Pursuant to Ariz. Adm. Code R14-3-111, AT&T Communications of the Mountain States, Inc. ("AT&T") requests reconsideration of the Arizona Corporation Commission’s ("Commission") Order and Opinion, Decision No. 62753.

The Commission entered an order on July 25, 2000, adopting U S WEST Communications, Inc.’s ("U S WEST ") proposed methodology for establishing deaveraged rates for the unbundled loop. However, the Commission used U S WEST’s current retail zones, instead of the zones proposed in U S WEST’s current rate case. The rates are subject to true-up, and the competitive local exchange carriers ("CLECs") may ultimately collect interest.

The rates adopted are not compliant with Section 252 of the Telecommunications Act of 1996 ("Act") or the Federal Communications Commission’s ("FCC") orders and rules. The rates will not promote residential or business competition, as contemplated by the Act. In fact, the explicit purpose for adopting U S WEST’s rates is to continue to delay competition for residential telecommunications customers in Arizona.
U S WEST has not taken issue with AT&T's statements contained in AT&T's brief that the rates include implicit subsidies. Nor did U S WEST take issue with similar statements made by AT&T at the open meeting before the Commission. TR 26-28 (July 18, 2000). In fact, U S WEST witness testified that the rates contain implicit subsidies to subsidize retail services. Million Direct at 17-18. The Administrative Law Judge stated that "the order acknowledges that [the ACC] need[s] to go to more cost based rates." TR 28.

Furthermore, the Opinion and Order finds (at paragraph 19) that "Staff and AT&T presented plans that reflect costs better than U S WEST's proposal." Although no party has taken issue with the fact that the deaveraged unbundled loop rates adopted contain explicit subsidies, the Commission has ignored FCC orders and rules and court decisions\(^1\) that prohibit the inclusion of implicit subsidies to support universal service in rates for unbundled network elements ("UNEs").

More recently, the Eighth Circuit Court of Appeals held that "the costs of universal service subsidies should not be included in the costs of providing the network elements."

\textit{Iowa Utilities Bd. v. FCC}, No. 96-3321, slip op. 13 (July 18, 2000 8\textsuperscript{th} Cir.). In essence, in an attempt to comply with a FCC rule requiring that rates for UNEs be deaveraged, the Commission is violating another FCC rule that specifically prohibits the recovery of universal service subsidies in rates for the very same UNEs, even on an interim basis. The FCC has explicitly stated that "[s]tates may not . . . include universal service support funding

in rates for elements or services pursuant to Sections 251 and 252, nor may they implement mechanisms that have the same effect.\textsuperscript{2}

The Decision states that the deaveraged loop rate is an interim rate and that it is subject to refund, and possibly interest, at the time permanent rates are established in Phase II of the proceeding. The problem inherent in a refund mechanism is that between the time that the interim rates are set and permanent rates are established, competition is precluded in many areas and for certain classes of customers. Therefore, establishing interim rates subject to a refund by itself is a necessary but inadequate solution. Paying interest does not resolve this problem. No reasonable businessman is going to invest millions of dollars on a bet that the Commission will set future rates that are cost-based and promote competition. This Commission has had two opportunities to establish cost-based UNE rates and both times the rates authorized by the Commission preclude local residential telecommunications competition and violate legal decisions interpreting the Commission’s obligations under the Act.

The methodology or mechanism adopted by the Opinion and Order, by U S WEST’s own admission, is intended to recover implicit universal service subsidies. Because the Commission allows U S WEST to recover implicit universal service subsidies in rates for UNEs, the rates are contrary to FCC rules, federal court decisions and Section 252 of the Telecommunications Act of 1996. Simply stated, the rates are unlawful.

AT&T respectfully requests that the Commission reconsider the Decision and adopt AT&T’s proposed deaveraged rates for the unbundled loop and its five zones.

\textsuperscript{2} In \textit{Local Competition Order}, ¶ 713.
Dated submitted this 27th day of July, 2000.

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.

By: [Signature]

Mary B. Tribby
Richard S. Wolters
1875 Lawrence Street, #1500
Denver, Colorado 80202
303-298-6741
CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of AT&T Communications of the Mountain States, Inc.'s Request for Reconsideration in Docket No. T-00000A-00-0194 were sent by overnight delivery on this 27th day of July, 2000 to:

Arizona Corporation Commission
Docket Control - Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

and a true and correct copy was sent by overnight delivery on this 27th day of July, 2000 to:

Carl J. Kunasek, Chairman
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Jerry Porter
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

James M. Irvin, Commissioner
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Patrick Black
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

William A. Mundell, Commissioner
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Hercules Alexander Dellas
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Lyn Farmer
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Deborah Scott
Director - Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Mr. Jerry L. Rudibaugh
Chief Hearing Officer
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007
and a true and correct copy was sent by United States Mail, postage prepaid, this 27th day of July, 2000, to:

