September 20, 2001

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

RE: ACC Docket No. T-00000A-00-0194

Dear Sir or Madam:

Please find enclosed an original and ten copies of the Reply Brief of Sprint Communications Company L.P. in the above-referenced docket. Please do not hesitate to contact me should you have any questions in this regard.

Sincerely,

[Signature]
Eric S. Heath

Enclosures

cc: File
REPLY BRIEF OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint") submits this Reply Brief in the above-captioned matter to the Arizona Corporation Commission ("Commission") for its consideration.

I. INTRODUCTION

The Commission should not be misled by Qwest Corporation's ("Qwest") representations as to the abilities of its Integrated Cost Model ("ICM"), the inputs to the ICM, or the studies from which it derived these inputs to produce costs which are forward-looking, and otherwise in compliance with the Federal Communications Commission's ("FCC") TELRIC standard.\(^1\)

Instead, Sprint urges the Commission to evaluate Qwest's case before it in the record here with skepticism, particularly in light of the very real and concrete evidence of recently-approved

TELRIC costs and prices of Sprint’s affiliated incumbent local exchange carriers (“ILECs”) in Nevada and North Carolina. Qwest has failed to support its assertions that its ICM or the inputs to the cost model reflect a truly forward-looking network. In fact, as noted in Sprint’s Initial Brief, many of Qwest’s underlying assumptions fail to meet forward-looking design criteria at all.

II. SPRINT – NV’S AND SPRINT – NC’S APPROVED TELRIC COSTS ARE VALID BENCHMARKS FOR THE COMMISSION TO CONSIDER IN EVALUATING QWEST’S PROPOSED COSTS

Despite Qwest’s arguments to the contrary, Sprint’s ILEC operations in Nevada and North Carolina provide the Commission with valid comparisons of both loop costs, loop conditioning costs and costs related to collocation. Sprint of Nevada’s (“Sprint – NV”) and Carolina Telephone and Telegraph Company’s (“Sprint – NC”) costs as approved by their respective state commissions are all substantially lower than those proposed by Qwest. Qwest’s greater ability to achieve economies of scale due to its large size should be sufficient to lower its costs to a level below those of any of Sprint’s affiliated ILECs. Nonetheless, Qwest continues to explain away the much higher costs produced by its ICM with references to the high costs of serving its rural territory and does not address the infirmities in its case in light of the real-world comparison offered by Sprint.

In addition to the fact that both Sprint – NV and Qwest are ILECs in neighboring states, Qwest cannot avoid the very pertinent comparisons between its Arizona serving territory (particularly Density Groups 1 and 2 in Phoenix and Tempe) and Sprint’s Nevada territory (particularly Zones 1 and 2 in Las Vegas) with regard to loop costs. As Sprint testified and argued in its Initial Brief, the difference between in loop costs between Sprint’s Las Vegas Zones 1 and 2 ($9.98 and $11.57, respectively, with a Zone 1 and 2 average of $10.77) and Qwest’s
Density Groups 1 and 2 in Arizona ($16.89 and $22.58, respectively, with a Density Group 1 and 2 average of $21.40) is simply too large to explain for such similarly-situated serving territories.\(^2\)

Further, despite Qwest’s assertions to the contrary, Sprint – NV’s Las Vegas area shares many attributes of Qwest’s Phoenix/Tempe serving area: both are predominantly urban, with extensive suburban development; and both are among the fastest growing cities in the United States.\(^3\)

Qwest’s attempt to justify its higher loop costs by arguing that Sprint – NV’s serving territory is more urban than Qwest’s fails because deaveraging costs according to access line density will reflect the actual cost of providing loops in a given area – regardless of the size of the territory. Qwest has made no showing that its Density Groups 1 or 2 are any less dense in a given area than Sprint – NV’s Zones 1 and 2. Even if Sprint’s densest zone contains twice the number of access lines as Qwest’s densest zone due to its greater area, deaveraging will account for serving area size differences. In fact, Mr. Farrar’s comparison of loop costs focuses on both companies’ densest areas – Qwest’s Density Groups, 1 and 2 and Sprint – NV’s Zones 1 and 2, and shows that even on a deaveraged basis Qwest’s proposed loop costs are so unreasonably high as to preclude any possible compliance with the TELRIC standard. Therefore, any explanation that Sprint – NV’s costs are lower than Qwest’s due to Sprint – NV’s allegedly more urban territory is disingenuous and ignores reality.

