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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman

WILLIAM A. MUNDELL
Commissioner

JEFF HATCH-MILLER
Commissioner

MIKE GLEASON
Commissioner

KRISTIN K. MAYES
Commissioner

Arizona Corporation Commission
DOCKETED

JUN - 4 2004

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2004 JUN -4 P 4: 38
AZ CORP COMMISSION
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IN THE MATTER OF QWEST
CORPORATION'S FILING AMENDED
RENEWED PRICE REGULATION PLAN

Docket No: T-01051B-03-0454

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

Docket No. T-00000D-00-0672

MCI'S COMMENTS ON PROPOSED AMENDMENTS TO DECISION NO. 66772

MCI, Inc., on behalf of its operating subsidiaries ("MCI"), respectfully takes exception to Hatch-Miller Proposed Amendment No. 1 and Gleason Proposed Amendment No. 1 to the extent such Amendments delete the \$5,000,000 access charge reduction from Decision No. 66772. MCI has fully briefed the reasons why the \$5,000,000 access charge reduction contained in Decision No. 66772 is reasonable and justified. MCI will not repeat those arguments here but does want to add some additional information that has arisen since the May 4, 2004 oral argument on this matter.

1 On May 21, 2004, Qwest filed a revised price cap plan and supporting testimony.
2 In that filing, Qwest states that no further changes should be made to access charges
3 because, according to Qwest, an FCC access charge restructure is "imminent." See Direct
4 Testimony of David Ziegler, pp. 14-15, and Direct Testimony of Scott McIntyre , pp. 14 –
5 16. Copies of these pages are attached. In other words, despite earlier Qwest testimony
6 that access charges are substantially above costs and should be brought down to interstate
7 rate parity, Qwest is not proposing such reform in its price cap case but rather is proposing
8 further delay in access charge reform. In addition, Qwest offers to accept a \$5,000,000
9 reduction in access charges at some undefined point in the future but only if the Arizona
10 Corporation Commission reverses the access charge reduction in Decision No. 66772 and
11 adopts all aspects of Qwest's price cap proposal.

12 MCI has three reactions to Qwest's access charge proposal that are relevant to this
13 A.R.S. § 40-252 proceeding and the amendments to Decision 66772 being considered by
14 the Commission on June 9, 2004.

15 First, Qwest's proposal will further delay access charge reform that has already
16 been pending for many years. Most recently, Chairman Spitzer requested expedited
17 review of access charges when Qwest was given 271 approval because the Commission
18 was concerned about price squeeze opportunities once Qwest entered the long distance
19 market. Qwest's new price cap proposal allows Qwest to continue to make gains in the
20 long distance market while charging its competitors excessive access charges. As was
21 pointed out in earlier MCI filings, access charge reform has waited much too long in
22 Arizona.

23 Second, Qwest's purported reason for further delay is an alleged "imminent" FCC
24 ruling. Despite Qwest's convenient optimism, it is not clear when the FCC will rule or
25 when that ruling will go into effect. As explained in the attached article from Telecom
26 Reports, several key participants have deserted the intercarrier compensation negotiations

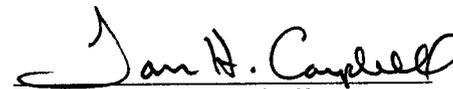
1 leaving that process virtually in limbo. The FCC will now have to reach agreement on
2 rules without industry consensus and any rules adopted will be subject to appeal. It is
3 simply unrealistic to say that a federal solution is imminent and, therefore, the
4 Commission should abandon its oft-stated desire to reform intrastate access charges. In
5 addition, an FCC ruling on interstate access rates does not preclude the Commission from
6 exercising its constitutional duty to set just and reasonable intrastate access rates.

7 Third, Qwest's offer to accept a \$5,000,000 reduction in access without an
8 offsetting rate increase belies Qwest's arguments that the \$5,000,000 access reduction
9 mandated by Decision No. 66772 has a devastating economic impact on Qwest's
10 operations in Arizona.

