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BEFORE THE ARIZONA CORPORATION COMMISSION

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**IN THE MATTER OF THE REVIEW AND
POSSIBLE REVISION OF ARIZONA
UNIVERSAL SERVICE FUND RULES,
ARTICLE 12 OF THE ARIZONA
ADMINISTRATIVE CODE**

DOCKET NO. RT-00000H-97-0137

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

DOCKET NO. T-00000D-00-0672

**INITIAL COMMENTS OF QWEST
CORPORATION**

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Pursuant to the Procedural Order entered on November 28, 2007 in this consolidated proceeding, Qwest Corporation files its Initial Comments which are embodied in Exhibits A, B, and C hereto.

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RESPECTFULLY SUBMITTED this 7th day of January, 2008.

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QWEST CORPORATION

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Arizona Corporation Commission
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Norman L. Gentry

Responses to Staff's Exhibit "A"
AUSF Issues List

General Policy Issues

Qwest recognizes that the AUSF is an essential source of funding that ensures that rural telecommunications customers receive the supported telecommunications services at reasonable rates. In order for the AUSF to be successful in fulfilling its stated purpose and to meet the goal of enhancing competitive choice for telecommunications customers throughout the State, there are a number of general policies that must guide any amendment of the Rules:

1. The AUSF should be restricted to supporting one primary line per eligible telecommunications carrier ("ETC") per address and the supported services should not be expanded beyond basic single-line voice grade service. Since the primary purpose of the AUSF is to provide basic access to the telecommunications customers for whom cost-based rates would result in a prohibitive cost of telecommunications service, the financial assistance provided by the fund should be limited to basic single-line service needed to access basic telecommunications service.
2. While the AUSF should be limited to voice services,

Qwest has proposed a cost-effective strategy for promoting ubiquitous broadband rollout with the FCC. Stated simply, Qwest's proposal outlines three principles for supporting broadband deployment. **The first principle** is an emphasis on the importance of universal access to broadband and on funding for only one provider per unserved broadband area to achieve that goal. **The second principle** requires an evaluation of the specific demographics and needs of unserved households. **The third and final principle** is a delegation of authority to the states to administer and manage this universal service program with the use of a "winner take all" competitive bidding process,¹ whereby providers would compete for a one time, fixed-cost grant to subsidize the deployment of broadband in areas where it does not exist.

To implement these principles, Qwest proposes a four-step process:

- i) The development of definitions for "broadband" and an "unserved area";

¹ For a seminal overview on "competition for the field," see Harold Demsetz, *Why Regulate Utilities?* 11 J.L. & ECON. 55 (1968); see also Dr. Patrick Xavier, *What Rules for Universal Service in an IP-Enabled NGN Environment?*, at 14, International Telecommunications Union (2006) (competitive bidding "can generate incentives to contain costs, to innovate, and to reveal the true cost of delivering universal service thus minimising [sic] the subsidy required.").

- ii) The implementation of an effective comprehensive broadband mapping program;
- iii) The disbursement of the relevant funds on an annual basis to be divided up by the states on the basis of unserved households; and
- iv) A competitive bidding process conducted annually by the states according to federal criteria.

3. The size of the AUSF should be carefully monitored to prevent uncontrollable growth. This can best be achieved by supporting only a single line per household per ETC, by only providing support for rates that exceed the Commission-determined benchmark as discussed below, and by not expanding the scope of the supported services. Given the focused nature of the help to be provided by the AUSF, the Commission must ensure that the funds collected for the AUSF are only the amount needed to provide basic service to truly high-cost customers. If the AUSF is structured in a way that provides significantly more support than is needed for this purpose, the other telecommunications customers of the State will pay more than is necessary for the telecommunications services they receive. The AUSF

should be limited to only necessary funds. A benchmark that is set too low without recovery first in local rates, will create an enormous and unnecessarily burdensome state fund.

