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BEFORE THE ARIZONA CORPORATION COMMISSION

1  
2 MARC SPITZER  
Chairman  
3 WILLIAM A. MUNDELL  
Commissioner  
4 JEFF HATCH-MILLER  
Commissioner  
5 MIKE GLEASON  
Commissioner  
6 KRISTIN K. MAYES  
Commissioner

Arizona Corporation Commission

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AZ CORP COMMISSION  
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8 IN THE MATTER OF DISSEMINATION OF  
9 INDIVIDUAL CUSTOMER PROPRIETARY  
10 NETWORK INFORMATION BY  
11 TELECOMMUNICATIONS CARRIERS.

DOCKET NO. RT-00000J-02-0066

**QWEST'S NOTICE OF FILING  
COMMENTS TO THE STAFF'S  
SECOND DRAFT PROPOSED  
CPNI RULES**

12 **I. INTRODUCTION**

13 By document dated August 13, 2004, the Staff of the Arizona Corporation  
14 Commission ("ACC") released a newly-revised set of proposed Customer Proprietary  
15 Network Information ("CPNI") rules for review and comment.<sup>1</sup> Qwest Corporation,  
16 Qwest Communications Corporation, and Qwest LD Corporation (collectively herein  
17 "Qwest" or "Qwest Companies") file these comments on behalf of Qwest's local  
18 exchange and long distance companies that will be affected by the Second Draft Rules, if  
19 adopted.

20 The Staff's Second Draft Rules, while a major improvement over the first,  
21 continue to be afflicted by serious constitutional infirmities. They are also overreaching  
22 from a public policy perspective, failing to reflect in any measure a meaningful  
23 cost/benefit analysis. Such analysis would have to acknowledge that customers' privacy  
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25 <sup>1</sup> See Memorandum to All Interested Parties from Ernest G. Johnson, Director, Utilities Division, dated  
26 August 13, 2004. See also Memorandum, dated August 20, 2004.

1 interests in Arizona are not now being threatened, compromised or abused by carriers.  
2 Nor have those privacy interests been in jeopardy in the decades that the ACC has been  
3 regulating telecommunications companies.

4 In addition to carriers' long-standing practices of protecting information about  
5 their customers, federal statutory protections that have existed for eight years (47 U.S.C.  
6 § 222), coupled with Federal Communications Commission ("FCC") rules, operate to  
7 provide a solid foundation to assure reasonable protection of telecommunications  
8 customers' privacy. In the current environment, and given the substantial federal CPNI  
9 privacy protections, state regulatory mandates compelling carriers to affirmatively verify  
10 and confirm customer CPNI choices, even if constitutional, would be unnecessary. When  
11 the cost of creating and maintaining systems and processes to underwrite this type of  
12 government initiative is factored in, the chasm between the proposals and the public  
13 interest draws larger.

14 For these reasons, the ACC should reject the Staff's attempt to craft Arizona state-  
15 specific CPNI rules, even along the lines of its Second Draft Proposed Rules. Just as the  
16 Washington Utilities and Transportation Commission ("WUTC") ultimately chose to do  
17 after its rules were vacated by a federal court (those WUTC rules formed the foundation  
18 for much of the Staff's original proposed rules), the ACC should provide CPNI protection  
19 through a simple reference to the federal statute and rules. Such an approach is one  
20 calculated to produce regulatory harmony, protect customers' privacy interests, and not  
21 adversely interfere with the economic interests of those same customers.

## 22 **II. THE STAFF'S SECOND DRAFT PROPOSED CPNI RULES**

23 The Staff seeks comment on a "Staff Second Draft – Proposed CPNI Rules." Like  
24 its first set of Draft Rules, the second set does not provide any analysis as to their legal  
25 basis, necessity or propriety.<sup>2</sup> This is unfortunate because, in large measure, the rules

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26 <sup>2</sup> To the extent the current Staff Second Draft Proposed CPNI Rules remain unchanged from earlier

1 continue to pose constitutional concerns and are rife with unduly burdensome proposals  
2 regarding a matter that has never been demonstrated to be a serious problem in Arizona –  
3 carriers' misuse of customer information.

