BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER

Docket No: T-00000A-00-0194

RESPONSE OF WORLDCOM, INC. TO QWEST CORPORATION'S MOTION FOR RECONSIDERATION

WorldCom, Inc., on behalf of its regulated subsidiaries, ("WCom") concurs in the Response of AT&T Communications of the Mountain States, Inc. ("AT&T") to the Motion for Reconsideration filed by Qwest Corporation ("Qwest"). In its motion for reconsideration, Qwest has requested the Administrative Law Judge to reverse a determination that this proceeding should include a review of unbundled network element ("UNE") rates set by the Commission in 1997. In support of its motion for reconsideration, Qwest basically repeats both its earlier written and oral arguments made in response to Staff's Motion for Clarification. WCom will not repeat its arguments.
contained in its response to Staff’s Motion for Clarification; however, WCom incorporates
its earlier arguments by reference here.

Qwest’s arguments presented in Section II of its motion for reconsideration contain
no new information to cause the Administrative Law Judge to reverse her ruling. Qwest
argues here and argued earlier in writing and during its oral presentation that: 1.) its
existing rates were TELRIC-based citing to language found in this Commission’s Decision
60635 (See Transcript, December 7, 2000, P. 29, L. 19 through P.32, L.22); 2.) Staff
defended those rates as TELRIC-based before the United States District Court for the
District of Arizona (See Transcript, December 7, 2000, P. 32, L. 23 through P. 36, L. 16);
3.) Verizon’s rates in Massachusetts did not present any justification to revisit UNE rates
in Arizona (See Transcript, December 7, 2000, P. 37, L. 6 through P. 39, L. 15); 4.) rates
throughout Qwest’s region are comparable to the UNE rates in Arizona (See Transcript,
December 7, 2000, P. 38, Ls. 4 through 17), and; 5.) the United States District Court in
Colorado has found Qwest’s UNE rates in Colorado to explicitly follow TELRIC
principles (See Transcript, December 7, 2000, P. 38, L. 13 through P. 39, L. 9). These
arguments from Qwest are not new and do not support a reversal of the earlier ruling, just
as these arguments were not sufficient to defeat Staff’s position in its motion for
clarification.

Also, Qwest argues that revisiting UNE rates will significantly expand the scope of
Phase II and delay completion of this proceeding. This is not correct. As is evident from
Staff’s motion for clarification, the issue in Staff’s motion was whether this case already
was intended to include a review of existing UNE rates, as was supported by AT&T and
WCom in their response to Staff’s motion for clarification. Staff, WCom, and AT&T
believed that the proceeding was established to, among other things, review existing UNE
rates. Staff’s motion to clarify was in response to the fact that Qwest had failed to file any
testimony addressing the existing prices established by the Commission primarily in 1997
and early 1998. Therefore, the Administrative Law Judge’s ruling did not expand the
scope of the docket. This argument also is not new and was raised earlier by Qwest in its response to Staff’s motion for clarification.

No party objected to the fact that Qwest would have to file additional testimony and exhibits to support its existing rates. WCom wishes to set all relevant rates as soon as possible; however, those rates must be set correctly. WCom is willing to accept this delay. Again, Qwest certainly advised the Administrative Law Judge in its earlier arguments that it would need additional time to file testimony addressing existing rates, so this argument also is not a new argument to support a reversal of the Administrative Law Judge’s ruling. Some delay will be inevitable.

Finally, Qwest proposes the Administrative Law Judge adopt an approach whereby the intervenors have the burden of proving that the existing rates are non-compliant with TELRIC principles. This proposal simply ignores the Administrative Law Judge’s finding that this Commission had failed to determine whether the existing rates comply with pricing rules of the Federal Communications Commission. She, therefore, correctly determined that Qwest would have the burden of proving that existing rates are TELRIC-compliant. Qwest proposes that the existing rates be presumed TELRIC-compliant when the Administrative Law Judge correctly determined that whether the rates are TELRIC-compliant is a factual matter yet to be determined. Qwest has always had the burden of proving its rates are just and reasonable. While adopting Qwest’s approach might appear to be a convenient compromise to the Administrative Law Judge’s ruling, Qwest’s proposal improperly shifts that burden of proof. In Colorado, the Hearing Commissioner found Qwest’s rates to follow “FCC-mandated TELRIC principles.” That is not the case here. Such a finding has not been made in Arizona. While Qwest may argue that the pending Colorado and Arizona cases are substantially similar, the absence of a similar finding to that made by the Colorado Hearing Commissioner, and more correctly the fact
that the Administrative Law Judge here found that there has been no finding that Qwest’s Arizona rates are TELRIC compliant, make the two cases very different conceptually.

WHEREFORE, WCom requests the Administrative Law Judge deny Qwest’s motion for reconsideration for the reasons stated.

RESPECTFULLY SUBMITTED this 22nd day January, 2001.

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