

**BEFORE THE ARIZONA CORPORATION COMMISSION**

MARC SPITZER  
Chairman  
WILLIAM A. MUNDELL  
Commissioner  
JEFF HATCH-MILLER  
Commissioner  
MIKE GLEASON  
Commissioner  
KRISTIN K. MAYES  
Commissioner

IN THE MATTER OF QWEST CORPORATION'S)  
FILING OF RENEWED PRICE REGULATION )  
PLAN )

DOCKET NO. T-01051b-03-0454

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IN THE MATTER OF THE INVESTIGATION )  
OF THE COST OF TELECOMMUNICATIONS )  
ACCESS )

DOCKET NO. T-00000D-00-0672

SURREBUTTAL

TESTIMONY

OF

MATTHEW ROWELL

CHIEF ECONOMIST

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

JANUARY 12, 2005

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**EXECUTIVE SUMMARY  
QWEST CORPORATION  
DOCKET NOS. T-01051B-03-0454 AND T-00000D-00-0672**

My surrebuttal testimony rebuts selected points from the rebuttal testimonies of Qwest witnesses David Teitzel and Harry Shooshan. Points addressed in my surrebuttal testimony include: the Federal standard regarding rate relief for cable providers; the use of the HHI; the use of Zip Codes rather than wire centers for Competitive Zones; the maximum rates for basic services in Competitive Zones; the availability of competitive data; and the use of the elasticity of supply in evaluating the competitiveness of markets.

1 **INTRODUCTION**

2 **Q. Please state your name and business address for the record.**

3 A. My name is Matthew Rowell. My business address is: Arizona Corporation Commission,  
4 1200 W. Washington St., Phoenix, Arizona 85007.

5  
6 **Q. Are you the same Matthew Rowell who filed direct testimony in this case on**  
7 **November 18, 2004?**

8 A. Yes.

9  
10 **Q. What is the purpose of your testimony?**

11 A. This testimony responds to certain points made by Qwest witnesses David Teitzel and  
12 Harry Shooshan in their rebuttal testimony concerning my direct testimony. My position  
13 on any matters not discussed herein is as set forth in my direct testimony.

14  
15 **Q. Do you have any general observations about Mr. Teitzel's and Mr. Shooshan's**  
16 **Rebuttal Testimonies?**

17 A. Yes. Staff is somewhat surprised about the emphasis both of these witnesses place on  
18 intermodal (particularly cellular) competitors. Qwest's direct case did not rely on  
19 intermodal competition to a great extent. Additionally, Qwest's proposed criteria for the  
20 establishment of competitive zones did not account for intermodal carriers. Thus the  
21 purpose of the emphasis on intermodal competition in Qwest's rebuttal testimony is not  
22 entirely clear.

23  
24 Additionally, the Qwest witnesses appear to be opposed to *any* form of analysis. In our  
25 direct testimony, Staff offered several different analysis of the market situation. Qwest  
26 appears to have taken exception to all of them and advocates that the Commission make

1 its decision based on generalized statements and anecdotal evidence rather than a review  
2 of the available facts.

3  
4 **RESPONSE TO THE REBUTTAL TESTIMONY OF DAVID L. TEITZEL**

5 **Q. At page 15 line 5 through page 17 line 2 of his rebuttal testimony Mr. Teitzel**  
6 **discusses the Federal standard for the removal of rate regulation from cable**  
7 **television providers. Please comment on this part of Mr. Teitzel’s testimony.**

8 A. Here Mr. Teitzel points out that 47 U.S.C. §543(a)(2) allows for the relief of rate  
9 regulation (by the FCC) of cable television providers if the cable system is subject to  
10 “effective competition.” Mr. Teitzel goes on to state that:

11  
12 “In fact, under the requirements of 47 U.S.C. §543(1), the cable television  
13 provider need only demonstrate that at least two unaffiliated multichannel video  
14 programming distributors (“MVPDs”), offering at least 12 channels, are capable of  
15 serving at least 50 percent of the households in the cable provider’s franchise area  
16 *and are actually serving at least 15 percent of the households in that area.* If these  
17 minimal criteria are met, the incumbent cable television provider’s services are  
18 removed from federal, state and local rate regulation.”<sup>1</sup>

19 These criteria that Mr. Teitzel describes as “minimal” are in fact far more stringent than  
20 the criteria Qwest has proposed be applied to its Competitive Zone proposal (which is  
21 essentially the elimination of traditional rate regulation.) Rather than asses the capacity of  
22 Qwest’s competitors and measure their current combined market share (as the FCC must  
23 do for cable providers) Qwest would limit the Commission to only a cursory review of  
24 telephone competition based on the following three criteria:

- 25  
26 1. A competitor has facilities in place and is marketing or offering services in  
27 competition with Qwest; or,  
28 2. A competitor is marketing or offering services through the provision of  
29 unbundled network elements provided by Qwest; or,

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<sup>1</sup> Teitzel surrebuttal page 15 line 19 thru page 16 line 5. Emphasis added.

