BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER

MIKE GLEASON
COMMISSIONER

JEFF HATCH-MILLER
COMMISSIONER

In the Matter of Investigation into
US West Communications, Inc.'s
Compliance with Certain Wholesale
Pricing Requirements for Unbundled
Network Elements and Resale
Discounts

Docket No: T-00000A-00-0194

TIME WARNER TELECOM
OF ARIZONA'S POST-HEARING
BRIEF

Time Warner Telecom of Arizona ("TWTA") files this Post-Hearing Brief on the limited issue of whether the revised rate determined as a result of the expedited hearing should be effective as of June 12, 2002 or from the effective date of the Order adopting the revised rates. Time Warner submits that, in this case, it is appropriate for the revised rates to be retroactive to June 12, 2002.
As explained by Staff, Qwest failed to bill customers the new transport rates for approximately six months after the date of the Order approving these rates. See Dunkel Testimony, Transcript at 27:1-7. Neither Qwest nor the parties that do not utilize entrance facilities were aware of the dramatic impact of the new transport rates until these delayed billings were made. See Million Examination, Transcript at 85:5-6. Indeed, if Qwest had implemented the new rates promptly, the impact would have been detected and resolved promptly. See Dunkel Testimony, Transcript at 27:4-7.

In addition to Qwest's failure to promptly implement the new rates, it is also clear that the Commission did not intend in its Order, and Qwest did not expect, providers to pay for facilities that they did not need or use. See Million Examination, Transcript at 84:21-23; 85:5-6. Thus, as Qwest concedes, if the impact on providers that do not use entrance facilities was not intended by the Commission's Order, it is appropriate to make the revised rate retroactive to June 12, 2002. See Million Examination, Transcript at 82:17-20.

TWTA submits that, because Qwest failed to implement the new rates in a timely fashion and because none of the parties intended for providers to pay for entrance facilities that they do not use, it is appropriate for the Commission to exercise its powers pursuant to A.R.S. § 40-252 to make the revised rate retroactive to June 12, 2002.
RESPECTFULLY SUBMITTED this 30th day June, 2003.

LEWIS AND ROCA LLP

Michael T. Hallam
40 N. Central Avenue
Phoenix, Arizona 85004

Attorneys for Time Warner Telecom of Arizona

ORIGINAL AND thirteen (13) copies of the foregoing hand-delivered this 30th day of June, 2003, to:

Arizona Corporation Commission
Utilities Division – Docket Control
1200 W. Washington Street
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered this 30th day of June, 2003, to:

Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Maureen Scott
Legal Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Dwight D. Nodes
Assistant Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
COPY of the foregoing mailed
this 3rd day of June, 2003,
to:

Thomas M. Dethlefs, Senior Attorney
Qwest Communications
1801 California Avenue
Suite 5100
Denver, Colorado 80203

Timothy Berg
Fennemore Craig, P.C.
3003 N. Central Avenue
Suite 2600
Phoenix, Arizona 85012

Raymond Heyman
Michael Patten
Roshka Heyman & DeWulf
400 N. Fifth Street
Suite 1000
Phoenix, Arizona 85004-3906

Joan S. Burke
Osborn Maledon, P.A.
2929 N. Central Avenue
12th Floor
P.O. Box 36379
Phoenix, Arizona 85067-6379

Richard S. Wolters
Michael Singer Nelson
AT&T
1875 Lawrence Street
Suite 1575
Denver, CO 80202

Erick S. Heath, Esq.
Sprint Communications
100 Spear Street
Suite 930
San Francisco, CA 94105

Scott Wakefield
Residential Utility Consumer Office
1110 W. Washington Street
Suite 220
Phoenix, Arizona 85007
1. Michael Grant
   Todd Wiley
   Gallagher & Kennedy
   2575 E. Camelback Road
   Phoenix, Arizona 85016-9225

2. Mary E. Steele
   Greg Kopta
   Davis Wright Tremaine LLP
   2600 Century Square
   1501 Fourth Avenue
   Seattle, Washington 98101-1688

3. Charles White
   TNS Telecoms
   101 Greenwood Avenue
   Suite 502
   Jenkintown, PA 19046

4. Joyce B. Hundley
   United States Dept. of Justice
   Antitrust Division
   City Center Building
   1401 H. Street, NW
   Suite 8000
   Washington, DC 20530

5. Jeffrey W. Crockett
   Jeffrey B. Guldner
   Snell & Wilmer LLP
   One Arizona Center
   Phoenix, Arizona 85004-2202

6. Harry L. Pliskin
   Covad Communications Company
   7901 Lowry Boulevard
   Denver, Colorado 80230

7. Charles Best, Esq.
   Electric Lightwave, Inc.
   P.O. Box 8905
   Vancouver, WA 98668-8905

8. Marti Allbright, Esq.
   Mpower Communications Corp.
   5711 South Benton Circle
   Littleton, Colorado 80123
Lyndon J. Godfrey  
AT&T  
795 Folsom Street  
Room 2104  
San Francisco, California 94107

Kevin Chapman  
Director-Regulatory Relations  
5800 Northwest Parkway  
Suite 125, Room I-S-20  
San Antonio, TX 78249

Thomas F. Dixon  
MCI WorldCom, Inc.  
700 17th Street  
Suite 3900  
Denver, Colorado 80202

Mitchell F. Brecher  
Debra McGuire Mercer  
Greenberg Traurig, LLP  
800 Connecticut Ave, NW  
Washington, D.C. 20006

Robert S. Kant  
E. Jeffrey Walsh  
Greenberg Traurig, LLP  
2375 E. Camelback Road  
Suite 700  
Phoenix, Arizona 85016

J. Williams