Thomas Dethlefs  
Wendy M. Moser  
Qwest Corporation  
1801 California Street, Suite 5100  
Denver, CO 80202

Joan S. Burke  
Osborn Maledon, P.A.  
2929 North Central Avenue, 21st Floor  
P. O. Box 36379  
Phoenix, AZ 85067-6379

Richard L. Sallquist  
Sallquist & Drummond  
2525 E. Arizona Biltmore Circle  
Phoenix, AZ 85016

Thomas F. Dixon  
MCI WorldCom, Inc.  
707 17th Street, Suite 3900  
Denver, CO 80202

Peter A. Rohrback  
Mace J. Rosenstein  
Yaron Dori  
Hogan & Hartson, LLP  
555 Thirteenth Street, NW  
Washington, DC 20004-1009

Daniel M. Waggoner  
Gregory T. Diamond  
Davis Wright Tremaine  
2600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101-1688

Drake Tempest  
Qwest Communications International, Inc.  
555 Seventeenth Street  
Denver, CO 80202

Maureen Arnold  
Qwest Corporation  
3033 North Third Street, Room 1010  
Phoenix, AZ 85012

Michael W. Patten  
Brown & Bain  
2901 N. Central Avenue, Suite 2000  
Phoenix, AZ 85012

Thomas H. Campbell  
Lewis and Roca, LLP  
40 North Central Avenue  
Phoenix, AZ 85004

Raymond S. Heyman  
Randall H. Warner  
Roshka Heyman & DeWulf, PLC  
Two Arizona Center, Suite 1000  
400 North 5th Street  
Phoenix, AZ 85004

Gregory Kopta  
Davis Wright Tremaine  
2600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101-1688

David R. Conn  
McLeodUSA Telecommunications Services  
6400 C Street, S.W.  
Cedar Rapids, IA 52406

Jon Poston  
Arizonans for Competition in Telephone Service  
6733 E. Dale Lane  
Cave Creek, AZ 85331-6561
Scott Wakefield  
Residential Utility Consumer Office  
2828 North Central Ave., #1200  
Phoenix, AZ 85004

Douglas Hsiao  
Rhythms Links, Inc.  
6933 S. Revere Parkway  
Englewood, CO 80112

Diane Bacon  
Communications Workers of America  
5818 N. 7th Street, Suite 206  
Phoenix, AZ 85014-5811

Rex M. Knowles  
Nextlink Communications, Inc.  
111 E. Broadway, Suite 1000  
Salt Lake City, UT 84111

Thomas W. Hartman  
SBC Telecom  
175 E. Houston Street, Room 1256  
San Antonio, TX 78205

Robert S. Tanner  
Davis Wright Tremaine  
17203 N. 42nd Street  
Phoenix, AZ 85032

Gary Yaquinto  
GST Telecom, Inc.  
3003 N. Central Avenue, Suite 1600  
Phoenix, AZ 85012

Brian Thomas  
GST Telecom, Inc.  
4001 Main Street  
Vancouver, WA 98663

Penny Bewick  
New Edge Networks, Inc.  
P. O. Box 5159  
3000 Columbia House Blvd., Suite 106  
Vancouver, WA 98668

Michael M. Grant  
Todd C. Wiley  
Gallagher & Kennedy, P.A.  
2575 E. Camelback Road  
Phoenix, AZ 85016-9225

W. Clay Deanhardt  
Covad Communications  
2330 Central Expressway  
Santa Clara, CA 95050

Timothy Peters  
Electric Lightwave, Inc.  
4400 N.E. 77th Avenue  
Vancouver, WA 98662

Darren S. Weingard  
Sprint Communications  
1850 Gateway Drive, 7th Floor  
San Mateo, CA 94404-2467

Elizabeth Howland, National Director  
Regulatory and Interconnection  
Allegiance Telecom, Inc.  
1950 Stemmons Freeway, Suite 3026  
Dallas, TX 75207-3118

W. Clay Deanhardt  
Covad Communications  
2330 Central Expressway  
Santa Clara, CA 95050

Kath Thomas  
Advanced Telecom Group, Inc.  
100 Stoney Point Road, Suite 130  
Santa Rosa, CA 95401
Jeffrey W. Crockett
Jeffrey B. Guldner
Snell & Wilmer LLP
One Arizona Center
Phoenix, AZ 85004-2202

Mary Steele
Davis Wright Tremaine
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

Timothy Berg
Fennemore Craig, P.C.
3003 North Central Avenue, Suite 2600
Phoenix, AZ 85012-2913

Steve Sager
McLeodUSA Telecommunications Services, Inc.
215 South State Street, 10th Floor
Salt Lake City, UT 84111

Gary L. Lane
6902 E. 1st Street, Suite 201
Scottsdale, AZ 85251

[Signature]