11 MCI respectfully requests that the Commission reaffirm Decision No. 66772.

12 RESPECTFULLY SUBMITTED this 4th day of June, 2004.

13 LEWIS AND ROCA

14 

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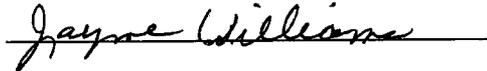
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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman

WILLIAM MUNDELL
Commissioner

JEFF HATCH-MILLER
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IN THE MATTER OF QWEST
CORPORATION'S FILING AMENDED
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DOCKET NO. T-01051B-03-0454

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

DOCKET NO. T-00000D-00-0672

TESTIMONY OF
DAVID ZIEGLER
ON BEHALF OF
QWEST CORPORATION
MAY 20, 2004

1

2 **Q. PLEASE DESCRIBE QWEST'S PROPOSAL FOR ADDRESSING**
3 **SWITCHED ACCESS SERVICES.**

4

5 A. If the Commission reverses the access charge reduction ordered in
6 Decision No. 66772, Qwest would propose intrastate access charges be
7 reduced by \$5 million in this case. Assuming that the proposals Qwest
8 has made for revisions to the Plan are adopted, Qwest would not request
9 any specific rate increase to offset this rate reduction.

10

11 For the reasons discussed in Mr. McIntyre's testimony, Qwest is not
12 proposing any further changes to switched access charges at this time.
13 The FCC is presently investigating the entire topic of intercarrier
14 compensation. Several parties are submitting proposals for
15 comprehensive plans for the complete revamping of intercarrier
16 compensation. Since this all-encompassing restructure of intercarrier
17 compensation is imminent, it seems appropriate to wait for that restructure
18 to address access charges.

19

20 To the extent that the Commission chooses to order additional reductions
21 in intrastate access charges at this time, such changes must be revenue
22 neutral. As Qwest proposed in its prefiled testimony filed in the Access
23 Docket and in Mr. McIntyre's testimony in this case, if Qwest's intrastate
24 access charges are reduced in this docket, the Commission should

1 implement a subscriber line charge or other end-user charge in an amount
2 sufficient to offset the access reduction. Mr. McIntyre explains the amount
3 of subscriber line charge that would be required to offset a reduction in
4 Qwest's intrastate access rates to the current interstate levels. For each
5 \$5 Million reduction in Intrastate access, Qwest would need to receive 20¢
6 per line in a subscriber line charge.
7

8 **Q. ARE ALL OF THE PORTIONS OF QWEST'S PROPOSAL**
9 **INTERRELATED?**

10
11 A. Yes. Because Qwest is proposing to deal with its financial needs by a
12 revised price cap plan and modest restructuring of rates, it is essential that
13 the Commission adopt all of the significant features of Qwest's proposal.
14 If the Commission attempts to mix some portions of the existing Plan with
15 some proposed revisions and other changes based on traditional
16 ratemaking methodologies, the result will be a mis-matched regulatory
17 scheme that neither permits Qwest an opportunity to earn a fair return on
18 its investment nor permits Qwest to compete fairly and equally in the
19 Arizona telecommunications market. Qwest simply does not believe that a
20 traditional rate case will produce results that are in the best interests of
21 Arizona ratepayers or Qwest. Certainly, various interested parties will
22 undoubtedly argue for reductions in specific rates or continued limitations
23 on Qwest's ability to compete. However, these proposals will not serve
24 the interests of the citizens of Arizona. Similarly, a traditional rate

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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

) **DOCKET NO. T-01051B-03-0454**
)
)

**IN THE MATTER OF THE INVESTIGATION OF
THE COST OF TELECOMMUNICATIONS
ACCESS.**

) **DOCKET NO. T-00000D-00-0672**
)
)
)

DIRECT TESTIMONY

OF

SCOTT A. MCINTYRE

QWEST CORPORATION

MAY 20, 2004

1 highly competitive Private Line services, i.e., DS-1 and DS-3, also declined
2 during that time period, by almost XX% (See SAM-1). The effect of competition
3 in the Arizona Private Line market, as demonstrated by these statistics,
4 precludes rate increases in services other than those identified above at this
5 time.
6

7 **SWITCHED ACCESS SERVICE**

8
9 **Q. IS QWEST PROPOSING CHANGES TO SWITCHED ACCESS RATES IN THIS**
10 **DOCKET?**

11
12 A. I am proposing minor changes to 800 Database Access Service ("800 DB") as
13 described below. There may also be changes to Switched Access rates in this
14 proceeding if the Commission rescinds the \$5 million dollar revenue reduction in
15 Switched Access which went into effect on April 1, 2004, as discussed in Mr.
16 Ziegler's testimony. Other than that, I am not proposing any changes to the
17 rates or structure of Switched Access service at this time.
18