4. The source of the funding of the AUSF should be based on a method that requires all carriers operating and offering intrastate telecommunications services in Arizona to contribute in an equitable and non-discriminatory manner - it should be sustainable and competitively and technologically neutral. Carriers operating wireline, wireless, and cable telephony should all contribute to the AUSF (and potentially receive funds from it, as an eligible telecommunications carrier [ETC]), in an equal manner. The contributions could be based on total retail telecommunications intrastate revenue. To arbitrarily assess 50 percent of the collection burden on traditional long distance carriers, as is the case, is not a sustainable methodology, given the massive reduction in long distance volumes that presumably have resulted from wireless competition. If AUSF assessments apply to only some of those services or to only some providers of those services, the customers of those providers will be disadvantaged and the providers will be placed at a

significant competitive disadvantage. The Commission should therefore fund the AUSF in a broad-based, competitively neutral manner so that all intrastate customers and carriers contribute to the Fund.

5. The AUSF process should focus initially on the responsibility of carriers to recover the cost of service from the end-user customer. At the present time, rates for basic residential service and basic business services vary among providers. As a starting point for the determination of the need for and level of AUSF support, the Commission must determine an appropriate level of cost to be borne by the end-user customer. In high-cost areas, it is appropriate to recover a portion of the additional costs, as an increment to the statewide average rate, from the end-user customers. Pricing in this manner allows the rate levels to better reflect the economic realities of providing service in high-cost areas and provide the proper economic signals to the marketplace. The Commission should balance the level of affordability and the high cost of service as suggested by Qwest below.
6. ETCs should only be eligible for AUSF support to the extent the rate for basic service in the high-cost

area meets or exceeds a Commission determined affordability benchmark. Qwest recommends that the benchmark rate be set at 125 percent of the weighted average of all Arizona residence and business basic exchange rates plus the federal end-user line charge. Thus, in situations where a local exchange carrier believes that its local rates are not compensatory, even though the rates meet or exceed the Commission's affordability benchmark, the carrier should file an earnings investigation with the Commission. The Commission can then determine whether the carrier should receive funding from the AUSF to reduce what would otherwise be local rates above the benchmark while also considering the level of funding the carrier is receiving from the Federal USF (FUSF). In addition to providing the Commission with a way to determine the compensability of local rates, an earnings investigation will also provide accountability and assist in preventing an uncontrollable fund. The Commission's rules could provide a simplified mechanism by which, under outlined conditions, an ETC can make a simplified filing of rate of return on fair value rate base, which would be subject to Commission review. This would avoid the considerable cost of preparing a

full rate case by the carrier or review by the Commission.

7. Any AUSF support determination should take into account the FUSF high-cost fund monies available to the carrier before administering any AUSF support.² In order to assure that carriers receive needed cost support but do not double recover costs of service, it is appropriate that any AUSF provided be net of any federal universal service funding related to the end-user customer. If the FUSF support to an ETC is reduced, the carriers must first look to restructure rates. To the extent that restructured rates exceed the benchmark, an ETC would be eligible for (additional) AUSF upon commission review of its application.
8. The AUSF should be a uniform mechanism that treats rural and non-rural carriers alike. The purpose of the AUSF is to ameliorate the cost of providing service to high-cost customers. Since the focus of AUSF funding is high-cost customers, AUSF support should be available to maintain affordable rates for

² The calculation of AUSF should take into account federal USF from the Rural High Cost fund, the Non-Rural High Cost Fund, and the Local Switching Support Fund. These three funds directly offset the state revenue requirements of carriers and should be considered in the calculation of AUSF support. Other federal USF programs provide offsets for interstate revenue requirements and/or revenues and do not need to be considered in the calculation of AUSF.

similarly situated customers in high-cost areas, for any carrier serving those customers, regardless of whether the carrier is large or small. The identity of the carrier providing service should not matter; it is the identity of the customer as a high-cost customer that should drive the eligibility for AUSF support.

