Before the Arizona Corporation Commission

MARC SPITZER  
Chairman

WILILAM A. MUNDELL  
Commissioner

JEFF HATCH-MILLER  
Commissioner

MIKE GLEASON  
Commissioner

KRISTIN K. MAYES  
Commissioner

IN THE MATTER OF QWEST CORPORATION’S  
FILING OF RENEWED PRICE REGULATION  
PLAN

IN THE MATTER OF THE INVESTIGATION OF  
THE COST OF TELECOMMUNICATIONS  
ACCESS

Docket No. T-01051B-03-0454

Docket No. T-00000D-00-0672

COMMISSION STAFF’S REQUEST FOR EXTENSION OF TIME TO FILE  
DIRECT TESTIMONY BASED UPON NONCOMPLIANCE BY QWEST  
CORPORATION WITH THE COMMISSION’S SEPTEMBER 29, 2004  
PROCEDURAL ORDER

I. INTRODUCTION

On September 17, 2004, the Arizona Corporation Commission (“Commission” or “ACC”)  
Staff filed a Motion to Compel Qwest Corporation (“Qwest”) to respond to all outstanding and  
overdue Staff data requests. Attached to Staff’s Motion was a list of over 100 data requests to which  
Qwest’s responses remained outstanding and overdue up to a month in some cases. Qwest filed a  
Response to Staff’s Motion to Compel on September 24, 2004, and at the same filed a Cross-Motion  
for the imposition of discovery limits on Staff. In its Response, Qwest stated that it believed it could  
provide Staff with all of its outstanding responses by October 1, 2004.

On September 29, 2004, the Commission issued a Procedural Order which ordered Qwest to  
submit its overdue responses to all Staff’s outstanding data requests by October 1, 2004. Staff and its
Consultants reviewed the overdue responses provided by Qwest on October 1, 2004 and the Separations Study provided by Qwest on October 4, 2004. Based upon this review, Staff and its Consultants identified both questions that had not yet been answered and attachments that were missing.

On October 5, 2004, Staff sent Qwest a letter identifying both the questions that had not been answered and the attachments that were missing. (Exhibit A attached). Staff sent Qwest a clarifying letter on October 6, 2004 with respect to WDA 4-27 and WDA 10-011, and the outstanding information requested by WDA 10-011, that has not yet been provided. (Exhibit B attached). In its October 5, 2004 letter the Staff stated “given this failure by Qwest to provide the information requested at all or in other instances in a timely manner, and the fact that Staff just received the Company’s Year 2000 Separations Study, the Staff and its Consultants still have significant gaps in their testimony which they cannot address until they receive the information identified below and have an opportunity to do follow-up discovery in some instances.” Despite this, since sending its letter, Staff has received no word from Qwest as to when it can expect to receive this information which it needs to complete its testimony.

The Commission indicated in its Procedural Order that:

“If Qwest is unable to comply with this deadline, the date for filing Staff and Intervenor testimony may have to be extended, with corresponding changes to the rest of the procedural schedule. Staff should file a request to extend the testimony deadline no later than October 8, 2004, if it believes the information it receives by October 2, 2004, is not sufficiently complete for Staff to file complete testimony.”

In that Staff has not heard from Qwest that it will be providing the outstanding information anytime soon, the fact that Qwest’s Separations Study, which is used by Staff extensively in portions of its analysis, was just received on October 4, 2004, and the anticipated need to do follow-up discovery on many of the responses only recently received, Staff respectfully requests an extension of time to file its direct testimony in this case. When determining whether to request this extension of time, Staff considered the option of going ahead with portions of its testimony left incomplete. However, because this would result in a disjointed presentation by Staff and the inability by the Staff

1 October 5, 2004 Letter from Staff Counsel to Mr. Norman G. Curtright and Mr. Timothy Berg.
and/or its Consultants to present a complete analysis on all of the complex and interdependent issues raised, Staff believes that the better approach is to seek an extension of time until Qwest can provide the missing information and the Staff has a reasonable opportunity to do any follow-up discovery that may be necessary.

Staff respectfully requests that the Commission schedule a procedural conference on this matter, require Qwest to respond as to when it will be able to provide the outstanding information, and extend the deadline for Staff and Intervenor direct testimony to accommodate Qwest’s needs for gathering the information and Staff’s needs to review the information provided and do some limited follow-up discovery, as necessary. Staff requests expedited action on its Motion so that any delay in the schedule can be kept to a minimum.