19 **Q. WHY ISN'T QWEST PROPOSING TO MAKE MORE DRAMATIC CHANGES**
20 **TO SWITCHED ACCESS SERVICE IN THIS DOCKET?**

21
22 A. Qwest is not proposing any changes for Switched Access at this time because of
23 sweeping changes to the entire intercarrier compensation issue being

1 considered by the FCC and the industry. The positions of the major carriers,
2 RBOCs, CLECs and other carriers, will probably be disclosed soon. The FCC
3 has taken extensive comments and is also likely to make its position known in
4 the near future. The result may well be a completely different structure for
5 revenue collection that could change the states' role in regulating this revenue.
6 With the expectation that the FCC may take dramatic action in the near future, it
7 seems appropriate to minimize changes to Switched Access in this proceeding.

8

9 **Q. HASN'T QWEST, IN THE RECENT PAST, SUPPORTED LOWERING**
10 **INTRASTATE SWITCHED ACCESS RATES TO INTERSTATE LEVELS IN**
11 **ANTICIPATION OF SUCH FCC ACTION?**

12

13 A. Yes. However, now that FCC action is likely, it is advisable to wait and see what
14 the FCC plan looks like. Introducing Switched Access reductions or restructures
15 into this proceeding may create problems in implementation, especially if the
16 FCC adopts a comprehensive plan with a phased-in approach.

17

18 **Q. WHAT IF THE ARIZONA COMMISSION WISHES TO PROCEED WITH**
19 **SWITCHED ACCESS REFORM EVEN THOUGH THE FCC MAY MOVE**
20 **AHEAD WITH A COMPREHENSIVE RESTRUCTURE?**

21

22 A. In that case, Qwest will ask the Commission to provide a plan on how to recover
23 the revenue currently provided by Switched Access. If, for example, intrastate

1 Switched Access rates are reduced to interstate levels and the revenue recovery
2 is shifted to residential rate payers, the impact will be a rate increase of about
3 \$1.00 per month per residential access line.

4

5 **800 Database Access Service**

6

7 **Q. PLEASE EXPLAIN THE CHANGES YOU ARE PROPOSING FOR 800 DB.**

8

9 A. 800 DB is an originating service utilizing Trunkside Switched Access Service
10 which provides for the forwarding of end user-dialed 8XX+NXX+XXXX calls to a
11 customer based on the dialed 8XX number. I am proposing to revise the rates
12 for several Local End Office Switching rate elements associated with this service.
13 First, I am recommending that the 800 Carrier Identification Charge ("CIC") per
14 call rate be increased from \$.003500 to \$.004053. In addition, I am proposing
15 that the POTS Translation Charge be decreased from \$.003665 to \$.0020915
16 per call. Finally, the rate per query for Call Handling and Destination Feature will
17 be decreased from \$.000694 to \$.0006853.

18

19 **Q. WHY IS QWEST PROPOSING THESE CHANGES TO 800 DB?**

20

21 A. The rates for 800 DB are being adjusted to mirror Qwest rates effective in the
22 federal jurisdiction.

23

TELECOMMUNICATIONS REPORTS

Keeping communications industry professionals informed since 1934

June 1, 2004

Vol. 70, No. 11

Highlights

Wireline Services

FCC Promises Proposal as Intercarrier Compensation Negotiations Break Down

3

Capitol Hill

House Members File Legislation To Undo *Trinko* Antitrust Case

6

Around the States

Examinations of the Future of UNE-P Progress on Multiple Fronts in Midwest

9

Conference Update

ALTS Members Push for Appeal, Talks as Apprehension Grows over Court Decision

15

Wireless Services

Industry Sees Bright Future For Broadband Wireless

17

Focus on Section 706

Rural Carriers See Strides on Broadband Deployment, Say Key to Success is Maintaining Subsidy Streams

25

Around the World

BT Proposes Price Cuts as Ofcom Eyes Unbundling Review

28

Industry Players Prepare For Last-Minute Lobbying As TRO Appeal Deadline Nears

A flurry of lobbying is expected to take place over the next few weeks as key industry players make last-minute attempts to influence the U.S. Solicitor General on whether to challenge the federal appeals court's decision overturning substantial portions of the FCC's network unbundling rules.

