BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER

IN THE MATTER OF INVESTIGATION INTO
QWEST CORPORATION'S COMPLIANCE WITH
CERTAIN WHOLESALE PRICING
REQUIREMENTS FOR UNBUNDLED
NETWORK ELEMENTS AND RESALE
DISCOUNTS.

DOCKET NO. T-00000A-00-0194

PROCEDURAL ORDER

BY THE COMMISSION:

Our Procedural Order dated August 21, 2000, established procedural guidelines for Phase II of this proceeding. The August 21, 2000 Procedural Order ordered that Phase II shall be a consolidated arbitration “regarding rates for unbundled network elements and interconnection, including the high frequency portion of the loop and the unbundling of network elements in the UNE Remand Order, inter-carrier reciprocal compensation structure, wholesale discount rates, and permanent geographically deaveraged UNE and other wholesale rates.” The Procedural Order also provided that Phase II shall address the “cost and non-cost provisions contained in Qwest’s revised SGAT for compliance with the 1996 Act, recurring and non-recurring charges for purchasing combined network elements, charges for obtaining separate network elements and for combining them, and line sharing and its associated issues.”

On November 21, 2000, the Arizona Corporation Commission ("Commission) Utilities Division Staff ("Staff") filed a Motion for Clarification of Procedural Order and For Extension of the Deadline for Filing Testimony. Staff believed that the Commission intended Phase II to include a review of the present unbundled network element ("UNE") rates for compliance with the reinstated FCC pricing rules, but that such intent was unclear in the August 21, 2000 Procedural Order. In addition to clarification, Staff requested an extension of the date for filing direct testimony until after the date established for other intervenors to allow Staff the opportunity to consider the various proposals of other parties.

On November 28, 2000, WorldCom, Inc. ("Worldcom") filed a Response to Staff's Motion
agreeing that Phase II should include a review of present UNEs as well as other previously established prices.

On November 28, 2000, AT&T Communications of the Mountain States, Inc. ("AT&T") filed a Memorandum in Support of Staff’s Motion.

On December 5 and 6, 2000, respectively, Qwest filed a Response to Staff’s Motion and a Reply to Worldcom’s and ATT’s Response to Staff’s Motion. Pursuant to Procedural Order dated December 4, 2000, the parties presented their positions at a procedural conference on December 7, 2000. At the procedural conference, the Arbitrator stayed the current schedule for filing testimony pending a determination of the scope of the proceeding.

Qwest argued that Staff’s request to include a review of existing UNEs would undue the work of the previous cost docket that established those rates, would be wasteful and involve extensive additional testimony and be contrary to the public interest of giving finality to Commission Orders. In response to Staff’s claim that the Commission had never reviewed the existing UNE rates for compliance with the reinstated FCC pricing rules, Qwest argued that the UNEs established in Decision No. 60635 were based on the FCC’s cost-based pricing rules.

Staff argued that because the FCC rules were stayed at the time the Commission initially set Qwest’s UNE rates, and later reinstated, the Commission must at some time find that Qwest’s UNE rates comply with the reinstated FCC rules. Further, Staff and Worldcom claimed such review is necessary for Qwest to obtain Section 271 authority. Worldcom, AT&T and Staff noted that statements made at the open meetings when the UNE and the interim geographically de-averaged rates were established, indicate it was the Commission’s intent to reevaluate the UNE rates within a reasonable amount of time.

Z-Tel Communication, Inc. ("Z-Tel"), Sprint Communications Co. and Rhythms Links, Inc. joined in Staff’s request that Phase II include a review of current UNE rates. Z-Tel requested in particular that Phase II also include unbundled local switching, or at a minimum that Phase II include all SGAT prices not previously set.

It appears that the Commission has not itself determined that the UNE rates it set in Decision No. 60635 comply with FCC pricing rules. Phase II of this proceeding is the proper time to perform
such review. It does not make sense to be establishing permanent geographically de-averaged UNE rates without such review. Staff’s request to file its testimony after it has had an opportunity to review the testimony of other parties is not unreasonable, however, we believe such schedule may be burdensome on Qwest.

IT IS THEREFORE ORDERED that the Phase II proceeding shall include a review of current rates for unbundled network elements and interconnections.

IT IS FURTHER ORDERED that the parties shall confer and submit a proposed schedule for filing testimony and for a proposed arbitration date. In developing a schedule for pre-filed testimony, the parties may consider Staff’s request for filing testimony after other intervenors, however, Qwest is not required to commit to filing multiple rebuttal or rejoinder filings.

IT IS FURTHER ORDERED that the Arbitrator(s) may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at arbitration.

DATED this 11th day of December, 2000.

JANE L. RODDA
ARBITRATOR

Copies of the foregoing mailed/delivered this 11th day of December, 2000 to:

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