9. Qwest suggests that the support area should be the wire center, which provides for targeted support without adding undue complexity to the targeting process or the administration of the fund.
10. There should be parity with regard to the regulatory oversight of all ETCs. For example, while Qwest does not believe that service quality rules are necessary in a competitive marketplace and that service quality rules developed to regulate monopolists decades ago are unnecessary, if the Commission maintains its service quality rules, they should be applied equally to all ETCs' basic universal service offerings for purposes of ETC designation and obligations. The competitive playing field must be level, regardless of the technology involved.
11. Competition and technological changes are alive and well in Arizona and the telecommunications

landscape has changed significantly since the introduction of the Telecom Act of 1996. Historically, business lines have provided an implicit subsidy to residential lines. However, more and more business lines are now being served by competitors who are not required to make expensive investments to serve customers in high cost areas. Using one-time USF distributions is one way to help fund the cost of serving high cost customers. This is especially important for ILECs who do not receive ongoing draws from the USF.

In high cost situations, one-time USF distributions may be used to extend facilities to serve potential customers not presently receiving service and for the amelioration of inadequate service. Normally, one-time USF distributions would not be used to extend facilities to serve vacation or seasonal dwellings.

- b. The administrative requirements associated with one-time USF distributions should be kept to a minimum.
- c. The requirement to provide line extension allowances for end users, at different compensatory levels within the State of

Arizona is yet another indication of the Commissions inability to level the playing field in an environment where market conditions warrant certain levels of parity. Requiring Qwest to pay for the first \$5,000 for line extension to an end user not previously served at an address while requiring a competitor or smaller LEC or rural LEC to only pay a fraction of Qwest's allowance for a similarly situated end user does not appear to even resemble the parity standards that Qwest is held to in other areas of the business. Simply put, similarly situated customers served by different companies in different parts of the state should pay similar amounts for line extension.

d. Unless otherwise ordered by the Commission, the maximum one-time USF distribution should be no more than a set amount. (For example for rate-of-return regulated companies in Utah that amount is no more that \$10,000 per customer.)

AUSF Issues List

1. What should the fund look like?
 - a. The fund should be designed as outlined above in Qwest's general policy considerations.
2. What revenues should be assessed?
 - a. All intrastate telecommunications services' revenues in AZ should be assessed. This includes wireline, wireless, cable telephony, and interconnected VoIP services. If the FCC moves to a numbers-based assessment process, the AUSF should move to a similar basis. The assessment methodology for both the AUSF and the FUSF should be synchronized because maintaining two different calculations in the billing system for FUSF and AUSF is an unnecessary administrative burden.
3. What should the **AUSF** reporting requirements be?
 - a. The AUSF revenue reporting requirements should mirror the FCC's revenue reporting requirements. Other reporting requirements are already in place and do not require expansion.
4. What should the rules be for companies serving high cost areas?
 - a. The rules should be designed as outlined above in Qwest's general policy considerations.
5. Should all carriers be treated the same regardless of service area or technology used?
 - a. Yes.
6. What revisions to the existing **AUSF** rules should be made?
 - a. At this time, Qwest is not proposing specific rule changes.
7. Should the fund allow upfront recovery of construction costs?

- a. The fund should allow up-front recovery for certain line extensions and up-front recovery for limited costs in currently un-served areas (please see the response to question 13). While Qwest does not propose that the AUSF provide any broadband funding, see Qwest's brief outline of its broadband proposal for un-served areas which provides for up-front recovery of broadband costs from a federal fund.
8. Should a company be required to meet a set of criteria before they are allowed to obtain **AUSF** revenues to compensate it for reductions in access revenues resulting from access charge reform?
 - a. Yes. See the proposed changes above concerning a benchmark rate and earnings investigation.
 9. Should **AUSF** funding be available to competitive eligible telecommunications carriers?
 - a. Yes. CETCs are eligible on the basis of one line per household in areas that have been determined to be high cost for the ILEC.
 10. Should **AUSF** funding be provided to companies that are not certified as eligible telecommunications carriers?
 - a. No.
 11. Should companies be required to file a rate case to obtain **AUSF** revenues?
 - a. Companies should be subject to an earnings investigation through a rate case or a more streamlined earnings review.
 12. If a rate case is not required, what method should be used to determine whether a company should receive **AUSF** payments?
 - a. A company needs to demonstrate that it is charging its end user customers at the high cost benchmark level and that its earnings are below the company's authorized return through a simplified earnings investigation.
 13. Should the **AUSF** rules be amended to allow for the provision of telephone service in unserved or underserved areas?