The latest buzz surrounding the March 2 decision by U.S. Court of Appeals in Washington vacating key aspects of the FCC's "triennial review" order (TRO) concerns petitions filed last week by the FCC, several competitive local exchange carriers (CLECs), and a handful of state regulators urging the D.C. Circuit to stay its decision pending the filing of any appeals at the U.S. Supreme Court.

The D.C. Circuit's decision currently is stayed through June 15, and incumbent local exchange carriers (ILECs) and CLECs, at the request of the FCC, have been attempting to engage in commercial negotiations for network access prior to the effective date of the court's mandate. The Supreme Court has granted the solicitor general's request, on behalf of the Commission, to have until June 30 to file for certiorari with the high court. Several parties, however, including the Commission, are concerned about the lack of progress being made among carriers to reach network access agreements, and what could happen June 16 when the unbundling regime is vacated.

In its petition for stay, the FCC asked the D.C. Circuit to issue a decision on its motion by June 4 to provide the agency enough time to seek a stay from the Supreme Court. In addition, the Commission said, "Although the Solicitor General has not yet decided whether to petition for certiorari in this case, he has authorized us to represent that he believes there is good cause for a stay of the mandate."

Analysts predict that the D.C. Circuit, based on its March decision, will reject all stay petitions. Whether Solicitor General Theodore Olson will agree to petition for review at the Supreme Court is still unclear.

Legg Mason Wood Walker, Inc., analysts said the requests for stay are another sign that the carrier negotiations "are unlikely to lead to a widespread industry breakthrough that would moot the need for further litigation." They further said, "Solicitor General Ted Olson may be leaning toward supporting FCC attempts to overturn the D.C. Circuit's de-

(continued on page 35)

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Wireline Services

FCC Promises Proposal as Intercarrier Compensation Negotiations Break Down

Despite the FCC's commitment to plow ahead with its efforts to reform the intercarrier compensation regime, analysts say the agency faces an uphill battle without industry consensus from the Intercarrier Compensation Forum (ICF). The forum was recently dealt a setback when several key players withdrew from the talks.

The ICF "was widely regarded as the best shot for a consensus plan since it was composed by all key sector players," said Frank J. Governali of the Goldman Sachs Group. "All industry was looking forward to the ICF proposal, because being signed by so many heavyweights, it was likely to have a big impact on the FCC's proposal," he said.

Key players to withdraw from the ICF talks included BellSouth Corp., Verizon Communications, Inc., T-Mobile USA, Inc., Nextel Communications, Inc., Citizens Communications Co., and CenturyTel, Inc. Mr. Governali said the companies remaining in the group, including AT&T Corp., MCI, Inc., Sprint Corp., and SBC Communications, Inc., may not still be supportive of the plan but remain on board "to influence the proposal's outcome."

"Even though FCC representatives mentioned that they would go ahead with their proposal regardless of whether or not the industry could come to an agreement, we believe that the ICF failure may delay the FCC's proposal," Mr. Governali said.

Although there is no "easy way out" of the current access charge regime, "reform is unavoidable and eventually will have to take place," he said. "The question is if the FCC and industry players will reach an agreement relatively 'peacefully' or if a more serious crisis has to take place in order to trigger a final solution."

Although broad changes to the access charge regime are unlikely to occur in the near future, Mr. Governali said the Commission may make minor alterations to the compensation system in the interim "to give it more oxygen to hold on for a few more years." He said rural carriers were unlikely to be hurt by any modifications to the system because "the political power of rural areas is unlikely to wane."

Meanwhile, analysts with Raymond James & Associates, Inc., said that although they expected the remaining ICF members to develop a proposal, the possibility of a Commission-developed plan was less likely. "Eventually, a viable solution will require some legislative or FCC intervention, with the industry unlikely to come to grips with yet another large-scale compromise," they said.

Although an overall fix of the access charge regime is likely in the distant future, concurred Medley Global Advisors. "narrower issues items that are a subset of the access debate, including reciprocal compensation, will likely be addressed during the remainder of this year."

Although there's a possibility that some of the recently departed members may return to the ICF discussion table, Medley said, "It is important to understand and consider the issues and concerns of the various parties that have left at this point," most notably Verizon Communications, Inc.'s activity.