4       **A. General Comments**

5       The primary flaw with the Second Draft Rule is the concept that it is lawful for the  
6 government to require an **affirmative customer response** for verification of CPNI  
7 approvals. The concept is incorrect. From a constitutional perspective, there is little  
8 material difference between a rule prescribing that customers must affirmatively consent  
9 (respond) to the use of CPNI and one that says customers must affirmatively act to  
10 acknowledge (respond) an opt-out choice made earlier. Recasting the matter from one  
11 involving customer consent to one involving customer acknowledgement does not  
12 insulate the proposal from constitutional scrutiny. In both cases, the failure to secure  
13 affirmative action from a customer would preclude the carrier from using the information  
14 in speech-laden activities; and the customer from benefiting from the information desired  
15 to be conveyed.

16       Such a rule is not in the public interest. Barring any demonstration of carrier  
17 abuse of CPNI, or concomitant public harm, burdening carriers with complex, costly and  
18 unduly burdensome bureaucratic requirements with respect to the use of customer  
19 information -- requirements not broadly or uniformly required of other commercial  
20 enterprises in Arizona -- is arbitrary and advances no public good. Those customers  
21 approving CPNI use should not be burdened by added costs just so that they can receive  
22 timely and relevant marketing information about products and services that might interest  
23 them. Similarly, those customers not approving CPNI use should not be burdened by

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25 iterations, Qwest may make note of that fact below, providing limited comment. Additionally, with  
26 respect to such unchanged rules, Qwest incorporates by this reference its comments filed on  
May 17, 2004 addressing the substance of the rules ("Qwest May 17, 2004 Comments").

1 additional costs that will be recovered through the products and services they currently  
2 buy. On balance, customers are simply not benefited by the proposed Rule.

3 **B. Scope of Rules**

4 As a preliminary matter, Qwest stresses that the Staff's Second Draft Rules would  
5 pertain **at most** to **intrastate** CPNI. The CPNI rules promulgated by the FCC are  
6 applicable both in an intrastate and interstate context.<sup>3</sup> While the proposed definition at  
7 R14-2-xx02 does not specifically confine itself to intrastate CPNI, that is the lawful  
8 extent of its scope.

9 Because of the limited permissible scope of any Arizona rules, it is clear that  
10 regulatory mandates imposed by the ACC on intrastate CPNI, different from those rules  
11 established by the FCC, would burden carriers doing business on an interstate basis.  
12 Moreover, customers most likely would be confused by regulatory activity associated  
13 with only a portion of the customer information carriers have in their possession.<sup>4</sup>

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16 <sup>3</sup> See, e.g., *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications*  
17 *Carriers' Use of Customer Proprietary Network Information and Other Customer Information;*  
18 *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of*  
19 *1934, As Amended, Second Report and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd.  
20 8061, 8073-78 ¶¶ 14-20 (1998) ("CPNI Order"); *In the Matter of Implementation of the*  
21 *Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network*  
22 *Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of*  
23 *Sections 271 and 272 of the Communications Act of 1934, As Amended, Order on Reconsideration and*  
24 *Petitions for Forbearance*, 14 FCC Rcd. 14409, 14465-67 ¶¶ 112-14 (1999) ("CPNI Reconsideration  
25 Order"); *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications*  
26 *Carriers' Use of Customer Proprietary Network Information and Other Customer Information;*  
*Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of*  
*1934, As Amended; 2000 Biennial Regulatory Review – Review of Policies and Rules Concerning*  
*Unauthorized Changes of Consumers' Long Distance Carriers, Third Report and Order and Third*  
*Further Notice of Proposed Rulemaking*, 17 FCC Rcd. 14860, 14890 ¶ 69, 14891-92 ¶ 71 (2002) ("July  
2002 CPNI Order").

<sup>4</sup> *Verizon v. Showalter*, 282 F. Supp. 2d 1187, 1193 (W.D. Wash. 2003) ("Verizon v. Showalter"). While  
focusing, of necessity, on the WUTC rules and their supporting rationale, the Court noted that "it defie[d]  
credulity that consumers will understand the complicated regulatory framework sufficiently to effectively  
implement their preferences."

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2           **C. Mandating Opt-In Verifications for Opt-Out Approvals**  
3           **Is Unlawful (R14-2-xx08)**

4           A CPNI opt-in **authorization** rule unquestionably violates federal constitutional  
5 protections, as now articulated by two federal courts.<sup>5</sup> An opt-in “verification” rule  
6 applied to opt-out CPNI authorizations fares no better. While the Staff has crafted its  
7 most recent proposal as an opt-in “verification” rule,<sup>6</sup> its proposal must fail for the same  
8 reason an opt-in CPNI consent regime fails in the first instance: Such rules are contrary  
9 to the public and consumer interest. They operate to withhold truthful information from  
10 consumers, information that is calculated to improve their buying decisions and quality of  
11 life.