Accordingly, the Commission should look to Sprint’s ILEC costs offered in this matter as a valid benchmark against which to measure Qwest’s proposals for unbundled network element (“UNE”) loop costs.

\(^2\) Sprint Initial Brief at 6; Sprint Exhibit 4 at 2.
\(^3\) Qwest Exhibit 35 at 10.
III. QWEST'S ARGUMENT THAT SPRINT OPPOSED A $14.46 LOOP PRICE IS A RED HERRING

Qwest's argument that Sprint's representation that it supported the settlement of loop costs in the Nevada proceeding resulting in a $9.98 loop rate in Zone 1 is undermined by its opposition to a $14.46 rate proposed by AT&T noted in the order approving the settlement misconstrues the facts.

Just as Qwest expects the Commission to consider the "whole picture" regarding its costs to provide UNE loops to wholesale purchasers, so too should the Commission appreciate the magnitude of the record and complexity of the decisions reached in the Nevada cost proceeding. Counsel for Qwest questioned Sprint witness Randy Farrar on only a handful of references out of the Nevada PUC Order approving a settlement cost structure where the Commission notes that Sprint did, in fact oppose a $14.46 loop rate proposed by AT&T. Not surprisingly, Qwest's questions of Mr. Farrar ignored whether the AT&T-proposed $14.46 was an average or a zone-specific proposal and confuses the true context of the rate settlement in the Nevada cost docket, instead focusing only on Sprint - NV’s opposition to the HAI model.

However, as Mr. Farrar testified, the Nevada cost proceeding involved multiple cost models and multiple sets of cost model inputs over which extensive disputes continued for a number of years. And, although not apparent from the reference in the order used during Mr. Farrar's cross examination, the final $9.98 settlement Zone 1 loop cost differed from Sprint's initial proposal by less than $1. Obviously, Qwest counsel's reference to Sprint - NV’s opposition to the $14.46 neither reflects the outcome of the proceeding nor the methodology by which the Nevada Commission reached its result. Sprint submits that the Commission should

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4 TR. at 1739-47.
5 TR. at 1744. See also, Sprint's Initial Brief at 6.
6 TR. at 1743-44. See also, Qwest Exhibit 35.
consult the extensive public record of the Nevada cost proceeding to the extent it deems necessary.

IV. QUEST’S COST STUDIES AND ICM UNNECESSARILY INCREASE CLEC COSTS BY INCLUDING NON FORWARD-LOOKING ASSUMPTIONS AND NOT RECOGNIZING EXISTING NETWORK EFFICIENCIES.

A. Loop Costs –

As noted above and in Sprint’s Initial Brief, Qwest’s loop costs, particularly for its Density Groups 1 and 2 far exceed Sprint – NV’s loop costs for the same density groups (Sprint’s Zones 1 and 2). This disparity is only explainable by examining some of the underlying assumptions in Qwest’s cost studies, including the wholly unsupported 3-pair/household assumption for Density Groups 3 and 4. Qwest’s justifies this excessive allocation of distribution plant only by arguing that adding distribution at a later date will be less costly if it puts extra copper into the ground now and that this excessive investment will help Qwest comply with the Commission’s policy against held orders. Interestingly, Qwest fails to provide any indication that demand for multiple lines (two or more) per household has or ever will materialize. A showing to this effect is particularly necessary in the present environment in Arizona where Qwest is rolling out its own DSL service which “rides” the same loop as Qwest’s voice service and other broadband providers are providing consumers with cable modem access to high speed internet access, thereby obviating the need for additional lines to “surf the web.”

