0238 (Apr. 4, 2002) ("Recommended Decision").

after service thereof.”³ In accordance with that rule, both Qwest and WorldCom filed exceptions to the ALJ’s decision. WorldCom’s exceptions were limited to a request that the Commission include PO-19 as a QPAP measurement.⁴

WorldCom, however, has recently filed what it deems a “Response” to the comments filed by Qwest. WorldCom’s pleading is plainly prohibited by the Commission’s rules: A.A.C. R14-3-110(B) states that “[t]here shall be *no reply* to exceptions and the proposed order. . . .”⁵ In addition, neither the ALJ’s Recommended Opinion and Order nor any of the Commission’s orders governing this proceeding allows any of the parties to file a response to another party’s exceptions.

Moreover, WorldCom’s purported “Response” to Qwest is not really a response at all. It consists simply of an attachment of PAP recommendations from four other states, including a plan from the Colorado Commission which was developed from a different process and contains very different structure and provisions and which is not in the record in this proceeding. WorldCom offers only the bald assertion that these decisions are “consistent” with the ALJ’s Recommended Opinion and Order.⁶ These recommendations do not even address most of the disputed issues raised by Qwest in its exceptions here, such as root cause analysis, the K-table, Tier 2 escalation, classification of measurements, and the legal authority of the Commission with respect to

³ A.A.C. R14-3-110(B). Qwest received a two-day extension for filing its pleading from the Commission.

⁴ See WorldCom, Inc.’s Exceptions to Recommended Opinion and Order on Qwest’s Performance Assurance Plan, *In the Matter of U.S. WEST Communications, Inc.’s Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. T-00000A-97-0238 (Apr. 15, 2002).

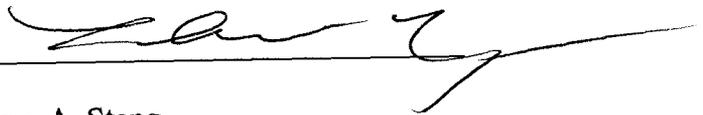
⁵ A.A.C. R14-3-110(B) (emphasis added).

⁶ WorldCom’s Response at 2.

Tier 2 funds, including ARS § 40-424. This is no "response" at all, even if a response were permitted under the Commission's rules.

For the reasons discussed above, Qwest respectfully requests that the Commission strike WorldCom's Response.

Dated this 29th day of April, 2002.

By: 

Lynn A. Stang
QWEST CORPORATION
1801 California Street, Suite 4900
Denver, CO 80202
(303) 672-2926
(303) 295-7069 (fax)

Timothy Berg
Theresa Dwyer
FENNEMORE CRAIG, P.C.
3003 North Central, Suite 2600
Phoenix, Arizona 85012-2913
(602) 916-5421
(602) 916-5999 (fax)

Attorneys for Qwest Corporation

Joan S. Burke
OSBORN MALEDON, P.A.
2929 N. Central Ave., 21st Floor
PO Box 36379
Phoenix, AZ 85067-6379

Thomas F. Dixon
WORLD.COM, INC.
707 N. 17th Street #3900
Denver, CO 80202

Scott S. Wakefield
RUCO
2828 N. Central Ave., Ste. 1200
Phoenix, AZ 85004

Michael M. Grant
Todd C. Wiley
GALLAGHER & KENNEDY
2575 E. Camelback Road
Phoenix, AZ 85016-9225

Michael Patten
ROSHKA, HEYMAN & DEWULF
400 E. Van Buren, Ste. 900
Phoenix, AZ 85004-3906

Bradley S. Carroll
COX COMMUNICATIONS
20402 North 29th Avenue
Phoenix, AZ 85027-3148

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

Traci Grundon
DAVIS, WRIGHT & TREMAINE
1300 S.W. Fifth Avenue
Portland, OR 97201

Richard S. Wolters
Maria Arias-Chapleau
AT&T Law Department
1875 Lawrence Street, #1575
Denver, CO 80202

Gregory Hoffman
AT&T
795 Folsom Street, Room 2159
San Francisco, CA 94107-1243

David Kaufman
E.SPIRE COMMUNICATIONS, INC.
343 W. Manhattan Street
Santa Fe, NM 87501

Diane Bacon, Legislative Director
COMMUNICATIONS WORKERS OF AMERICA
5818 N. 7th St., Ste. 206
Phoenix, AZ 85014-5811

Philip A. Doherty
545 S. Prospect Street, Ste. 22
Burlington, VT

W. Hagood Bellinger
5312 Trowbridge Drive
Dunwoody, GA 30338

Joyce Hundley
U.S. DEPARTMENT OF JUSTICE
Antitrust Division
1401 H Street N.W. #8000
Washington, DC 20530

Andrew O. Isar
TELECOMMUNICATIONS RESELLERS ASSOC.
4312 92nd Avenue, NW
Gig Harbor, WA 98335

Raymond S. Heyman
ROSHKA, HEYMAN & DEWULF
400 N. Van Buren, Ste. 800
Phoenix, AZ 85004-3906

Thomas L. Mumaw
SNELL & WILMER
One Arizona Center
Phoenix, AZ 85004-0001

Charles Kallenbach
AMERICAN COMMUNICATIONS SVCS, INC.
131 National Business Parkway
Annapolis Junction, MD 20701

Gena Doyscher
GLOBAL CROSSING SERVICES, INC.
1221 Nicollet Mall
Minneapolis, MN 55403-2420

Andrea Harris, Senior Manager
ALLEGIANCE TELECOM INC OF ARIZONA
2101 Webster, Ste. 1580
Oakland, CA 94612

Gary L. Lane, Esq.
6902 East 1st Street, Suite 201
Scottsdale, AZ 85251

Kevin Chapman
SBC TELECOM, INC.
300 Convent Street, Room 13-Q-40
San Antonio, TX 78205

M. Andrew Andrade
TESS COMMUNICATIONS, INC.
5261 S. Quebec Street, Ste. 150
Greenwood Village, CO 80111

Richard Sampson
Z-TEL COMMUNICATIONS, INC.
601 S. Harbour Island, Ste. 220
Tampa, FL 33602

Megan Doberneck
COVAD COMMUNICATIONS COMPANY
7901 owry Boulevard
Denver, CO 80230

Richard P. Kolb
Vice President of Regulatory Affairs
ONE POINT COMMUNICATIONS
Two Conway Park
150 Field Drive, Ste. 300
Lake Forest, IL 60045

Janet Napolitano, Attorney General
OFFICE OF THE ATTORNEY GENERAL
1275 West Washington
Phoenix, AZ 85007

Steven J. Duffy
RIDGE & ISAACSON, P.C.
3101 North Central Ave., Ste. 1090
Phoenix, AZ 85012

Teresa Tan
WorldCom, Inc.
201 Spear Street, 9th Floor
San Francisco, CA 94105

Dana Poole - McBride