- a. AUSF should be made available through a competitive bid process for the minimum support necessary to provide service in the unserved area. The winner of the competitive bid will exclusively receive AUSF in the unserved area as an aid to construction, with no continuing support for its on-going operations after the initial construction. The winning bid must commit to serving the area for a minimum of 10 years.
14. Should the **AUSF** rules be amended to allow for incentives to companies to the provide telephone service in unserved or underserved areas?
 - a. See the response to 13 above.
 15. Should the **AUSF** rules as proposed by **ALECA** be adopted?
 - a. No, as Qwest stated in its comments in July of 2005.
 16. Should competitive bidding be a component of **AUSF** implementation?
 - a. See response to question 13.
 17. Should CLECs have to prove a need for **AUSF** revenues?
 - a. Only CETCs should be eligible for AUSF. Like the ETC, the CETC is only eligible for a single line per household address. A cost showing for CETCs would require new and complex regulations and accounting procedures for the CETCs.
 18. What services should be eligible for inclusion in services supported by the **AUSF**?
 - a. Only basic local voice service should be supported by the AUSF.
 19. Should **AUSF** payments be used for line extensions and if so how should eligible costs be determined?
 - a. Yes, as discussed above in Qwest's General Policy Issues at #11.
 20. How should the **AUSF** surcharges be calculated?
 - a. Surcharges should be calculated as a percentage. The calculation should be the projected fund requirement divided by the total projected intrastate telecommunications revenue. This calculation can be done

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Exhibit A
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on a quarterly or annual basis. If an AUSF reserve amount is required, the reserve can be factored into the equation, as well as administrative cost recovery.

**Responses to Staff's Exhibit "B"
Updated Access Charge Questions**

**1. Do you believe that the Commission ought to restructure access charges?
Please explain your response.**

Yes. Qwest supports access reform, but the manner in which it is accomplished is very important to the ongoing health of the Telecommunications industry. The key to reasonable access reform will be to develop a strategy that is both revenue neutral to the ILECs reducing access rates, and competitively neutral and conceptually consistent with the current interstate regime.

Rate restructuring will enhance the long-term health of the industry in both the long distance and local arenas. Lowering switched access rates can promote efficient competition in the long distance market where inordinately high access rates cause some customers to seek direct connections to toll carriers. That means those customers remaining on the switched network are disadvantaged by less than optimum and efficient use of the network. Further, shifting revenue recovery to end users on a flat-rated basis more accurately represents the costs of providing local service and will encourage competition in the local service arena.

Rate restructuring will reduce arbitrage opportunities and drive market behavior that enhances efficient competition. Providers that offer better products at more attractive prices will prosper, while others may not realize the same success. The Commission and other policy makers should not predetermine which parties fall into which categories and should not provide any artificial help by this procedure.

2. What recommendation to the Commission would you make regarding how intrastate access charges should be reformed?

Qwest has made significant reductions in its intrastate access charges over several years, the last \$12 million reduction occurring in 2006.

