Concurrently with the filing of this document, the Residential Utility Consumer Office ("RUCO") is filing the direct testimony of three witnesses in this matter. Two of those witnesses' testimony contains confidential information, which is redacted from the public version filed with the Commission's Docket Control, but is being provided to the Commissioners and the Administrative Law Judge under seal, and to certain parties pursuant to the terms of the Commission's Protective Order entered August 25, 2004. This filing is being made in compliance with the Commission's July 23, 2004 Procedural Order, which required any party submitting testimony or exhibits that contains confidential information to simultaneously file an explanation of the legal basis for concluding that such information is confidential.
RUCO has redacted from its public testimony three basic types of information. The first type is data relating to the market shares and market power of Qwest and the various CLECs in Arizona. This material was received from Qwest and marked by Qwest as confidential, or derived from such material. Much of this confidential data relates to Qwest’s own market share. It is RUCO’s understanding that Qwest marked some additional material as confidential based on claims by its CLEC wholesale customers that material in Qwest’s possession that might disclose CLEC retail market shares is confidential. A second type of redacted data relates to Qwest’s revenues and costs, and the levels of contributions certain services make to joint and common costs. The third type of information that RUCO has redacted relates to Qwest’s levels of incentive compensation.

RUCO received all the confidential information that has made its way into the testimony under the terms of the Protective Order or a previously-negotiated Protective Agreement between RUCO and Qwest. RUCO is bound by the Protective Order to treat “confidential information” (as defined in the Protective Order), and materials derived from such information, as confidential. While Qwest has not disclosed to RUCO the bases for its claims of confidentiality (nor is it required to under the Protective Agreement or Protective Order), RUCO would surmise that Qwest’s claims of confidentiality stem from concerns about disclosure of competitively sensitive information.

RESPECTFULLY SUBMITTED this 18th day of November, 2004.

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