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**INTERVENTION**

**ORIGINAL**

ARIZONA CORPORATION COMMISSION

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DOCKET NO.

T-010518-02-0871

ARIZONA CORPORATION COMMISSION  
Complainant,

v.

QWEST CORPORATION,  
Respondent

**COMPLAINT  
AND  
ORDER TO SHOW CAUSE**

**APPLICATION TO INTERVENE**

Mountain Telecommunications, Inc. ("MTI"), by its attorneys, pursuant to A.R.C. R-14-3-105, hereby applies to intervene in the above-captioned matter. In support of this application, MTI states as follows:

MTI is a telecommunications carrier certificated by the Commission to provide services, including competitive local exchange services, in the State of Arizona. MTI is incorporated under the laws of the State of Arizona, and its corporate headquarters are located at 1430 W. Broadway, Suite A-200, Tempe, Arizona 85282.

As a provider of telecommunications services, MTI utilizes network elements of Qwest Communications, the predominant incumbent local exchange carrier (ILEC) in Arizona which it

acquires on an unbundled basis pursuant to Section 251(c) (3) of the Communications Act of 1934, as amended (47 U.S.C. § 251(c)(3)).

On June 12, 2002, the Commission issued Decision No. 64922 in Docket No. T-00000A-00-0194 (In the Matter of the Investigation Into Qwest Corporation's Compliance with Certain Wholesale Pricing Requirements For Unbundled Network Elements And Resale Discounts) (*Phase II*). In Decision No. 64922, the Commission adopted the results of the HAI model for development of transport rates, notwithstanding its concern that rates based on that model might not be appropriate, and stated that the issue of appropriate modeling for establishment of transport rates should be re-examined based on a full record in Phase III of the proceeding.<sup>1</sup>

Although the rates for network elements, interconnection and resale mandated by Decision No. 64922 were to be effective on June 12, 2002, Qwest delayed implementing those rates for many months. Indeed, that delay led to Commission Staff filing a Complaint and Order to Show Cause on November 26, 2002 requesting that Qwest be ordered to show cause why its failure to implement the rates required by Decision 64922 is not unreasonable and why it should not be held in contempt. By Decision No. 65450 issued December 12, 2002, Qwest has been ordered to show cause.

As a CLEC operating in Arizona, MTI is reliant on access to Qwest unbundled network elements at prices approved by the Commission based upon the Total Element Long Run Incremental Cost (TELRIC) standard promulgated by the Federal Communications Commission (FCC). It is clear from the Commission's language in Decision No. 64922 that the record compiled to date is not sufficient to conclude that transport rates and the rates for Local

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<sup>1</sup> Decision No. 64922, at p. 79. Simultaneously with the filing of this application to intervene, MTI has applied to intervene in Phase III of Docket No. T-00000A-00-0914.

Interconnection Service based on the HAI model will produce lawful rates in accordance with Section 251 of the Communications Act of 1934, as amended,<sup>2</sup> and the FCC's TELRIC standard.

Because of Qwest's prolonged delay in implementing Decision No. 64922, MTI only recently has begun to receive invoices from Qwest containing charges for transport based upon Qwest's understanding and implementation of that decision. Indeed, MTI received its first such invoice during the week of January 2, 2003. Upon receipt of that invoice, MTI was shocked and dismayed to learn that Qwest's charges to it for transport service and for Local Interconnection Service are far higher than the previously-applicable charges for that service. Indeed, those ostensibly TELRIC-based charges are even higher – in some cases substantially higher – than the charges for the identical facilities when purchased pursuant to Qwest's interstate access service tariff (Tariff FCC No. 1) on file with the FCC.

MTI believes that the massive rate increases for transport being imposed by Qwest are inconsistent with the Commission's intent in Decision No. 64922 and violate the statutory requirements codified at Section 252(d)(1)(A) of the Communications Act that unbundled network element rates must be based on cost (without reference to rate of return or other rate-based proceeding), must be nondiscriminatory, and may include a reasonable profit.<sup>3</sup> Neither do those rates conform with the FCC's TELRIC standard.

MTI looks forward to participating in Phase III of Docket No. T-00000A-00-0194 and to addressing Qwest's transport rates at that time. However, imposition on MTI of the transport rates reflected in Qwest's recent invoices will make it uneconomic for MTI to offer competing local telecommunications services through use of unbundled network elements as it is statutorily

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<sup>2</sup> 47 U.S.C. § 251.

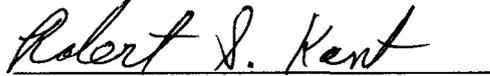
<sup>3</sup> 47 U.S.C. § 252(d)(1)(A).

entitled to do, and may have the unintended consequence of forcing MTI to exit the local service marketplace in Arizona.

Pending resolution of the transport pricing issues in Phase III, MTI believes that the instant show cause proceeding is the most appropriate forum, perhaps the only forum, for the Commission to address the potential competitive damage likely to be caused by the transport rates and Local Interconnection Service rates now being invoiced by Qwest in purported compliance with Decision No. 64922. For that reason, MTI's interests will be impacted by the Commission's actions taken in the show cause proceeding, and it is respectfully requested that MTI's application to intervene be granted forthwith.

Respectfully submitted,

**MOUNTAIN TELECOMMUNICATIONS, INC.**



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January 8, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing documents on all parties of record in this proceeding by mailing a copy thereof, properly addressed with first class postage prepaid to the following:

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Dated at Washington, D.C., this 8<sup>th</sup> day of January, 2003.

  
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