Appendix B

Comments of Joe Gosiger to the Arizona Corporation Commission (http://www.cwa7019.org/Slamming.htm)

(May 8, 2002)

Good morning Chairman Mundell, Commissioner Irvin and Commissioner Spitzer

My name is Joe Gosiger. I have been the president of the Communications Workers of America Local 7019 since 1994**.** I am here today as the spokesperson for the CWA Arizona State Council.

The Arizona Corporation Commission is again at the forefront of a controversial consumer protection issue. Some may argue that the Commission is overstepping their authority in establishing rules for "slamming and deceptive sales practices**.**" You are not over stepping your authority to work in the public interest.

AT&T, WorldCom, QWEST and other telecommunication companies believe this Commission should only invoke similar rules already established by the FCC. That position is amazing, for at least one company, QWEST who has accepted a stricter adherence practice from the Oregon Department of Justice on scripting of sales calls to settle a lawsuit filed by their Attorney General. Should it take a State Attorney General to negotiate consumer protection? I think not**.** This Commission should institute the appropriate measures to protect the Arizona Consumer and create a safe harbor from the institutional sales sweatshops prominent in today's competitive telecommunications industry.

The root cause of slamming and deceptive sales practices is an environment that has an unbridled sales commission or incentive plans, coupled with unreasonable performance management plans that disciplines an employee solely for not meeting their sales objective. This environment creates the old "damned if I do, damned if I don't" situation, which the sales employee of the telecommunication company has to make a career decision to improve his or hers sales to meet the ever escalating sales quotas.

The Union **is not** adverse to a commission or incentive plan that is based on reasonable sales objects. A commission or incentive plan with reasonable sales objects and monetary payouts, coupled with a performance management plan that has reasonable thresholds would create a safe environment for both the sales employee and the customer.

THE SALES ENVIRONMENT AT QWEST:

As the president of a local union that only represents QWEST sales centers, I can only testify on my experiences dealing with QWEST, but these experiences are reflective of the telecommunications industry.

As a Union, we have made several attempts to resolve the environmental issues plaguing the sales channels at QWEST. I will outline our attempts to resolve this issue internally. As of today, we have not been able to find resolution of the root cause of the harsh environmental issues that drives an employee to step over the line to save their job and cram an order. Unfortunately, in many cases they have been following company scripting that is designed to increase sales.

Our members at QWEST want an environment where a sales employee could serve a customer without the threat of termination if they did not sell an unneeded "package" of products and services. The answer is out there. But first all parties have to agree there is a problem. In the case of telecommunication companies, it is not a problem until they get caught and then they reluctantly agree on a settlement with a court or regulatory agency.

At QWEST, and its predecessor US WEST, we have had a bargained-for commission plan since 1995. The commission plan was modified in 1998 in one key area, which established a " reasonable objective" in regards to sales quotas. The CWA proposed this change and hoped it would create an environment that our members would not have unreasonable pressures to sell. After a lot of discussion on the meaning of reasonable objectives with the old US WEST senior management team, the Union was forced to file a grievance and subsequently arbitrated the issue. On April 16, 2001, the Arbitrator agreed with the Union's position. QWEST filed a motion in Federal Court to vacate the award. After several months of legal maneuvering an out-of-court settlement was reached. Our struggle to create a safe harbor continues because the out-of-court settlement did not fully address the issue of "reasonable sales objectives" in our bargained-for commission plan. The effect of the current bargained-for commission plan at QWEST has had devastating impacts on work environment in their sales centers.

As a Union official, I apologize to our customers at QWEST that we believed the "old" senior management team at US WEST, who made several verbal commitments on the scope of the bargained-for commission plan, which did not happen. The horrors of the plan that effect our members and their customers have only escalated under QWEST search for additional revenue.

An added layer to this issue is a sales incentive plan that has been instituted in the "Customer Care Center" at QWEST. The much publicly touted Customer Care Center at QWEST has similar sales performance management plans found in the pure sales channels at QWEST.

The Customer Care Center was designed to handle "non-sales" calls - billing inquiry type calls. The customer is lead to believe they are calling a center that deals on customer needs not sales. The customer care representative is trained to find an opportunity to sell and if they do not meet their sales quota they could be terminated.

The Customer Care Center in Phoenix opened its doors in August of 2001. The first class had 44 students hired off the street, only 12 are left, **that is a 73% turnover rate.** The second class had 61 students hired off the street, 23 are left, **that is a 62% turnover rate.**

The turnover is more drastic in the commission-based sales centers. In the year 2000, QWEST hired 238 sales representatives in the Phoenix English Sales Center, only 42 remain employed in the sales channel, **that is an 83% turnover rate**. **The turnover rate improved in 2001 to 64%;** QWEST hired 218, only 79 remain employed in the sales channel

As you can see the sales environment at QWEST is one of a revolving door of employees being hired and then either voluntarily or involuntarily exiting the business.

The reason for this revolving door at QWEST is a direct relation to the drastically escalating sales threshold a sales representative has to obtain avoiding being terminated for "lack of sales". Without giving propriety information out in this public forum, I will tell you the threshold for attainment has doubled since the US WEST/QWEST merger in June of 2000. This doubling rate has occurred during market erosion for QWEST. QWEST has been losing tens of thousands of lines in Arizona to competition. In addition, the overall telecom market is soft because of downward spiraling of the national economy.

CWA Proposed Resolution to Deceptive Sales Practices

The Union would propose that the Commission include as part of a "Slamming and deceptive sales practices" rule the adoption of the settlement agreement QWEST accepted in the state of Oregon. QWEST agreed to several sales scripting practices, which include an up-front disclosure of the basic telephone service before a package offering, recapping of the order at the end of a sales call and strict scripting on a sales person's response to customers' questions.

The union would propose, in addition, to the aforementioned scripting formats, that the Commission establish attainment thresholds for Sales Performance Management Plans. We believe a 60% attainment threshold would effectively create a safe harbor for the sales representatives and the consumers. That means that a telecommunication sales center that services Arizona customers would have to have a sales performance management matrix in which, at least, 60% of the sales representatives within the sales center would be satisfactory and held harmless from discipline for sales.

These two proposed rules would create part of a safe setting for the consumer, and should address the underlining issue of slamming and other deceptive sales practices that stem from the environment, which has been created by an unbridled competitive industry.

We would never ask you to get involved in our bargaining process. But, our two proposals **do not** involve this Commission in our Collective Bargaining Agreement.

The Commission has shown creative innovation in its past decisions and we believe they can address the issues surrounding the sales environment that creates the need for slamming and cramming in the same manner.

John Nash, portrayed in the movie "*A Beautiful Mind,"* radically changed the direction of Adam Smith's economic model by adding a simple addition to Smith's economic equation that competition is good**, as long as it mutually benefits all people or things effected by competition. The notion of balancing unbridled profit with the needs of the consumers, workers and stockholders is not unattainable; it is just complex because it deals with monetary gains, which can be enormous.**

In closing, if the Commission elects not to establish one or both of the Union proposed rules, we understand. This is a complex issue and maybe we are in the wrong branch of the Arizona Government. As a Union, we will explore our options at other state government agencies or branches for

relief. Our members need protection from the abusive sales practices, which are enforced by threats of termination if not complied with. It is our goal to protect the Arizona consumer from the "21st century sweatshops" found in the telecommunications industry.

Thank you, for your time and if you have questions or concerns, I will be more then willing to answer them now.