



0000013995

ORIGINAL EXCEPTION RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

2004 OCT -8 P 4: 31
AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission
DOCKETED
OCT - 8 2004

DOCKETED BY *CM*

IN THE MATTER OF DISSEMINATION OF
INDIVIDUAL CUSTOMER PROPRIETARY
NETWORK INFORMATION BY
TELECOMMUNICATIONS CARRIERS.

DOCKET NO. RT-00000J-02-0066
**QWEST'S EXCEPTIONS TO
ARIZONA CORPORATION
COMMISSION STAFF'S
PROPOSED CPNI RULE**

Qwest Corporation, Qwest Communications Corporation, and Qwest LD Corporation (collectively herein the "Qwest Companies" or "Qwest") hereby submit exceptions to Arizona Corporation Commission Staff's ("Staff") proposed Order attached to the Memorandum to the Commission from the Utilities Division dated September 24, 2004.

Staff's proposed rules continue to be afflicted by serious constitutional infirmities. They are also overreaching from a public policy perspective, failing to reflect in any measure a meaningful cost/benefit analysis. Barring any demonstration of carrier abuse of CPNI, or concomitant public harm, burdening carriers with complex, costly and unduly burdensome bureaucratic requirements with respect to the use of customer information – requirements not broadly or uniformly required of other commercial enterprises in Arizona – is arbitrary and advances no public good. Those customers approving CPNI use should not be burdened by added costs just so that they can receive timely and relevant marketing information about products and services that might interest them. Similarly, those customers not approving CPNI use should not be burdened by

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 The rules proposed by Staff do not vary significantly from Staff's Second Draft
4 Proposed CPNI Rules. On August 30, 2004, Qwest filed its Comments to the Staff's
5 Second Draft Proposed CPNI Rules, and therein discussed in detail the constitutional and
6 public policy deficiencies in the Second Draft. As a result, Qwest's Comments to Staff's
7 Second Draft remain valid, and Qwest incorporates them by reference here.

8 Qwest believes that Staff's proposed rule will impermissibly impact upon
9 constitutionally protected free speech. AT&T Communications of the Mountain States,
10 Inc. and TCG Phoenix (collectively, "AT&T") have filed AT&T's Exceptions to Staff's
11 Proposed Order in this docket on October 4, 2004, making its arguments in that regard.
12 Qwest joins in the AT&T Exceptions to the extent of the First Amendment arguments
13 AT&T makes in its Sections II. A.

14 DATED this 8th day of October, 2004.

15
16 FENNEMORE CRAIG

17 By: 

18 Timothy Berg
19 Theresa Dwyer
20 3003 North Central Ave., Suite 2600
21 Phoenix, Arizona 85012-2913
22 (602) 916-5421

23 -and-

24 Norman Curtright
25 QWEST CORPORATION
26 4041 North Central Ave., 11th Floor
Phoenix, Arizona 85012

Attorneys for Qwest Corporation

1 ORIGINAL and 13 copies of the
2 foregoing hand-delivered for
3 filing this 8th day of October, 2004 to:

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

5 COPY of the foregoing hand-delivered
6 this 8th day of October, 2004 to:

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

10 Maureen A. Scott
11 Gary A. Horton
12 Legal Division
13 ARIZONA CORPORATION COMMISSION
14 1200 W. Washington St.
15 Phoenix, AZ 85007

13 Ernest G. Johnson, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 W. Washington St.
17 Phoenix, AZ 85007

16 COPY of the foregoing mailed
17 this 8th day of October, 2004 to:

18 Eric S. Heath
19 SPRINT COMMUNICATIONS CO.
20 100 Spear Street, Suite 930
21 San Francisco, CA 94105

20 Steven J. Duffy
21 RIDGE & ISAACSON, P.C.
22 3101 North Central Ave., Ste. 1090
23 Phoenix, AZ 85012

23 Richard S. Wolters
24 AT&T Law Department
25 1875 Lawrence Street, #1575
26 Denver, CO 80202

- 1 Teresa Ono
AT&T
- 2 795 Folsom Street, Room 2159
San Francisco, CA 94107-1243
- 3
- 4 Thomas F. Dixon
WORLD COM, INC.
707 N. 17th Street #3900
- 5 Denver, CO 80202
- 6 Joan S. Burke
OSBORN MALEDON, P.A.
- 7 2929 N. Central Ave., 21st Floor
PO Box 36379
- 8 Phoenix, AZ 85067-6379
- 9 Bradley S. Carroll
COX COMMUNICATIONS
- 10 20402 North 29th 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 Triun 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
WORLD COM, 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

11 
12

1593926.1/67817.289

13
14
15
16
17
18
19
20
21
22
23
24
25
26