IN THE MATTER OF INVESTIGATION INTO U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH CERTAIN WHOLESALE PRICING REQUIREMENTS FOR UNBUNDLED NETWORK ELEMENTS AND RESALE DISCOUNTS)

COMMISSION STAFF’S MOTION TO CONSOLIDATE DOCKETS AND RESPONSE TO COX ARIZONA TELCOM'S MOTION TO COMMENCE PHASE III OF THE QWEST UNE PRICING DOCKET

On February 26, 2007, Cox Arizona Telcom ("Cox") filed a Motion to Commence Phase III of this Docket. Cox asks the Commission to consider conducting an initial Phase IIIA to address only the UNE rates identified by Cox in its Motion, reserving other unresolved UNE rates for a subsequent "phase" of "Phase III." The UNE rates identified by Cox in its Motion are non-recurring charges for "on premises wire" sub-loops, both for dispatch and non-dispatch circumstances, and a non-recurring charge for intra-building cable sub-loop. Cox believes that the UNE rates it has identified need to be resolved by the Commission for purposes of the Qwest-Cox Complaint Docket. Qwest Corporation ("Qwest") filed a response on March 12, 2007, stating that "[t]he questions are whether the Phase III Cost Docket should be opened immediately and whether certain UNE rates should be addressed first if that occurs." In any event, according to Qwest, such a proceeding should not be an impediment to the prompt resolution of Qwest's complaint against Cox in Docket Nos. T-01051B-06-0045 and T-03471A-06-0045.

In general terms, Staff supports Cox's Motion to commence Phase III of this Docket. There are several outstanding rate issues that are in need of the Commission's review and approval. However, Staff believes that Phase III should address all outstanding UNE rate issues; and should not

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1 See Cox Motion at p. 3.
2 Id. at 2.
4 Qwest Response at p. 1.
5 See Qwest Response at p. 2.
be limited to only those network elements at issue in Qwest's complaint against Cox. Other UNE
rates need to be addressed in addition to premises wire and intra-building cable sub-loop non-
recurring charges. Outstanding UNE rate issues have been raised in several other recent dockets and
it would make sense to address those at the same time that the non-recurring charges for on premises
wire and intra-building cable sub-loop are addressed.

For instance, in the Qwest-Eschelon Complaint Docket\(^6\), the issue of permanent rates for
expedites has been raised as needing to be addressed by the Commission. In the Qwest-Eschelon
Arbitration Docket,\(^7\) a host of rate issues has been identified by the parties as needing to be addressed
by the Commission. The Commission has in the past utilized a generic wholesale cost proceeding to
resolve Section 251 and 252 rate issues since all CLECs will be impacted by any rates the
Commission sets and in a generic docket they can all participate in the determination of rates. In
contrast, resolving those issues in the context of an individual company arbitration, does not ensure
the broad participation from other industry members that is likely in a generic docket.

There are still other outstanding wholesale rate issues which should be addressed in Phase III
of this Docket. In the Qwest-Covad Arbitration Proceeding\(^8\), the Commission ordered that a Phase II
commence within 30 days for the purpose of setting rates for Section 271 network elements. In its
Staff Report on this issue, the Utilities Division recommended that Phase II of the Qwest-Covad
Arbitration Proceeding be deferred until Phase III of this Docket commenced and that Phase II of the
Qwest-Covad Arbitration Proceeding be consolidated into this Docket, which would give all CLECs
an opportunity to provide input into the development of rates for Section 271 network elements.

There are likely other outstanding wholesale rates issues which need to be addressed as well.
At the time it entered its Phase II Order in this Docket, the Commission acknowledged this:

to the extent that issues are not addressed by the Decision, such issues
are deferred to Phase III of this proceeding.....For new services
proposed by Qwest with a new rate that has not been reviewed and
approved by the Commission, the interim rate shall be no more than the

\(^6\) In the Matter of the Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation, Docket Nos. T-
03406A-06-0257 and T-01051B-06-0257.
\(^7\) In the Matter of the Petition of Eschelon Telecom of Arizona, Inc. for Arbitration with Qwest Corporation, Pursuant to
06-0572.
\(^8\) In the Matter of the Petition of DIECA Communications, Inc., dba Covad Communications Company for Arbitration of
rate Qwest has proposed. Such ‘interim’ rates shall be subject to a ‘true-up’ and refund once permanent rates are established in Phase III.

Qwest has likely included other rates in its Statement of Generally Available Terms and Conditions ("SGAT") which have not yet been reviewed and approved by the Commission. These rates should also be addressed in Phase III.

Staff recommends that the Commission immediately schedule a procedural conference to discuss the scope of Phase III and to obtain comment on Staff’s proposed procedural schedule which follows:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>Procedural Conference</td>
<td>4/16/07</td>
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<tr>
<td>Qwest Initial Testimony</td>
<td>5/21/07</td>
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<tr>
<td>And Cost Studies</td>
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<tr>
<td>Staff and Intervenor Testimony</td>
<td>8/20/07</td>
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<tr>
<td>Qwest Rebuttal Testimony</td>
<td>9/19/07</td>
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<td>Staff and Intervenor Surrebuttal Testimony</td>
<td>11/2/07</td>
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<tr>
<td>Qwest Rejoinder Testimony</td>
<td>11/16/07</td>
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<tr>
<td>Hearing</td>
<td>11/26/07</td>
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WHEREFORE, the Staff respectfully requests that the Commission grant Staff’s motion to consolidate dockets and convene a procedural conference to discuss the scope of this docket and Staff’s proposed procedural schedule.

RESPECTFULLY SUBMITTED this 3rd day of April, 2007.

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