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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH § 271 OF THE
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

Arizona Corporation Commission
DOCKETED

JUL 15 2002

**REPLY OF QWEST CORPORATION
TO AT&T EXCEPTIONS**

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Qwest Corporation ("Qwest") respectfully submits this reply to the exceptions filed on July 8, 2002 ("AT&T exceptions"), by AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T") to the ALJ's proposed order on Section 272 ("Proposed Order").¹

AT&T has filed "exceptions" in name only. While the purpose of exceptions is to identify aspects of the Proposed Order that a party believes to be in error, AT&T does not take issue with any of the specific findings or conclusions of that Proposed Order. Instead, it asserts that while the Staff and the ALJ "come down on the side of Qwest . . . a lot has transpired" since release of the Staff Report three months ago. AT&T Exceptions at 3. Nothing cited by AT&T in this regard, however, is even remotely relevant to the separate affiliate requirement of Section 272. As the Colorado Hearing Commissioner has observed in connection with the public interest inquiry, AT&T's approach is essentially a strategy of "sling[ing] as much as they can on the wall

¹ AT&T's Exceptions to the ALJ's Recommended Opinion and Order on Section 272, *In the Matter of U S West Communications Act of 1996*, July 8, 2002 ("AT&T Exceptions").

to see what will stick.”² The only “credibility” implicated by this approach (*see* AT&T Exceptions at 1, 3) is that of AT&T itself.

AT&T also asserts that the Staff and the ALJ have merely “taken Qwest’s word.” AT&T Exceptions at 2. In fact, both reached their conclusions regarding Section 272 on the basis of an exhaustive review of Qwest’s detailed explanation of the steps it has taken to comply with each requirement of this section.³ As part of this review, Qwest presented sworn testimony making the same commitments that the FCC has accepted in prior 271 proceedings.⁴ The Staff and the ALJ also examined the results of the independent third party testing by KPMG, recommended by the Multistate Facilitator. While AT&T argues that the KPMG Report indicated that “more controls were necessary” (AT&T Exceptions at 2), KPMG in fact concluded that Qwest’s controls are likely to assure continued compliance with Section 272 and that the few discrepancies identified by its independent testing were quickly corrected.⁵ All eleven other state

² Order on Staff Volume VII Regarding Section 272, the Public Interest, and Track A, *In the Matter of the Investigation into U S West Communication’s Compliance with Section 271(c) of the Telecommunications Act of 1996*, Docket No. 97I-198T, (Colorado Public Utilities Commission (March 15, 2002)) at 44.

³ AT&T’s inaccurate allegation that the Staff and ALJ have merely “taken Qwest’s word” also ignores the extent which their findings reflect a recognition that AT&T relies heavily on legal positions squarely rejected by the FCC in prior 271 proceedings. *See, e.g.,* Proposed Order, *In the Matter of U S West Communications, Inc.’s Compliance with Section 271 of the Telecommunications Act of 1996* (April 19, 2002) at ¶¶ 49-62 & 71-74 (rejecting various AT&T claims about what is required under Section 272(b)(3) requirement of separate officers, directors, and employees), ¶¶ 75-78 (rejecting AT&T claims about what is required under Section 272(b)(5)’s posting requirement), and ¶¶ 91-94 (rejecting AT&T claims about what is required under Section 272(c)(1)’s nondiscrimination requirement).

⁴ *See* Brief of Qwest Corporation in Support of Its Compliance with the Requirements of 47 U.S.C. § 272, *In the Matter of U S West Communication’s Inc.’s Compliance with Section 271 of the Telecommunications Act of 1996*, August 23, 2001, at 1-5 (“Qwest Brief”) (summarizing Qwest’s commitments concerning Section 272 and noting that they are “modeled after, and are consistent with, those provided in support of the showings approved by the FCC in its earlier 271 approval orders.”)

⁵ *See* Declaration of Philip J. Jacobsen, (Dec. 14, 2001) at 23.

commissions that have reviewed this same matter have agreed -- in Colorado, Idaho, Iowa, Montana, Nebraska, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

The closest AT&T comes to any effort to address the merits is its unsupported assertion that Qwest has a “history of non-compliance with section 272 since the enactment of the Act,” and its suggestion that QCC’s initial failure to accrue its transactions on a timely basis may not have been addressed “following overlay of section 272 controls on QCC.”⁶ The first assertion makes no sense: QCC was not required to comply with Section 272 before it became the 272 affiliate.⁷ The proper focus of the Commission’s inquiry is on a BOC’s performance after it has set up the affiliate required by this Section. And AT&T concedes in its exceptions that it has no evidence of non-compliance after QCC became the 272 affiliate in March 2001.⁸ It complains that it cannot continue “auditing” Qwest.⁹ But KPMG’s unprecedented independent testing *did* examine QCC’s operation for five months after the transition and found only 12 discrepancies, all but one of which were identified by Qwest’s own controls and all of which were promptly corrected.¹⁰

⁶ AT&T Exceptions at 1, 2.

⁷ See Qwest’s Brief at 7-8.

⁸ See AT&T Exceptions at 2.

⁹ *Id.*

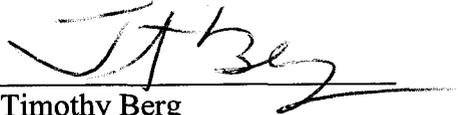
¹⁰ See Reply Comments of Qwest Corporation on KPMG Report, *In the Matter of U S West Communications, Inc.’s Compliance with Section 271 of the Telecommunications Act of 1996* (Jan. 4, 2002) at 5-7.

For the above reasons, Qwest requests that the Commission reject AT&T's exceptions and endorse Qwest's demonstration of compliance with Section 272.

Dated this 15th day of July, 2002.

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