12           In all material aspects, the ACC has no better record on CPNI and customer  
13 expectations, carrier uses, or potential harms, than did the FCC or the WUTC. That  
14 record creates no doubt but that customers will not affirmatively act with respect to CPNI  
15 choices in any substantial volume, empirically suggesting that the *status quo* is quite  
16 satisfactory to them. If customers cannot be expected to act to approve CPNI use, they  
17 most certainly cannot be expected to act to “verify” their decision about their opt-out

18 \_\_\_\_\_  
19 <sup>5</sup> The WUTC’s opt-in rules (that formed the basis for the Staff’s First Draft CPNI Rules (particularly its  
20 Call Detail Version)) were vacated as unconstitutional by a Washington federal district court in *Verizon v.*  
21 *Showalter*. That federal district court in Ninth Circuit territory, supported its position by reference to and  
22 reliance on *U.S. WEST v. FCC*, 182 F.3d 1224 (10<sup>th</sup> Cir. 1999), *cert. denied*, 530 U.S. 1213 (2000). *And*  
23 *see United Reporting Publishing Corp. v. Los Angeles Police Dept.*, 146 F.3d 1133 (9<sup>th</sup> Cir. 1998), *rev’d*,  
24 *Los Angeles Police Dept. v. United Reporting Publishing Corp.*, 528 U.S. 32 (1999) (where the Ninth  
25 Circuit held that a statute seeking to limit the release of arrestee records failed to directly and materially  
26 advance the government’s interests in protecting an arrestee’s privacy).

23 <sup>6</sup> Any distinction between the Staff’s earlier draft opt-in CPNI approval rules and its currently proposed  
24 opt-in CPNI approval verification rule is dubious from a substantive perspective. The clear relationship  
25 of the one to the other is obvious from the fact that the Staff edited a portion of one of its earlier-proposed  
26 rules outlining the requirements for written authorization to use CPNI by simply striking the word  
“authorization” and substituting the word “verification.” *See* currently proposed rule R14-2-xx08.C. The  
burden on carriers is no less severe by the change in nomenclature or process.

1 approval. The expectation of a contrary customer response is in all respects at odds with  
2 the existing substantial record in this proceeding, as well as a long line of federal  
3 regulatory precedent.

4 While neither the FCC (nor a court) has directly addressed or ruled on the  
5 lawfulness of an affirmative verification program with respect to opt-out CPNI approvals,  
6 pronounced judicial and regulatory decisions make clear that CPNI opt-in regulations that  
7 operate to burden the speech interests of carriers and customers are unlawful. They are  
8 also likely to be preempted by the FCC if they differ materially from the CPNI rules  
9 adopted by that agency.<sup>7</sup>

10 While Qwest continues to oppose any kind of governmentally-mandated CPNI  
11 verifications or confirmations (*see also* Section G. below), if any such requirements are  
12 imposed the methodology must be one of notice not carrier-customer interaction *and*  
13 carriers must be permitted to choose the most appropriate methods to be made available  
14 for their customers. Verification/confirmation mechanisms might involve e-mail,  
15 telephone verification, or written communication. In the past, Qwest used all these  
16 methods as part of its earlier voluntary verification efforts.

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18 <sup>7</sup> The FCC currently frames the issue of preemptive action regarding state CPNI rules different from its  
19 own as dependent on the nature and quality of the developed state record. The FCC felt compelled to  
20 “acknowledge that states may develop different records should they choose to examine the use of CPNI  
21 for **intrastate** services. They may find further evidence of harm, or less evidence of burden on protected  
22 speech interests. Accordingly, applying the same standard, they may nevertheless find that more stringent  
23 approval requirements survive constitutional scrutiny, and thus adopt requirements that ‘go beyond those  
24 adopted by the Commission [footnotes omitted; emphasis added].’” *July 2002 CPNI Order*, 17 FCC Rcd.  
25 at 14891 ¶ 71. In connection with these comments, the FCC referenced an Arizona CPNI verification  
26 proposal that it indicated might be sustainable based on an Arizona record different from that created at  
the FCC. *Id.* at note 163. That reference was to a verification mailing that did nothing more than state the  
customer’s CPNI decision status – no affirmative action by the customer was required. The Staff’s  
Second Draft proposal incorporating a requirement for an affirmative customer response to a verification  
mailing is far different from the verification proposal referenced neutrally by the FCC in its earlier *Order*.  
Coupled with the fact that Arizona has no substantially different record than was before the FCC suggests  
that the FCC’s cautionary remark that it does “not take lightly the potential impact that varying state  
regulations could have on carriers’ ability to operate on a multi-state or nationwide basis” (*Id.* at ¶ 71)  
would provide a solid foundation for a request for federal preemptive action.