1                   3.     A competitor is marketing or offering services through the resale of  
2                   Qwest's service.<sup>2</sup>

3                   Additionally, the cable industry is much different from the telephone industry and thus  
4                   cable regulations should not control the formulation of appropriate criteria for determining  
5                   the competitiveness of telecommunications markets.  
6

7     **Q.     On page 20 line 2 thru page 21 line 5 Mr. Teitzel discusses Staff's use of the**  
8     **Herfindahl-Hirschman Index ("HHI") in your direct testimony. Please comment on**  
9     **Mr. Teitzel's remarks concerning Staff's use of the HHI.**

10    A.     Mr. Teitzel's comments here mischaracterize my direct testimony. While we believe the  
11           HHI is an informative statistic, my direct testimony did not advocate a particular value of  
12           the HHI that should be used as a standard for Qwest to obtain pricing flexibility.  
13           However, Staff does believe that some consideration of the HHI is appropriate in the  
14           overall analysis.  
15

16    **Q.     At page 21 line 9 thru page 22 line 2 Mr. Teitzel discusses Staff's recommendation**  
17    **that Competitive Zones be based on zip codes rather than on wire centers (as**  
18    **proposed by Qwest.) Please comment on Mr. Teitzel's critique of Staff's zip code**  
19    **proposal.**

20    A.     Mr. Teitzel's comments are centered on the geographic area that is most convenient and  
21           advantageous for Qwest, rather than on an area that is competitively neutral. He states  
22           that "All of *Qwest's* network and billing systems are structured around the wire center and  
23           exchange concepts..."<sup>3</sup> and that accommodating a zip code based Competitive Zone  
24           structure would be costly and difficult for Qwest. It may be true that *Qwest's* network and  
25           billing systems are structured around the wire center and exchange concepts but this is not

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<sup>2</sup> See the attachment to Qwest's May 20, 2004 filing: "Revised Price Cap Plan Terms, Conditions and Operation of the Revised Price Cap Plan."

<sup>3</sup> Emphasis added.

1 the case for the CLECs. As stated in my direct testimony, wire centers are not  
2 competitively neutral. A Competitive Zone structure based on wire centers may be very  
3 easy to accommodate for Qwest but Qwest's CLEC competitors may be disadvantaged by  
4 such a scheme. If Qwest is granted the geographic pricing flexibility it proposes, it is only  
5 fair that CLECs should be allowed the same sort of flexibility. CLECs that wish to match  
6 Qwest's offers in particular zones should be able to do so. If the zones are based on wire  
7 centers, CLECs will be disadvantages because they do not know which customers are in  
8 which wire centers (this is especially true of CLECs that use their own facilities  
9 exclusively.) Thus, under a wire center based regime CLECs that wish to match Qwest's  
10 zone based offers would have to go through the expense of changing their billing systems  
11 and Qwest would not. In short, Staff sought to propose an alternative that would benefit  
12 *competition* not one that would benefit a *particular* competitor.

13  
14 **Q. Has Qwest provided an estimate of the cost of implementing a Competitive Zone**  
15 **proposal based on zip codes?**

16 A. No. In response to Staff data request STF 35-003 Qwest indicated that they have not  
17 quantified the cost of basing Competitive Zones on zip codes.

18  
19 **Q. Is Qwest capable of mapping customer locations from wire centers to zip codes?**

20 A. Yes. In response to Staff data request STF 33-1 Qwest provided a mapping of wire  
21 centers into zip codes. Interestingly, that response was provided on a confidential basis.

22  
23 **Q. At page 22 lines 16 thru 20 of his rebuttal testimony Mr. Teitzel takes issue with the**  
24 **proposition contained in your direct testimony that zip codes are more familiar to**  
25 **customers than wire centers and thus a Competitive Zone regime based on zip codes**  
26 **would lead to less customer confusion than one based on wire centers. Please**

1           **comment on Mr. Teitzel's remarks regarding customer familiarity with zip codes**  
2           **and wire centers.**

3           A.     Neither Staff nor Qwest has performed a study or conducted a survey that determines  
4           whether customers are more familiar with zip codes or wire centers. Staff believes it is  
5           common knowledge that zip codes are familiar to a large portion of the population.  
6           Further, it is common knowledge that wire centers are not a familiar concept to most of  
7           the population.

