



0000117631

ORIGINAL

BEFORE ARIZONA CORPORATION COMMISSION RECEIVED

WILLIAM MUNDELL
Chairman
JAMES M. IRVIN
Commissioner
MARC SPITZER
Commissioner

Arizona Corporation Commission
DOCKETED

2002 DEC 23 P 4: 11

DEC 23 2002

AZ CORP COMMISSION
DOCUMENT CONTROL

ARIZONA CORPORATION COMMISSION,

DOCKETED BY *CAH*

DOCKET NO. T-01051B-02-0871

Complainant,

v.

QWEST CORPORATION,

Respondent.

**ANSWER TO COMMISSION'S
COMPLAINT AND ORDER TO
SHOW CAUSE**

Qwest Corporation ("Qwest") hereby files its Answer to the Commission's Complaint and Order to Show Cause in the above-referenced matter.

PRELIMINARY STATEMENT

Below Qwest provides its formal responses to each and every allegation raised in this Complaint. As a threshold matter however, Qwest acknowledges that its communications with regard to the implementation process and related timelines for the wholesale rate changes ordered by the Commission in Decision No. 64992 ("the Phase IIA Decision") have been wholly inadequate. To properly fulfill its obligations to both its customers and this Commission, Qwest should have proactively set forth its timeline for implementation of the Commission's Order in this matter, and also promptly notified Commission Staff and other affected parties when circumstances indicated that Qwest's internal implementation timelines would not be met. Qwest's conduct in this regard was not intentional. However, consistent with the dialogue initiated by Staff's December 12 Comments filed in Qwest's 271 proceeding (Docket No. T-00000A-97-0238), Qwest acknowledges its significant contribution to this problem and pledges

to work cooperatively with the Commission, its Staff, and interested parties to ensure that such incidents are not repeated in the future.

Consistent with our commitment at the Commission's December 2nd Open Meeting Qwest completed the rate change portion of the implementation process on December 15th 2002¹ - for the wholesale rate changes ordered by the Commission in the Phase II Decision. As of that date, Commission-mandated rates were entered into Qwest billing systems. The new rates, including credits due back to the effective date of the Order, are now being applied to each CLEC customer's bill based on the individual CLEC's billing date. In addition, as part of the normal "true-up" process, in mid-January Qwest will also pay applicable interest to all affected customers. These remedial actions, albeit tardy, place Qwest in full compliance with the Commission's original Order.

In addition, Qwest has committed to full implementation of Commission-mandated rates in Decision No. 65451 ("the Phase IIA Decision") 60 days after its customary compliance filing, due January 11.

Most importantly, Qwest has already begun a full re-examination of its rate implementation processes and procedures with the goal to ensure the parity of Qwest's practices with those of other major incumbent local exchange providers. Toward that end, Qwest already has:

- Engaged outside consultants to provide recommendations for automation of as many of the processes associated with cost docket implementation as possible
- Set a schedule for delivery of mechanized solutions by 1st Quarter 2003

¹ By December 15, 2002 Qwest completed the rate change portion of the implementation process except for the rates of five wireless carriers, including Qwest Wireless. Qwest informed Staff that the rate change process was not consolidated for those carriers on December 15, 2002.

- Designated a Program Management Office to oversee the implementation process – ensuring that implementation schedules are adhered to and opportunities for process improvement are explored and acted upon
- Qwest has established a Cost Docket Governance Team comprised of executive level personnel from the organizations within the company with primary involvement and responsibility for cost docket implementation. Those organizations include: Wholesale Product Management, Wholesale Service Delivery, and Policy & Law. The purpose of the Governance Team is to provide both an oversight role and to serve as an escalation point for issues or obstacles that may arise during the implementation process. The Team has scheduled meetings every two weeks, but may meet more frequently if issues arise that require immediate resolution.
- Modified its Communications process for CLECs to require correspondence to all wholesale customers at critical process points, including
 1. Immediately after the issuance of a final Commission Order
 2. Immediately after rate sheets are updated
 3. Immediately prior to the introduction of new Commission-approved rates to wholesale customer bills

Qwest does not view these process changes as exhaustive of our future actions in this area. We do believe, however, that they represent a long-needed and appropriate first step toward addressing the legitimate concerns identified in the Commission's Order to Show Cause action. Qwest is hopeful that the Commission and its Staff will consider both Qwest's commitment and its remedial activities as it evaluates the issues raised in the instant action. Qwest provides formal answers to the Complaint and Order to Show Cause below.