1           **D.    Mandating Prior Written CPNI Consent Is Presumptively**  
2                           **Unlawful (R14-2-xx04.B)**

3           The Second Draft Rule maintains a provision requiring that carriers secure express  
4 prior **written** customer consent before CPNI can be transferred to unaffiliated third  
5 parties. The rule is written in such a manner that suggests parallel drafting along the lines  
6 of 47 U.S.C. § 222(c)(2) (requiring carriers to disclose CPNI to anyone that a customer  
7 designates, when the designation is in writing). Yet it goes far beyond the requirements  
8 of the federal statutory provision.

9           The provision is most likely not constitutional if applied without consideration of  
10 the context associated with the transfer. For certain transfers, for example, there are  
11 obvious and less restrictive alternatives to protecting customers' privacy while  
12 accommodating carriers' speech and property interests. Postings on carrier websites  
13 advising that CPNI might be transferred in the event of a sale or direct customer  
14 notifications advising of the transfer are both options which pose less barriers to speech  
15 and property alienation than do the Staff's Second Draft Rule.

16           The record in this proceeding proves that prior customer consents cannot be  
17 secured in any significant volumes with respect to CPNI use and disclosure. And, even  
18 more significantly for consideration of this proposed Staff rule, the evidence  
19 demonstrates that written consents are the most difficult type of affirmative consents to  
20 secure, at least from residential customers.<sup>8</sup>

21           When considering the sale or transfer of part or all of a carrier's business, the  
22 Staff's Second Draft Rule imposes an undue burden on legitimate alienation of property

23 \_\_\_\_\_  
24 <sup>8</sup> The FCC's current rules are designed such that the provision of CPNI to an affiliate that does not  
25 provide "communications-related" services requires affirmative customer approval. The rule does not  
26 require a **written** affirmation of approval, however. Qwest has not conceded that such a requirement is  
lawful but has not formally contested the requirement. The Staff's Second Draft Proposed Rule contains  
a similar requirement at R14-2-xx04.A.

1 and the reasonable operation of commerce. There is nothing in the record to support a  
2 finding that a customer's interest in seeing that individually-identifiable information  
3 about them is not abused by their serving carrier requires barriers to trade such as would  
4 be erected by a prior, written CPNI consent regime.

5 The Staff's Second Draft Rule must be modified to allow for legitimate business  
6 transactions involving the transfer of CPNI. While the modifications might be different  
7 for different situations, they must be sufficient to allow CPNI consents to be secured in  
8 sufficient numbers and at reasonable expense so that they are possible to comply with and  
9 do not pose trade barriers. Such accommodations would not compromise the public  
10 interest and would accommodate the unimpaired operation of commerce.

11 Finally, the Second Draft Rule must be modified to accommodate existing federal  
12 obligations that incumbent local exchange carriers ("ILEC") provide CPNI to those  
13 carriers representing that they are authorized to receive it. As Qwest stated,<sup>9</sup> current  
14 federal law requires ILECs to provide CPNI to those carriers representing that they have  
15 authority to review the information, even if the ILEC is not presented with a signed  
16 writing by the customer evidencing such approval.<sup>10</sup>

17 **E. State Filings of Contracts with Affiliates, Agents and**  
18 **Partners (R14-2-xx03.D)**

19 The Staff provides no explanation in support of its proposed Second Draft Rule  
20 that would require carriers not only to execute contracts with their affiliates, as well as  
21 with their joint venture partners and agents (or independent contractors), but then to file  
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23 <sup>9</sup> See Qwest May 17, 2004 Comments at 11.