RESPECTFULLY submitted this 7th day of October, 2004.

Christopher C. Kempley, Chief Counsel
Maureen A. Scott, Attorney
Timothy J. Sabo, Attorney
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007
(602) 542-6022

Original and 15 copies of the foregoing filed this 7th day of October, 2004 with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Copy of the foregoing mailed this 7th day of October, 2004 to:

Jane L. Rodda
Administrative Law Judge
400 West Congress Street
Tucson, AZ 85701

Timothy Berg
Theresa Dwyer
Darcy R. Renfro
Fennemore Craig, P.C.
3003 N. Central, Suite 2600
Phoenix, AZ 85012-2913

Todd Lundy
Qwest Law Department
1801 California Street
Denver, CO 80202

Joan S. Burke
Osborn Maledon, P.A.
2929 N. Central, Suite 2100
Phoenix, AZ 85012-2794
Attorneys for AT&T Communications Of the Mountain States and TCG Phoenix
Richard S. Wolters  
AT&T Communications of the  
Mountain States  
1875 Lawrence Street, Suite 1503  
Denver, CO 80202-1870

Scott S. Wakefield, Chief Counsel  
RUCO  
1110 W. Washington, Suite 220  
Phoenix, AZ 85004

Michael W. Patten  
Roskhka Heyman & DeWulf, PLC  
400 E. Van Buren Street, Suite 800  
Phoenix, AZ 85004

Mark A. DiNunzio  
Cox Arizona Telcom, LLC  
1550 W. Deer Valley Road  
MS DV3-16, Bldg. C  
Phoenix, AZ 85027

Thomas H. Campbell  
Michael T. Hallam  
Lewis and Roca  
40 North Central Avenue  
Phoenix, AZ 85004

Thomas F. Dixon  
WorldCom, Inc.  
707 17th Street, 39th Floor  
Denver, CO 80202

Patrick A. Clisham  
AT&T Arizona State Director  
320 E. Broadmoor Court  
Phoenix, AZ 85022

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

Peter Q. Nyce, Jr.  
Regulatory Law Office  
U.S. Army Litigation Center  
901 N. Stuart Street, Suite 713  
Arlington, VA 22203-1644

Richard Lee  
Snavely King Majors O’Connor & Lee  
1220 L. Street N.W., Suite 410  
Washington, DC 20005

Jon Poston  
ACTS  
6733 East Dale Lane  
Cave Creek, AZ 85331

Steven J. Duffy  
Isaacson & Duffy  
3101 N. Central Avenue, Suite 740  
Phoenix, AZ 85012

Jeffrey W. Crockett  
Snell & Wilmer  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-6070  
Attorney for ALECA

Deborah A. Ancell
October 5, 2004

Mr. Norman G. Curtright
QWEST CORPORATION
Law Department – Regulatory Section
4041 North Central Avenue, Suite 1100
Phoenix, Arizona 85012

Mr. Timothy Berg
FENNMORE CRAIG
3003 North Central, Suite 2600
Phoenix, Arizona 85012

Re: Qwest Corporation's Amended Renewed Price Regulation Plan
Docket No T-01051B-03-0454

Dear Messrs. Curtright and Berg:

As you are aware, Judge Rodda’s most recent procedural order required Qwest Corporation ("Qwest" or the "Company") to respond to all of Staff’s and its Consultant’s outstanding and overdue data requests by October 1, 2004. We have reviewed the responses recently provided by Qwest in response to Judge Rodda’s procedural order and would note the following significant omissions for the record.¹

There still appears to be significant outstanding discovery relating to Qwest’s affiliate transactions with BSI, and its allocation of investment in deregulated or interstate services, including DSL and Choice TV. There are also missing attachments and non-responsive discovery responses regarding the Company’s legislative activities, consolidated income tax returns, pension assets and accounting for TPUC and AFUDC. Given this failure by Qwest to provide the information requested at all or in other instances in a timely manner, and the fact that Staff just received the Company’s Year 2000 Separations Study, the Staff and its Consultant’s still have significant gaps in their testimony which they cannot address until they receive the information identified below and have an opportunity to do follow-up discovery in some instances.

Significant discovery was submitted by Staff Consultant Dunkel on August 27, 2004 on the issue of Qwest’s charges to BSI. Responses to WDA 10-018(b) and (j) provided by Qwest on September 28, 2004 indicate that the Company will be doing some major revision to the rates

¹ We have also included a few later data requests issued by Utilitech to which the Company has not adequately responded or has not provided attachments that it referred to in its responses.