As for Qwest’s justification that held orders will be reduced by excessive investment in distribution plant, Sprint does not dispute this side benefit, but notes ironically that competitive local exchange carriers (“CLECs”) and other wholesale purchasers of Qwest’s network will end

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7 Qwest Initial Brief at 37.
up paying for service improvements that should already be in place in a forward-looking network. Additionally, to the extent the held order problem extends to Qwest’s retail customers, Sprint notes that Qwest would finance its own further entrenchment into the local market with CLEC dollars.

Qwest’s arguments that it should be allowed to recover a positive price for the high frequency portion of the loop (“HFPL”) are unsupportable and rely on the erroneous assumption that the HFPL represents a “valuable piece of property,” a characterization that significantly overstates the nature of the value of the HFPL by ignoring important economic constraints such as severe constraints on alienability, and correspondingly overstates the implications of the U.S. Constitution’s prohibition against takings without just compensation. Although Qwest argues that a competitive firm would give away a valuable “asset” like the HFPL without expecting something in return, Sprint submits that this argument does not provide a cost basis for Qwest’s proposed charge for access to the HFPL and fails to explain why the HFPL is not merely a loop enhancement like a vertical features. This makes it clear that Qwest believes that it should be compensated for the profit it would have received from the sale of DSL-based services, but for the fact that the customer choose to purchase DSL-based service from a competitor – an untenable position in a competitive environment.

Because Qwest cannot claim that access to the HFPL creates a loop cost, Qwest must focus on the asset value of that access. In so doing, Qwest proposes a charge to replace the profit that Qwest could have generated with that asset, were it not for the requirement to allow competitive access. However, this loss of profit occasioned by allowing competitive access is a

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8 Qwest Initial Brief at 97.
private “opportunity cost” to a monopolist, but not a cost to society as a whole. The essence of this opportunity cost argument is that providing access to a competitor will cause Qwest a loss of profit from end users, and this loss of profit amounts to an “opportunity cost.” The FCC, however, after extensive comment and analysis, specifically rejected “opportunity cost” pricing for UNEs at paragraphs 708 and 709 of the Local Competition First Report and Order. Therefore, the Commission must not approve a positive price for the HFPL.

B. Loop Conditioning Costs –

Although Qwest points out that Sprint (among others) agrees that it should be allowed to charge for loop conditioning, it fails to adequately address the primary problem with its loop conditioning charges: they are unjustifiably high and discriminate against CLECs. Qwest argues that it already gives CLECs the ability to capitalize on economies of scale by providing up to 25 conditioned loops for the price of $652.83, but admits that it has no clue as to how many loops CLECs order at any one time or out of any given central office or binder group where such economies might be recognized.

Qwest also fails to justify how its $652.83 provides a cost-based conditioning charge for CLECs that order only one or two loops out of a particular binder group at any given time. This $652.83 has a disparate impact on CLECs who must pay the whole amount regardless of the number of loops it requires in a location, while simultaneously allowing Qwest to reap the benefit of additional conditioned loops made available to it with the CLEC’s $652.83. In addition, Qwest has made no showing that its own costs for conditioning loops are anywhere

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9 Local Competition First Report and Order.
10 Qwest Initial Brief at 82-3.
11 Qwest Initial Brief at 82.
12 TR. 743 (Million Cross Examination); TR. 899 (Torrence Cross Examination).
near the $652.83 that CLECs must pay. Therefore, it is clear that Qwest’s loop conditioning charges unjustly discriminate against CLECs and cannot be considered TELRIC-based.

Sprint notes with interest that Qwest fails to justify the significant cost differential between Qwest’s proposed $652.83 and Sprint – NC’s $38.51 for loops under 18,000 feet presented in Sprint’s testimony. Sprint urges the Commission to look to Sprint – NC’s costs for loop conditioning as a reasonable, forward-looking and pro-competitive mechanism of recovering these costs. In contrast to Qwest’s proposed $652.83 for loop conditioning regardless of the quantity of loops, loop length or plant mix involved in the conditioning, Sprint’s costs reflect all of these factors as they occur in the field.\textsuperscript{13} Further, Sprint notes with interest that Qwest requests the Commission consider its varied plant placement methods and technologies while determining costs, yet it ignores these distinctions in plant mix when proposing loop conditioning costs.