24 <sup>10</sup> See 47 U.S.C. §§ 251(c)(3)-(4). And see 47 C.F.R. §§ 51.5, 51.319(g) and accompanying Note  
25 (requiring carriers to provide CPNI for purposes of pre-ordering, ordering, provisioning, maintenance and  
26 repair and billing functions); *CPNI Order*, 13 FCC Rcd. at 8125-27 ¶¶ 84-85 and *CPNI Reconsideration*  
*Order*, 14 FCC Rcd. at 14459-60 ¶ 98 (where the FCC indicates that a refusal to provide CPNI to other  
carriers when they have less than written approval would likely be considered an unreasonable practice  
under the Communications Act).

1 those agreements with the Secretary of State, providing a copy to the ACC. Such a rule  
2 is unnecessary, cost prohibitive, unduly burdensome, and serves no public interest.

3 First of all, before a carrier can use information among its affiliates, either a  
4 customer has to have consented to the use or the customer has to have made a purchase of  
5 the affiliate's offering. (*See* 47 C.F.R. §§ 64.2005(a)(1), (b), 64.2007(b); *and compare*  
6 *proposed R14-2-xx03.A2*.) With respect to the CPNI in the possession of the holding  
7 carrier, as well as its carrier affiliates, 47 U.S.C. § 222(a) affirmatively imposes an  
8 obligation to protect CPNI. There is no necessity, then, for any contract to exist with  
9 respect to information sharing among affiliates (at least not for CPNI protection purposes;  
10 there may be other affiliated transaction rules that require such contracts to be in place).

11 With respect to non-carrier entities, there is no evidence that carriers have failed  
12 historically to treat their customer information – one of their most valuable assets –  
13 confidentially or that their current conduct is at odds with their long-standing practices.  
14 If a carrier determines to transfer CPNI to a non-carrier entity, there most likely will be a  
15 contract associated with the transfer of the information that will include provisions  
16 addressing how the confidential information is to be treated. Thus, there is no need for  
17 the government to promulgate an affirmative rule requiring such a contract. Additionally,  
18 the contract that exists certainly does not need to be filed with the government. The  
19 contract may be confidential, for example, yet become subject to state open record laws.  
20 The essential point to be made here is that the drafting and execution of contracts is an  
21 activity imbued with business and commercial prerogatives, not government imperatives.  
22 The government should do no more than establish standards and expect a carrier to reach  
23 those standards by whatever business means is feasible and appropriate.

24 Finally, with respect to agents (independent contractors) and joint venture  
25 partners, current federal rules already require the existence of a contract – with prescribed  
26 protective language – when CPNI is shared with such businesses. The Staff's Proposed

1 Rule would incorporate those federal requirements into Arizona rules. See R14-2-  
2 xx03.D.

3 Based on the above facts, there is no economically-sound reason why carrier  
4 contracts should be filed with the Secretary of State in Arizona or submitted to the ACC.  
5 The contracts are going to have the necessary protective language in them. Carriers are  
6 going to comply with the law. Therefore, this proposed rule should not be adopted. It is  
7 costly, unduly burdensome, administratively inefficient, and advances no public interest.

8 **F. Information Required for Opt-In Notice (R14-2-xx05)**

9 **a. A Separate Mailing Should Not Be Required**  
10 **(xx05.B2)**

11 The Second Draft Rule precludes carriers from communicating with their  
12 customers in their ordinary, routine fashion – through their bills. If for no other reason,  
13 any rule promulgated along the lines proposed by the Staff must be modified to allow  
14 separate cost recovery for the governmentally-mandated separate mailing required  
15 thereunder.

16 **b. Statements About CPNI Should Be Accurate**  
17 **(xx05.B8)**

18 The Staff's Second Draft Rule requires reference in the customer notice to the  
19 federal statutory definition of CPNI. (R14-2-xx05.B1.) Yet it also requires carriers to  
20 "[s]tate that CPNI includes *all information* related to specific calls initiated or received  
21 by a customer" (emphasis added). As Qwest has previously pointed out,<sup>11</sup> the definition  
22 of CPNI does not extend so far as to make "all information related to specific calls  
23 initiated or received by a customer" CPNI. Carriers should not be required to misstate  
24 the law in the fashion suggested by the Proposed Second Draft Rule.

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26 <sup>11</sup> See Qwest May 17, 2004 Comments at 6-7.