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2627 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347
www.cc.state.az.us
ATTACHMENT A

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charged by Qwest to BSI. However, Qwest has not provided the results of its rate revisions for BSI to Staff yet for its further review and analysis.

We have been provided no information yet on the amount of Qwest’s investment in fiber, remote terminals and/or cross connects and USAMS facilities used to provide Choice TV, and the portion of that investment Qwest has allocated to the intrastate jurisdiction. Qwest indicated in its August 3, 2004 response to WDA 04-27 that it would take approximately 20 days to complete this study. This information is very important since Choice TV is a deregulated service and the intrastate jurisdiction should not be supporting these costs which could be substantial. Qwest was originally asked for this information on July 13, 2004.

On August 20, 2004, Mr. Dunkel submitted his eighth set of data requests to Qwest pertaining to separations issues with regard to the DSL investment of the Company. Both Staff and Mr. Dunkel have no record of Qwest ever having responded to WDA 8-007 and 8-009 seeking information on these DSL separations issues. Additionally, Qwest’s responses to WDA 8-13(c) and (d) are inadequate. Again, this information is important because we are likely dealing with a significant investment by the Company, all of which should not be supported by the intrastate jurisdiction.

We would also note that Staff finally received, on October 4, 2004, Qwest’s response to WDA 2-20 (submitted June 17, 2004) and WDA 08-01(f) (submitted August 20, 2004) both of which requested a copy of Qwest’s Year 2000 separations study. Staff’s inability to obtain the Company’s study until this week, has delayed a significant and important part of its analysis on separations issues by several months. If you recall, because of its importance to Staff’s analysis, Staff raised this issue repeatedly in its ongoing conversations with Qwest concerning outstanding discovery issues and each time the Company responded with something short of the actual study.

Staff also has no record of Qwest’s responding to WDA 4-020 and 4-021 yet (submitted July 13, 2004) pertaining to Qwest’s Arizona Exchange and Network services Price Cap Tariff, Section 4.1(C).

Finally, Utilitech has not received several attachments referred to in Qwest’s responses to UTI 11-14S1 (Consolidated Income Tax Information)(highly confidential Attachment A is missing); UTI 13-10 (Attachment A is missing), and UTI 15-17 (no attachments received). Additionally, Utilitech has not received answers from the Company responsive to UTI 9-14 and UTI 9-13 concerning legislative activities. And, the Company’s response to UTI 16-17 merely referred to Qwest witness Grate’s rejoinder testimony in Qwest’s last rate case; without providing an actual copy of what Mr. Grate was relying upon to support his testimony in this case. Staff also finds Qwest’s response to UTI 16-13 to be non-responsive; as the Company did not produce the documentation that would allow Utilitech to verify the Company’s accounting for differences in TPUC and AFUDC policies of other regulatory jurisdictions in its region that differ from the FCC.
ATTACHMENT A

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Staff would appreciate an immediate update from Qwest as to when it can expect Qwest’s responses to this still outstanding discovery. Please do not hesitate to contact me if you have any questions concerning this letter. Thank you in advance for your cooperation with this matter.

Sincerely,

Maureen A. Scott
Attorney, Legal Division

cc: Christopher C. Kempley
    Ernest G. Johnson
    Elijah Abinah
    All Parties of Record
October 6, 2004

Mr. Norman G. Curtright
QWEST CORPORATION
Law Department – Regulatory Section
4041 North Central Avenue, Suite 1100
Phoenix, Arizona 85012

Mr. Timothy Berg
FENNEMORE CRAIG
3003 North Central, Suite 2600
Phoenix, Arizona 85012

Re: Qwest Corporation’s Amended Renewed Price Regulation Plan
Docket No T-01051B-03-0454

Dear Messrs. Curtright and Berg:

This is a follow-up to my October 5, 2004 letter and my conversations with each of you this morning. I want to clarify the first full paragraph on page 2 of my October 5, 2004 letter and the information that remains outstanding. The paragraph’s reference to WDA 4-27 should actually have been to WDA 10-011, which was a follow-up discovery request based upon Qwest’s response to WDA 4-27. Data request WDA 10-011 was sent to Qwest on August 27, 2004.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions concerning this letter.

Sincerely,

Maureen A. Scott
Attorney, Legal Division

cc: Christopher C. Kempley
Ernest G. Johnson
Elijah Abinah
All Parties of Record