"Verizon's departure may have more to do with their keen interest in first resolving their legal disputes with CLECs [competitive local exchange carriers] over reciprocal compensation since it is clear access charge reform will not be adopted any time soon." Medley said. "Verizon may have decided to spend their energies on the FCC's upcoming consideration of two important items — the ISP [Internet service provider] remand order and the Core Communications forbearance petition — both of which determine the legal obligations of LECs [local exchange carriers] under section 251(b)(5) of the 1996 Telecommunications Act.

Despite the setbacks in industry efforts to develop a proposal to revamp the intercarrier compensation regime, FCC Commissioner Jonathan S. Adelstein is hopeful that participants in the ICF could still reach a consensus. "It would have been really helpful" to have industry reach agreement on how to fix the access charge regime, Commissioner Adelstein said during a press breakfast in Washington. Carriers are faced with an "extremely difficult" task, he said, but he hopes the talks will continue.

If the industry is unable to reach consensus, Mr. Adelstein, seeing the glass as half-full, said the FCC would still benefit from all the network interconnection information uncovered during the talks. "We have to do something to reform the system," he said.

Jane Jackson, associate bureau chief of the FCC's Wireline Competition Bureau, told members of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) last month at their legislative and regulatory conference in Washington that FCC staff is close to unveiling a proposal to revamp the intercarrier compensation regime, with or without input from the industry.

Ms. Jackson said all the work that was being done among industry members to develop a plan for intercarrier compensation was a good start to resolving the issues, and that Commission staff was "dearly hoping that

something wonderful comes to us from the industry" that's useful to everyone.

She added, however, that whether the industry comes up with something or not, Commission staff was working hard on the issue and would move forward. "Staff is well along in drafting a proposal," she said. FCC Chairman Michael K. Powell is expecting a proposal, she said, and would get it "in the very near future."

The ICF is not the only industry group that has been studying intercarrier compensation. Similar groups include the Expanded Portland Group (EPG) and the Cost-Based Interconnection Compensation Coalition (CBICC), which is comprised of several CLECs. CBICC unveiled their plan recently at the Association for Local Telecommunications Services conference in Washington.

—Margaret Boles, mboles@tr.com

Abernathy Criticizes Wireline Policies For Failing to Encourage Investment

To spur growth and innovation in the wireline sector, the FCC should revamp its burdensome network unbundling policies and consider emulating the light regulatory touch the agency has taken in the wireless sector, FCC Commissioner Kathleen Q. Abernathy said at a conference sponsored by the Manhattan Institute's Center for the Digital Economy on property rights and telecom regulation.

In the wireless industry, the "property rights" model, which handles licensed spectrum, and the "commons" model, which handles unlicensed spectrum, have resulted in substantial growth and innovation to the benefit of consumers, Commissioner Abernathy said. "While incumbent wireline carriers actually own their networks, the FCC has established a much more intrusive regulatory regime on the wireline side than it has for wireless carriers, even though wireless carriers make use of publicly owned spectrum to provide service," Ms. Abernathy said.

There's "virtually nothing" an incumbent local exchange carrier (ILEC) can do without governmental oversight, whether at the state or federal level, she said. Not only do ILECs face state commission regulation over prices and service quality, but they also must comply with "carrier of last resort" obligations, she said.

Although the difference in wireline and wireless regulation is largely the result of ILECs' traditional mo-

nopoly status, Ms. Abernathy said, "I believe it also reflects a certain ambivalence on the part of regulators about whether wireline networks are truly private property."

The biggest source of disputes that arise on the wireline side concern network unbundling requirements imposed on ILECs, she said. Because the current regulatory regime is based on the belief that a "natural monopoly" existed in regard to ILECs' narrowband facilities, regulations have tended to favor the interests of competitors over the preservation of property rights.

This "predictable, safe, and boring" environment has been "shattered" by new technology and innovation, Ms. Abernathy said. As a result, the network unbundling regime has resulted in "tremendous regulatory uncertainty."

"Some critics of the FCC's approach to wireline competition often blame excessive regulation for lagging investment and growth," she said. "No doubt some of these criticisms have merit, and an understanding of property rights and economic incentives helps explain why we at the FCC should be more circumspect about the efficacy of regulations that treat private property as if it were public."

She said "the good news" was that the Commission tended to emulate its approach to the wireless industry in