C. Collocation Costs –

In addition to the observation above regarding Qwest’s inconsistent treatment of different cost factors related to plant mix, Sprint notes that this same inconsistency plays itself out with regard to Qwest’s collocation costs, in particular its power costs, which do not reflect the considerably greater amperage available in the central offices where CLECs will be collocating. As noted in its Initial Brief, Qwest’s assumption of a 1000 amp power plant in all of its central offices neither represents Qwest’s existing network architecture nor a forward-looking one.\textsuperscript{14}

\textsuperscript{13} Sprint Initial Brief at 11; Sprint Exhibit 4 at RGF 3.
\textsuperscript{14} Sprint Initial Brief at 13.
V. REPLY TO QWEST’S RESPONSE TO SPRINT’S MOTION TO STRIKE CERTAIN TESTIMONY OF QWEST WITNESS GARRETT FLEMING

On August 16, 2001, Sprint filed its Motion to Strike certain testimony of Garrett Fleming due to inconsistencies between what Mr. Fleming stated while on the witness stand and Qwest’s actual practices and procedures. In the event the Commission decides not to strike the fairly limited amount of testimony requested by Sprint, Sprint requested the Commission admit the attached affidavit of David E. Stahly into the record as a rebuttal to Mr. Fleming’s statements.\(^1\)

Having reviewed Qwest’s Response to Sprint’s Motion, Sprint maintains that Mr. Fleming’s testimony on the stand was incorrect with regard to Qwest’s practice of charging CLECs for actual power used. However, in light of Qwest’s Response and its apparent willingness to allow Mr. Stahly’s affidavit into the record on this issue, Sprint is willing to withdraw its Motion to Strike if the Commission in fact admits Mr. Stahly’s affidavit into evidence.

In contrast to Mr. Fleming’s statements, Qwest does not bill CLECs for the actual power usage over 60 amps. As Mr. Fleming stated:

> The reason the cost on the under 60 amp is one half the cost on the over 60 amp is that on over 60 amp we go back to the power board. That gives us the ability to measure actual usage in amps, so we try to charge actual usage as opposed to the total amount ordered. On under 60 amps, we have cut the cost in half on the assumption that they would only use half of the power that can be carried by a 40-amp feed. So what you’re seeing is that the cost is one half per amp to take into account that they won’t use all the amps on the first feed.\(^2\)

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\(^{1}\) Sprint Motion to Strike at 5.

\(^{2}\) TR. at 448.
As demonstrated by Mr. Stahly’s affidavit, Mr. Fleming’s statement is incorrect because Qwest does not measure power usage at any level, and instead charges CLECs per amp ordered regardless of whether the CLEC’s power cable is fed from the central office’s power board or the BDFB.

Sprint’s primary concern is that the Commission have an accurate record before it on which base it’s decisions. Sprint requests the Commission permit Mr. Stahly’s affidavit and its attachments into record for clarification purposes because Mr. Fleming’s statements have been offered to support Qwest’s proposal to charge two times as much for power over 60 amps. Because Sprint was unable to verify Mr. Fleming’s statement until after the close of the record in this matter, Sprint believes Mr. Stahly’s affidavit and its attachments offer the Commission relevant evidence that should be made part of the record. The Commission will certainly assign this information whatever weight it deems appropriate.

VI. CONCLUSION

In conclusion, Sprint submits that Qwest has failed to demonstrate that its proposed costs comply with the FCC’s TELRIC standard due to numerous erroneous assumptions and a failure to reflect existing network efficiencies in its case. Accordingly, Sprint respectfully urges the Commission to reject Qwest’s proposed costs and to require Qwest to incorporate the changes suggested by Sprint.

Dated this 20th day of September 2001 at San Francisco, California.

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CERTIFICATE OF SERVICE

I, KATHERINE M. McMATHON, hereby certify that I have this day served a true and correct copy of the "Reply Brief of Sprint Communications Company L.P." in Docket No. T-00000A-00-0194 via overnight delivery to Docket Control. The remaining parties of record have been served via U.S. Mail, postage prepaid, and email.

Dated this 20th day of September 2001 at San Francisco, California.

Katherine M. McMahon
Legal Analyst II