8  
9           **Q.     On page 24 of his rebuttal testimony Mr. Teitzel presents an alternative Competitive**  
10           **Zone proposal based on prefixes rather than on wire centers. What are Staff's**  
11           **comments on this alternative proposal?**

12           A.     Staff appreciates Qwest's attempt to provide an alternative proposal. However, Staff is  
13           not sure exactly how the Competitive Zone proposal would work if it were based on  
14           prefixes. This is mainly because prefixes are no longer tied to specific geographic  
15           locations. Staff witness Armando Fimbres discusses practical difficulties associated with  
16           using prefixes in his surrebuttal testimony.

17  
18           **Q.     In your direct testimony you pointed out that Qwest's Competitive Zone proposal**  
19           **did not explain how maximum rates for services in the Competitive Zones should be**  
20           **established. Has Qwest addressed this issue in their rebuttal testimony?**

21           A.     Yes. On page 25 of his rebuttal testimony Mr. Teitzel suggests that the maximum rates  
22           for all services in Competitive Zones be set at double their current rates. In response to  
23           Staff data request STF 35-8 concerning the derivation of this maximum rate level Qwest  
24           indicated that: "The upper boundary of 'double current rates' was not grounded in an  
25           empirical analysis, but rather as a negotiable 'safety net' against unchecked rate  
26           increases." Staff is encouraged that Qwest recognizes the need for a "safety net";

1           however, we still believe that the maximum rates for the basic services identified in my  
2           direct testimony should be established at their current level.

3  
4       **Q.    At page 29 line 17 thru page 30 line 3, Mr. Teitzel contends that certain information**  
5       **that Staff thinks is necessary for a proper analysis of competitive zones is not in**  
6       **Qwest’s possession and thus such analysis is impractical. Please comment on the**  
7       **practicality of Staff’s proposed Competitive Zone analysis.**

8       A.    Mr. Teitzel misrepresents the content of my direct testimony. In my direct testimony I  
9       was clear that certain information would have to be supplied by the CLECs. This is  
10      especially true of CLECs that use their own facilities exclusively. Thus, Mr. Teitzel’s  
11      claim that the analysis is impractical because Qwest does not have all of the information is  
12      spurious.

13  
14       **RESPONSE TO THE REBUTTAL TESTIMONY OF HARRY M. SHOOSHAN III**

15      **Q.    At page 5 lines 2 thru 5 of his testimony Mr. Shooshan accuses Staff of “reaching in**  
16      **to basket 3 with a variety of subconstraints...” Mr. Shooshan goes on to state that**  
17      **this “reaching in” undermines the Commission’s intent when it established basket 3.**  
18      **Please comment on this part of Mr. Shooshan’s testimony.**

19      A.    Mr. Shooshan’s analysis is based on a mischaracterization of my direct testimony. Staff is  
20      not advocating any additional pricing restrictions on current basket 3 services. Thus Staff  
21      is not “reaching in to” some existing part of basket 3 that was previously not subject to  
22      rate regulation. Similarly, since Staff is not recommending changes to how current basket  
23      3 services (i.e., services that the Commission saw fit to place in basket 3) are regulated,  
24      Staff’s recommendations can not be said to undermine the Commissions intentions when  
25      basket 3 was established. When basket 3 was established it did not contain basic

1 telephone services. The Competitive Zone pricing restrictions discussed in my direct  
2 testimony apply only to basic services.

3  
4 **Q. At page 10 line 13 thru page 14 line 15 of his rebuttal testimony Mr. Shooshan**  
5 **indicates that the elasticity of supply is the best measure of “competitive**  
6 **effectiveness.” Please comment on Mr. Shooshan’s advocacy of supply elasticity as**  
7 **the best measure of the competitive situation.**

8 A. Mr. Shooshan’s comments on supply elasticity are not helpful because he has not provided  
9 any actual calculations of the elasticity of supply of telecommunications service. Such  
10 calculations would be difficult if not impossible to develop. Since we do not know what  
11 the elasticity of supply is, Staff does not understand how the Commission is expected to  
12 use the elasticity of supply to make a decision.

13 In response to Staff data request STF 37-1 Mr. Shooshan acknowledges that the elasticity  
14 of supply typically can not be quantified. He goes on to state that:

15  
16 “It (the elasticity of supply) is primarily approached as a qualitative assessment of  
17 a market. When one analyzes the elasticity of supply in a market, one examines  
18 the presence of competitors in the market, the deployment of facilities by  
19 competitors as well as the ease to which those facilities or new facilities can be  
20 deployed to serve a new or different customer in the market. This analysis yields  
21 conclusions regarding the flexibility of firms to meet demand in the market given  
22 the various observations.”

23 However, Qwest does not include a thorough analysis of these factors in its testimony. In  
24 fact, it appears that Mr. Shooshan’s argument about elasticity of supply is merely  
25 semantics. He is simply restating Qwest’s position that only a cursory analysis should be  
26 performed and he has cloaked that position in the parlance of economic theory.

27  
28 **Q. Does this conclude Staff’ surrebuttal testimony?**

29 A. Yes, it does.