A similar plan for CLECs and smaller ILECs would also be appropriate. Restructuring in that way will encourage all parties to focus on the issue of access reform. The FCC's reform of interstate access charges acted to shift revenues from usage based charges to interexchange carriers to charges assessed directly to consumers. Through implementation of the *CALLS* Plan, the FCC took steps to restructure interstate access by reducing interstate access to a composite rate for larger price-capped ILECs and implementing an end-user subscriber line charge. Similar movement by this Commission through a revenue neutral access restructure for small ILECs and CLECs would certainly be a step in the right direction toward a more

unified intercarrier compensation regime. The parties in this docket may have different equations for restructuring rates. For example, Qwest may be able to reduce switched access rates to FCC levels, and do so by increasing other service rates or establishing one flat rate charge. Smaller ILECs may require more dramatic restructuring in order to reduce their intrastate access rates to similar levels. If these adjustments are extraordinary, then the impact should also be considered in the context of universal service.

3. Would you recommend the Commission address both switched and special access in an access charge reform proceeding? If your response is yes, please explain.

There is no need to address special access in this proceeding. Special Access is already subject to competitive pricing and market forces and is priced efficiently.

4. What is your current recommendation to the commission on how access charges should be reformed?

Please see response to number 2.

5. Please update your response to the questions and issues contained in the 12-3-01 Procedural Order in Docket No. T-00000A-00-0672 to the extent you feel they should be updated.

Qwest is updating its responses to the questions and issues contained in the 12-3-01 Procedural Order in Docket No. T-00000A-00-0672 within the responses to Staff's Exhibit B, *Updated Access Charges*.

6. How would the FCC's proceeding to reform intercarrier compensation affect the ACC's actions to reform intrastate access charges?

The current intercarrier compensation docket at the FCC has been in place since 2001, and continues to remain open. There are numerous plans which have been placed before the FCC, and a plethora of comments.

While it is unknown at this time what action the FCC will take and when they will take action, the Commission should consider the concepts of, and timing with, the currently pending FCC Intercarrier Compensation docket before finalizing the reform of intrastate access charges.

7. Do you believe that the carrier common line switched access charges ought to exist? Please provide your rationale for your position on this matter.

The Carrier Common Line portion of interstate switched access was eliminated for large ILECs by the FCC in the *CALLS* plan. Qwest recommends that Arizona follow the FCC's lead in this matter and eliminate the CCL as rate element in a revenue neutral manner, possibly in a phased-in manner.

8. Do you think that the notion of implicit subsidies ought to be a component of any analysis that the Commission

No, the rate restructuring proposed herein does not rely on the assumption that any particular services are subsidized, nor does it rely on the assumption of subsidies, as measured by any particular cost allocation methodology.

9. Do you believe that the AUSF ought to pick up any revenue reduction that may occur as a result of the reform of access charges? Please provide the rationale for your response.

Increasing local service rates is the most appropriate way to recover the lost revenue from the reduction of switched access rates. However, a dramatic increase in those rates could cause a problem for some ILECs because the increases may be too dramatic, or may jeopardize universal service objectives. Qwest proposes that if an access charge reduction would necessitate a local service rate increase above a Commission determined state wide affordability benchmark, then the ILEC should be given an opportunity to make up the difference from a state universal service fund, after a review of its earnings.

10. If you believe that the AUSF ought to pick up any revenue reduction that may occur as a result of the reform of access charges, what parameters would you implement to determine what amount ought to be picked up by the AUSF?

The Commission should establish a state wide affordability benchmark, whereby when an ILEC is forced to raise its local service rates above that benchmark that increase is replaced by an amount from the state USF. Eligibility for the state USF should be determined by the Commission subsequent to a review of the earnings of the USF applicant, including any Federal USF funding. This review would be consistent with Arizona law regarding periodic earnings determinations.

11. How would you quantify the reductions? Please explain your response to include items such as whether the AUSF amount would be based on current year

switched access minutes, on current year access revenues, historical year access minutes, historical year access minutes, etc.

Qwest contends that this portion of the docket is related to Phase 2, and is therefore related to reductions by those carriers not included in Phase 1. Therefore, Qwest is not submitting information regarding reductions by Qwest.