ANSWER

For its answer to the Complaint and Order to Show Cause (“Complaint”) adopted by the Commission in Decision No. 65450, Qwest admits, denies and alleges as follows:

FINDINGS OF FACT

1. Qwest admits the allegations of Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.
2. Responding to Paragraph 12, Qwest alleges that Decision No. 64922 speaks for itself. Qwest admits that Ordering Paragraph 5 states: “the rates and charges approved herein shall be effective immediately.” Qwest denies that it had not yet implemented the rates and charges approved in Decision No. 64922. It alleges that it began the implementation process in June of 2002 and completed the rate change portion of the implementation process for all companies except five wireless companies on December 15, 2002.
3. Responding to Paragraph 13, Qwest admits that on or about October 7, 2002, counsel for AT&T filed with the Commission a copy of a letter addressed to counsel for Qwest. Qwest denies that it failed to comply with Decision No. 64922.
4. Qwest admits the allegations of Paragraph 14 of the Complaint.
5. Responding to paragraph 15, Qwest admits that Staff sent Qwest data requests on October 23, 2002 and that Qwest responded on October 25, 2002.
6. Responding to Paragraph 16, Qwest admits that it has informed Staff that the normal timeline for the rate change portion of the implementation of wholesale rates is 60 business days. Qwest further admits that it has told Staff that the normal timeline for the implementation of a change in wholesale rates including a true up is 93 business days.

Qwest admits that the completion of implementation of the wholesale rates did not occur until 129 business days from the Commission issuance of Decision No. 64922. Qwest alleges that reason the completion of the implementation process for these rates was more than 60 business days was due in part to the large number of wholesale rate and structure changes associated with Decision No. 64922 as well as a number of wholesale rate orders from other states that had to be implemented.

7. Responding to Paragraph 17, Qwest admits that part of the process of implementing changes in wholesale rates is manual, not automated. Qwest admits that it uses a different rate implementation process for retail rate changes, which permits those rates to be put into effect sooner than changes to wholesale rates.
8. Responding to Paragraph 18, Qwest denies that it prioritized its implementation of wholesale rate changes according to whether or not Qwest had a 271 application pending at the federal level for the particular state in question, and not according to the approval date or effective date of the Commission orders approving the rate changes. Qwest denies that any prioritization of rate changes contributed to delay in implementation of Arizona wholesale rate changes.
9. Qwest admits the allegations of Paragraph 19.
10. Responding to Paragraph 20, Qwest denies that it has not yet implemented the rates adopted in Decision No. 64922. Qwest alleges that it began the process of implementing those rates in June of 2002 and completed the rate change portion of the implementation process for all companies except five wireless companies on December 15, 2002.²
11. Qwest denies the allegations of Paragraph 21 of the Complaint.

² The rate change process has been consolidated for the five wireless companies and those changes will be reflected in the next bill.

12. Qwest admits that Decision No. 64922 provided that the rates and charges set in that Decision were effective immediately. Qwest denies that the Decision sets forth any deadline for the completion of implementation of the rates set in that order. Qwest denies that Qwest caused an unreasonable delay in the implementation of those rates by putting other state charges approved after Decision No. 64922 ahead of the implementation of the rates ordered in Decision No. 64922. Qwest denies that the completion of the implementation process took more time than was necessary or reasonable. Qwest alleges that it is investigating possible changes in its implementation process that will permit the implementation process for wholesale rates to take less time.
13. Qwest denies the allegation of Paragraph 23 of the Complaint.
14. Responding to Paragraph 24, Qwest admits that the rate change portion of the wholesale rate implementation process usually takes 60 business days and that the full implementation process including true-up usually takes 93 business days. Qwest alleges that it informed Staff of these facts. Qwest denies that its timeline for implementation of the wholesale rates set in Decision No. 64922 is unreasonable.
15. Responding to paragraph 25, Qwest admits that it is able to implement most retail rate charges more quickly than wholesale rates. Qwest admits that it is usually able to implement retail rates in one billing cycle. Qwest denies the remaining allegations of paragraph 25.
16. Responding to paragraph 26, Qwest admits that it has completed implementation of the limited number of rate reductions that were associated with states involved in its 271 applications pending before the FCC. Qwest alleges that for five of the nine states, the rates were approved prior to this Commission's Decision Number 64922 and,

consequently, implementation was commenced prior to June 12, 2002. For the remaining four states, the approval dates ranged from July 1, 2002 to July 9, 2002. While implementation of these rate reductions has been completed Qwest did not begin the implementation process for the last four states prior to commencing implementation work on the Commission's decision in this docket. The implementation process for the rate reductions in the nine states was completed because there were a very limited number of rates to change and thus, the implementation process could be completed more quickly. This is in contrast to the over 600 rates that were covered by Decision 64922. Implementation is a process, not a fixed point in time. Qwest alleges that it began the process of implementing Decision Number 64922 immediately after that Decision was issued. It did so by engaging the parties to the docket to arrive at a consensus compliance filing. This compliance filing was made June 26, 2002 and Qwest continued the process of implementing the Decision until it completed the process on December 15, 2002.

