BY THE COMMISSION:

On September 17, 2004, Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") filed a Motion to Compel Qwest to Respond to Staff Data Requests. At the time it filed the Motion, Staff indicated it was awaiting responses to approximately 87 data requests that were overdue. Staff claimed that its ability to file complete testimony by its October 19, 2004 deadline was endangered by the large number of outstanding and past due responses.

Pursuant to our September 20, 2004 Procedural Order, Qwest filed its Response to Staff’s Motion to Compel on September 24, 2004. Qwest’s Response also contained a Cross-Motion for the imposition of discovery limits. In its Response, Qwest indicated that responses to a number of the “overdue” requests had been provided prior to Staff’s Motion and that Qwest continues to attempt to respond to Staff’s requests.

Following a Procedural Conference on September 27, 2004, our September 29, 2004 Procedural Order ordered Qwest to file responses to all overdue data requests by October 1, 2004. In that Procedural Order we noted that the ambitious schedule in this proceeding was straining the discovery process, and that the schedule may prove to be unrealistic given the number and importance of issues involved in this matter.

On October 4, 2004, Staff filed a Response to Qwest’s Cross Motion for the Imposition of
Discovery Limitations.

On October 7, 2004, Staff filed a Request for Extension of Time to File Direct Testimony Based upon Noncompliance by Qwest Corporation with the Commission’s September 29, 2004 Procedural Order. Staff stated that upon review of the Qwest data request responses filed on October 1, 2004 and October 4, 2004, some of the responses were incomplete and Staff had no indication from Qwest when it can expect to receive this information. Staff requested an expedited procedural conference.

Given the approaching deadline for Staff and Intervenor testimony, on October 8, 2004, the Hearing Division arranged a telephonic Procedural Conference on October 12, 2004, to consider Staff’s Motion for Extension.

On October 12, 2004, Qwest filed a Response to Staff’s Motion. Qwest’s Response included a Reply to Staff’s Response to Qwest’s Cross-Motion for Discovery Limitations. Qwest argues that it complied with the September 29, 2004 Procedural Order and responded to all of the data requests identified in Staff’s Motion to Compel.

At the Procedural Conference, Staff argued that because the responses provided on October 1, 2004 were not complete, Staff’s consultants have been unable to complete their testimony on critical issues, including the revenue requirement. Staff asserted that because the issues outstanding flow through and will affect the remainder of testimony, it was not practical to require Staff to file portions of its testimony on October 19, 2004 (the original due date) and the remaining testimony at a later date.

Qwest argued that the problem appears to be with Staff’s failure to promulgate certain requests in a timely fashion, redundant requests and an unreasonable probe into minutia. Qwest believes that the amount of discovery Staff promulgated in this matter is excessive. Qwest urged that the Commission limit Staff’s request for an extension to only those issues addressed in the outstanding data requests.

The circumstances of this matter warrant Staff’s request for a thirty day extension to file its direct testimony. When Qwest and Staff presented the current Price Cap Plan for Commission consideration, they and the Commission recognized that it was possible that a new plan would not be
approved when the current term expired. That is the reason for including language that mandates that
the current plan remains in effect until a new plan is approved.

We set the current schedule in an effort to balance the various interests in these dockets, however we cannot let an artificial deadline dictate the quality of the evidence presented. There are many issues raised in this case that will affect the nature of the telecommunications industry in Arizona for years. It is critical that the Commission be thorough in its review of Qwest’s Renewed Price Cap Plan, which proposes significant changes in the current Price Cap Plan. We do not grant the extension request to penalize Qwest for any delay in responding to Staff’s data requests, but rather because the additional time will result in a more thorough analysis and better record, and is mandated by the public interest.

Neither can we grant Qwest’s request to limit Staff’s discovery at this time. Although Qwest appears to believe the issues raised in this docket are more limited than in a regular rate case, we believe that the Commission must have a sufficiently developed record to set just and reasonable rates, especially in the event Qwest returns to traditional regulation if for some reason a renewed Price Cap Plan cannot be approved. It does not appear that the amount of discovery in this request is out of line with a traditional rate case.

