I. INTRODUCTION

For the second time this year, in this docket, Qwest has filed an unauthorized response to other parties exceptions. This occurred in January of 2002 when Qwest filed response comments to exceptions filed to the Recommended Opinion and Order ("RO&O") issued November 8, 2002. AT&T filed a motion to strike those response comments because this Commission's rules expressly prohibit replies to exceptions. If the Commission allows, as it did back in January 2002, other parties the same opportunity to file response comments (the only fair response to Qwest's disregard of the Commission's rules) the primary impact of Qwest's Combined Response Comments will be to delay the Commission's consideration of the RO&O. For these reasons, AT&T of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T") request that the Commission strike Qwest's Combined Response. In the alternative, AT&T requests an opportunity to file its own Response to Qwest's Exceptions.
II. DISCUSSION

On November 25, 2002, Qwest filed substantial exceptions to the RO&O. AT&T and other parties also filed exceptions to the RO&O. On Friday afternoon, December 6, 2002, Qwest filed what it termed a “Combined Response” to the exceptions of other parties. This filing was made one business day before the open meeting, giving no other party a reasonable opportunity to respond or object. The Commission’s rules do not permit one party to respond to the exceptions filed by another:

Any party to the proceeding may serve and file five copies of exceptions to the proposed order within ten days after service thereof. There shall be no reply to exceptions and the proposed order and any exceptions filed shall be submitted to the Commission for its consideration.

A.A.C. § 14-3-110B (emphasis added). Evidently, Qwest does not believe that it is bound by Commission rules or orders. This is a recurring problem. Permitting a response like this from Qwest necessarily has the effect of delaying the Commission’s considerations of the RO&O. The Commission should, therefore, reject Qwest’s Combined Response and strike it from the record in this proceeding.

If the Commission chooses to consider Qwest’s Combined Response, the Commission must permit other parties an opportunity to file responses to Qwest’s exceptions. AT&T and other parties have complied with the Commission’s rules and have not had an opportunity to file anything with the Commission demonstrating the deficiencies in Qwest’s exceptions. Although AT&T does not desire any further delay in the Commission’s consideration of the RO&O, fairness demands that if one party is provided an opportunity to respond, all parties must have the same opportunity. AT&T requests, therefore, that the Qwest Combined Response be striken.
by the Commission. In the alternative, AT&T requests that all parties be permitted to respond to Qwest's Exceptions by December 13, 2002, and further requests that the Commission place this matter on the December 17, 2002 open meeting agenda.

Dated this 9th day of December 9, 2002.

By

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CERTIFICATE OF SERVICE

I hereby certify that the original and 13 copies of Motion to Strike Qwest’s Combined Response to Exceptions or, in the Alternative, to Permit Response, regarding Docket No. T-00000A-00-0194, were hand delivered this 9th day of December, 2002, to:

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

and that a copy of the foregoing was hand-delivered this 9th day of December, 2002 to the following:

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and that a copy of the foregoing was sent via United States Mail, postage prepaid, on the 9th day of December, 2002 to the following:

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