17. Qwest denies the allegations of Paragraph 27.
18. Responding to Paragraph 28, Qwest is without knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph. Qwest denies the remaining allegations of Paragraph 28.
19. Qwest admits the allegations of Paragraph 29 of the Complaint.
20. Qwest admits the allegations of Paragraph 30 of the Complaint.
21. Responding to paragraph 31, Qwest admits that it did not seek relief from implementing the Commission's decision. Qwest alleges it did not seek relief because it did not believe it was delaying or postponing the implementation process. To the contrary, Qwest has been in the process of implementing the Commission's decision since shortly after that

Decision was issued. Qwest admits that it should have notified the Commission earlier as to the timeline for implemented.

22. Responding to paragraph 32 of Complaint, Qwest admits that it sent a letter to AT&T dated October 16, 2002. Qwest alleges that the letter speaks for itself.
23. Responding to paragraph 33, Qwest admits that it did not inform the Commission of the timeline for implementation of Decision No. 64922 or request a stay. Qwest denies the remaining allegations of Paragraph 33.
24. Responding to paragraph 34, Qwest admits that wholesale rate changes are implemented for all CLECs on a CLEC-specific basis. Qwest alleges that this arrangement is a result of the 1996 Telecommunications Act that requires Qwest to negotiate individual contracts with each CLEC. Qwest alleges that it has negotiated over 180 agreements with CLECs in Arizona from 1996 to the present.

The contracts and the associated rate sheets have evolved over time. Consequently, Qwest must review each CLEC agreement and its associated rate sheet to determine the appropriate mapping of the new Commission-ordered rates into the structure contained in the CLEC agreements. Qwest alleges that this process is necessary in order to ensure CLECs are billed appropriately. Further, Qwest alleges that it is continually working to improve, automate and streamline the implementation process to the maximum extent possible and anticipates that its efforts will ultimately result in a shorter implementation interval.

25. Responding to paragraph 35, Qwest admits that it uses a different rate implementation process for retail rate changes, which are contained in standardized tariffs, as opposed to individually negotiated agreements as is required for CLECs. Qwest further admits that,

for standard retail rate changes, it can complete the implementation process within one billing cycle in most instances. Qwest denies the remaining allegations in this paragraph.

See also the Answer to paragraph 33.

26. Qwest denies the allegations of Paragraph 36.
27. Qwest is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 37.
28. Qwest denies the allegations of Paragraph 38 of the Complaint.
29. Qwest denies that the relief requested in Paragraphs 39, 40 and 41.

CONCLUSIONS OF LAW

1. Qwest admits the allegations of Paragraphs 1, 2, 3 , 4 and 5.
2. Qwest denies that it has not yet implemented the new wholesale rates and charges approved in Decision No. 64922. To the contrary, Qwest has stated elsewhere in this Answer, implementation is a process, not a fixed point in time. Qwest has been in the process of implementing the Commission's decision since shortly after it was entered.
3. See response to paragraph 31.

///

///

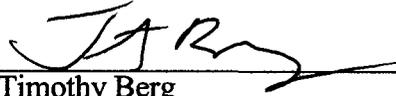
///

PRAYER

1. Wherefore Qwest requests that the Complaint and Order to Show Cause be Dismissed with Prejudice.

DATED this 23rd day of December, 2002.

FENNEMORE CRAIG, P.C.

By 

Timothy Berg
Theresa Dwyer
3003 N. Central Ave, Suite 2600
Phoenix, Arizona 85012

Mark Brown
QWEST CORPORATION
3033 North 3rd Street, 10th Floor
Phoenix, AZ 85012

Attorneys for Qwest Corporation

ORIGINAL and 13 copies of the foregoing hand-delivered for filing this 23rd day of December, 2002 to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered this 23rd day of December, 2002 to:

Lyn Farmer, Chief Administrative Law Judge
Jane Rodda, Administrative Law Judge
ARIZONA CORPORATION COMMISSION
Legal Division
1200 West Washington
Phoenix, Arizona 850

Chris Kempley, Chief Counsel
Maureen Scott, Counsel
ARIZONA CORPORATION COMMISSION
Legal Division
1200 West Washington
Phoenix, Arizona 85007

Ernest G. Johnson
Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