IT IS THEREFORE ORDERED that the schedule established in our June 30, 2004 Procedural Order shall be modified as follows:

- Staff and Intervenor direct testimony: November 18, 2004
- Qwest rebuttal testimony: December 20, 2004
- Staff and Intervenor surrebuttal testimony: January 12, 2005
- Qwest rejoinder testimony: January 27, 2005
- Pre-hearing conference: February 3, 2005 (1:30 p.m.)
- Hearing: February 10, 2005 (10:00 a.m.)

IT IS FURTHER ORDERED that Qwest’s Motion for the Imposition of Discovery Limitations on Staff is denied.
DOCKET NO. T-01051B-03-0454 ET AL.

IT IS FURTHER ORDERED that no data requests shall be served after January 31, 2005.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized Communications) applies to this proceeding as the matter is now set for public hearing.

DATED this 13th day of October, 2004.

JANET L. RODDA
ADMINISTRATIVE LAW JUDGE

Copy of the foregoing mailed/delivered this 13th day of October, to:

TIMOTHY BERG
TERESA DWYER
FENNEMORE CRAIG, P.C.
3003 NORTH CENTRAL AVE., SUITE 2600
PHOENIX, ARIZONA 85012-2913
ATTORNEYS FOR QWEST CORPORATION

TODD LUNDY
QWEST LAW DEPARTMENT
1801 CALIFORNIA STREET
DENVER, COLORADO 80202

SCOTT S. WAKEFIELD, CHIEF COUNSEL
RUOCO
1110 WEST WASHINGTON, SUITE 220
PHOENIX, ARIZONA 85007

RICHARD S. WOLTERS
AT&T LAW DEPARTMENT
1875 LAWRENCE STREET, SUITE 1503
DENVER, CO 80202

JOAN S. BURKE
OSBORN MALEDON, P.A.
2929 NORTH CENTRAL AVENUE, SUITE 2100
PHOENIX, ARIZONA 85012-2794
ATTORNEYS FOR AT&T

THOMAS F. DIXON
WORLDCOM, INC.
707 17TH STREET, 39TH FLOOR
DENVER, COLORADO 80202

THOMAS H. CAMPBELL
MICHAEL T. HALLAM
LEWIS AND ROCA
40 N. CENTRAL AVENUE
PHOENIX, ARIZONA 85004
ATTORNEYS FOR WORLDCOM, INC.

MICHAEL W. PATTEN
ROSHKA HEYMAN & DEWULF PLC
400 EAST VAN BUREN STREET, SUITE 800
PHOENIX, ARIZONA 85004

MARK A. DINUNZIO
COX ARIZONA TELCOM, LLC
20401 NORTH 29th AVENUE
PHOENIX, ARIZONA 85027

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 MAJOORS O'CONNOR & LEE, INC.
1220 L STREET N.W., SUITE 410
WASHINGTON, DC 20005

MARTIN A. ARONSON, ESQ.
MORRILL &ARONSON PLC
ONE E. CAMELBACK, SUITE 340
PHOENIX, AZ 85012-1648
ATTORNEYS FOR ARIZONA DIALTONE, INC.
BRIAN THOMAS  
VICE PRESIDENT REGULATORY  
TIME WARNER TELECOM, INC.  
223 TAYLOR AVENUE NORTH  
SEATTLE, WASHINGTON 98109  

WALTER W. MEEK, PRESIDENT  
ARIZONA UTILITY INVESTORS ASSOCIATION  
2100 N. CENTRAL AVENUE, SUITE 210  
PHOENIX, AZ 85004  

ERNEST G. JOHNSON, DIRECTOR  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION  
1200 WEST WASHINGTON STREET  
PHOENIX, AZ 85007  

DOCKET NO. T-01051B-03-0454 ET AL.  

CHRISTOPHER KEMPLEY, CHIEF COUNSEL  
ARIZONA CORPORATION COMMISSION  
LEGAL DIVISION  
1200 WEST WASHINGTON  
PHOENIX, AZ 85007  

ARIZONA REPORTING SERVICE  
2627 N. Third Street, Ste. Three  
Phoenix, AZ 85004-1003  

By:  
Molly Johnson  
Secretary to Jane Rodda