1                   c.     Effect of CPNI Restrictions Should Track FCC  
2                             Rule (xx05.B9)

3             The Staff made no changes from its first to its Second Draft Rule on this matter,  
4 despite the fact that its proposal is at odds with FCC rules. As Qwest previously  
5 commented, the Staff cannot propose a rule requiring carriers to advise customers of  
6 something *inconsistent* with an existing federal rule.<sup>12</sup> The FCC has modified its  
7 requirement that a carrier's CPNI approval notice should include a statement informing  
8 customers that if they decided not to approve the release of CPNI their decision would  
9 not affect the provision of services to which they subscribed. The FCC's rule now  
10 permits carriers to advise customers in clear and neutral language about any materially  
11 adverse consequences that might be encountered by a customer's refusal to provide CPNI  
12 approval.<sup>13</sup> Any ACC adopted rule must be modified accordingly.

13                   G.     Confirmations of CPNI Opt-In Approvals Are  
14                             Unnecessary (R14-2-xx09)

15             The Staff's Second Draft Rule proposal that carriers confirm, through a separate  
16 mailing, a customer's opt-in approval decision regarding **intrastate** CPNI is not in the  
17 public interest or in the economic interest of Arizona customers who would bear the  
18 burden of providing cost recovery for such confirmation.

19             CPNI approvals will generally be secured from the mass market through an opt-  
20 out approval process. Opt-in approvals will be small in number, except with respect to  
21 business and more sophisticated purchasers of telecommunications services that can  
22 appreciate the value of a supplier truly understanding their telecommunications needs

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24             

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<sup>12</sup> *See id.* at 7-8.

25             <sup>13</sup> *July 2002 CPNI Order*, 17 FCC Rcd. at 14906-07 ¶¶ 103-06. The FCC added the sentence "However,  
26 carriers may provide a brief statement, in clear and neutral language, describing consequences directly  
resulting from the lack of access to CPNI[.]" to its rule 47 C.F.R. § 64.2008(c)(3).

1 over time. These latter types of customers are not going to “make a mistake” about  
2 granting CPNI opt-in approval, and there should be no presupposition or prejudgment  
3 that some entity or person will lie about the customers’ decisions.

4 Written confirmations are not needed with respect to customers that affirmatively  
5 take action to authorize or approve use of CPNI. Establishing the infrastructure to  
6 support such a regime fails to make sense under any reasonable cost/benefit analysis.

7 **H. CPNI Reminder Notices are Unnecessary (R14-2-xx010)**

8 Qwest opposed the Staff’s earlier proposed rule requiring the mailing of reminder  
9 notices and it continues to oppose the rule, despite the Staff’s revisions in its Second  
10 Draft. In light of the existing federal requirement that carriers using a CPNI opt-out  
11 approval mechanism must notify their customers every two years (47 C.F.R.  
12 § 64.2008(d)(2)), there is no reasonable cost/benefit demonstration that can be made to  
13 support an annual notification regarding **intrastate** CPNI in Arizona. The proposal  
14 remains an arbitrary and bureaucratic requirement that in no manner materially advances  
15 consumer interests and only burdens their economic ones as the bearer of the cost  
16 recovery associated with the additional reminder.

17 Additionally, as Qwest previously stated,<sup>14</sup> sending out “reminder notices” of a  
18 customer’s CPNI status, parsed as “opt-out approval,” “opt-in approval” and “express  
19 prior written opt-in approval,” is not as simple a process as it sounds. Creating the  
20 systems to allow for such communication if required would be complex and costly<sup>15</sup> and  
21 carriers should be fully compensated for the endeavor. A serious investigation of the  
22 costs involved, when compared to the speculative benefit associated with the initiative,  
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24 <sup>14</sup> See Qwest May 17, 2004 Comments at 9-10.

25 <sup>15</sup> As Qwest advised earlier, creating such a functionality would require it to modify existing Customer  
26 Service Record (“CSR”) operations support systems (“OSS”) so that a customer’s “CPNI approval status”  
could be discretely captured for purposes of a separate mailing. See *id.* at 10.

1 would demonstrate that the customers' privacy and economic interests would not be  
2 advanced by requiring the communication of reminder notices.

3 Furthermore, to the extent that the Staff is proposing that a carrier be required to  
4 communicate with its customers through a means *other than* the carrier's routine and  
5 ordinary mechanism of communication – its bill – the Staff should include a provision  
6 that provides for cost recovery of its compelled communication.

7 **III. CONCLUSION**

8 For all of the above reasons, Qwest supports a CPNI approval process aligned with  
9 that promulgated by the FCC, without any additional costly and unduly burdensome  
10 verification, confirmation or reminder obligations. For this reason, the ACC should  
11 adopt CPNI rules of this kind, if it believes separate intrastate CPNI rules are necessary at  
12 all.

13 DATED this 30th day of August, 2004.

14  
15  
16 By



Norman G. Curtright  
Tim R. Fyke  
QWEST SERVICES CORPORATION  
Suite 1100  
4041 N. Central Avenue  
Phoenix, AZ 85012

17  
18  
19 *And*

20  
21 Timothy Berg, Esq.  
Teresa Dwyer, Esq.  
FENNEMORE CRAIG, P.C.  
Suite 2600  
3003 N. Central Avenue  
Phoenix, AZ 85012

22  
23  
24 *Attorneys for Qwest Corporation, Qwest*  
25 *Communications Corporation, and Qwest LD*  
26 *Corporation*

1 ORIGINAL and 13 copies of the  
2 foregoing hand-delivered for  
filing this 30<sup>th</sup> day of August, 2004 to:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 West Washington  
6 Phoenix, Arizona 85007

7 COPY of the foregoing hand-delivered  
8 This 30th day of August, 2004 to:

9 Lyn Farmer  
10 Chief Administrative Law Judge  
11 ARIZONA CORPORATION COMMISSION  
12 1200 W. Washington St.  
13 Phoenix, AZ 85007

14 Maureen A. Scott  
15 Gary A. Horton  
16 Legal Division  
17 ARIZONA CORPORATION COMMISSION  
18 1200 W. Washington St.  
19 Phoenix, AZ 85007

20 Ernest G. Johnson, Director  
21 Utilities Division  
22 ARIZONA CORPORATION COMMISSION  
23 1200 W. Washington St.  
24 Phoenix, AZ 85007

25 COPY of the foregoing mailed  
26 this 30th day of August, 2004 to:

Eric S. Heath  
SPRINT COMMUNICATIONS CO.  
100 Spear Street, Suite 930  
San Francisco, CA 94105

Steven J. Duffy  
RIDGE & ISAACSON, P.C.  
3101 North Central Ave., Ste. 1090  
Phoenix, AZ 85012

Richard S. Wolters  
AT&T Law Department  
1875 Lawrence Street, #1575  
Denver, CO 80202

- 1 Teresa Ono  
AT&T  
2 795 Folsom Street, Room 2159  
San Francisco, CA 94107-1243  
3
- 4 Thomas F. Dixon  
WORLDCOM, INC.  
707 N. 17<sup>th</sup> Street #3900  
5 Denver, CO 80202
- 6 Joan S. Burke  
OSBORN MALEDON, P.A.  
7 2929 N. Central Ave., 21<sup>st</sup> Floor  
PO Box 36379  
8 Phoenix, AZ 85067-6379
- 9 Bradley S. Carroll  
COX COMMUNICATIONS  
10 20402 North 29<sup>th</sup> Avenue  
Phoenix, AZ 85027-3148  
11
- 12 Scott Wakefield  
Daniel Pozefsky  
RESIDENTIAL UTILITY CONSUMER OFFICE  
13 1110 W. Washington St., Suite 220  
Phoenix, Arizona 850072828  
14
- 15 Curt Hutsell  
CITIZENS COMMUNICATIONS  
4 Trian Center, Suite 200  
16 Salt Lake City, UT 84180
- 17 Michael W. Patten  
ROSHKA, HEYMAN & DEWULF  
18 One Arizona Center  
400 E. Van Buren St., Ste. 800  
19 Phoenix, AZ 85004
- 20 Theresa Tan  
WORLDCOM, INC.  
21 Department 9976  
201 Spear Street, Floor 9  
22 San Francisco, CA 94105
- 23 Thomas Campbell  
Michael Hallam  
24 LEWIS AND ROCA  
40 N. Central Avenue  
25 Phoenix, AZ 85004  
26

1 Deborah R. Scott  
CITIZENS COMMUNICATIONS CO.  
2 2901 N. Central Avenue, Ste. 1660  
Phoenix, AZ 85012

3 Jon Poston  
4 ACTS  
6733 E. Dale Lane  
5 Cave Creek, AZ 85331

6 Robert E. Kelly  
ALLEGIANCE TELECOM OF ARIZONA, INC.  
7 1919 M Street, NW, Suite 420  
Washington, DC 20036

8 Jeffrey W. Crockett  
9 SNELL & WILMER  
One Arizona Center  
10 Phoenix, AZ 85004-2202

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