12. Provide an estimate of the effect on access revenues for your company if access charges are reformed in the manner that you recommend to the Commission.

Please see response number 11.

13. For companies that provide access service, please provide the dollar amount of revenues from intrastate switched access charges that you received by rate element, by month, for the period July 1,2006 through June 30,2007.

Please see response number 11.

14. For companies that purchase access service, please provide the dollar amount of the payments for switched access charges that you made (by company, rate element, and by month) for the period July 1,2006 through June 30,2006

Confidential Attachment A will be provided to the Commission Staff upon suitable arrangements to maintain the confidentiality of the requested information.

15. Should additional considerations be taken into account when restructuring and or setting access charges for small rural carriers? Please explain your response.

To the extent that the reductions in access charges would cause the local service rate increase to exceed the state wide affordability benchmark, the AUSF may be implicated. In addition, the increase in small rural ILECs and rural CLECs in arbitrage schemes should be an issue that the Commission is aware of when deciding what LECs to include in access reform.

16. Please comment on any other issues you believe may be relevant to the Commission's examination of intrastate access charges.

There may be a number of competitors involved in this proceeding posturing to gain economic advantages. The Commission should approach this proceeding, at

least initially, with the intention of restructuring current access rates. Further, the Commission should recognize the various regulatory frameworks under which ILECs provide both competitive and increasingly more-competitive service offerings. For example, Qwest's access services are subject to a Price Cap Plan, whereas, other ILECs remain under rate-base rate-of-return regulation.

The telecommunications industry is capital intensive and affected by many regulatory decisions. Part of the uncertainty confronted by potential competitors is the possibility of regulatory changes that will undermine an industry participant's ability to recover the costs associated with its investments. Unpredictable regulatory adjustments introduce uncertainty and delay investment by competitors. The Commission will be most successful addressing access charge reform in a manner that promotes competition by taking distinct steps in a well-defined direction.

17. Are there other issues besides the rate restructuring and costing issues raised herein that should be addressed by the Commission in this Docket?

Again, restructuring intrastate access is one vital step toward the goal of establishing appropriate economic pricing for telecommunication products and services, and determining a rational universal service funding mechanism if it is required.

The Commission should adopt an access restructure plan that clearly moves toward the overall goal of more appropriate economic pricing in general, and toward the goal of establishing an unified intercarrier compensation regime for interstate access, intrastate access and local interconnection, more specifically.

The Commission should consider the concepts of, and timing with, the currently pending FCC Intercarrier Compensation docket

18. Are there other State proceedings and/or decisions that you would recommend the Commission examine in this docket? Please attach any relevant State commission decisions to your comments.

Yes – Qwest recommends that recovery of the administrative costs associated with the Lifeline, Link-up, and Medically Needy programs be considered as part of this docket. Recovery of the Lifeline and Link-up administrative costs through the AUSF was recommended in Section B.4. of the Industry report filed in Docket No. T-00000A-05-0380 on December 21, 2005. (See Attachment B).

Qwest also recommends that the issues related to the Generic Proceeding on VNXX ordered in Decisions No. 68820 be included in this docket. (See Attachment C).

19. One of the stated objectives of the Qwest Price Cap Plan was to achieve parity between interstate and intrastate access charges. Is this something that should be looked at by the Commission in this proceeding?

Parity with FCC rates should be examined in this process.

20. Parties who desire that switched access charges be reformed often state that switched access charges in general, and the CCL rate element in particular, contain implicit subsidies. Do you agree with this statement? Please provide an explanation of the rationale for your position, including any computations that you might have made.

The CCL rate element is a central component of the inefficient legacy rate structure of intrastate access. The CCL is inefficient because it recovers costs that are fixed through per-minute charges. An efficient rate structure would be designed so that costs are recovered in the manner in which they are incurred. Thus, the costs recovered through the CCL would more appropriately be recovered through a flat-rate per-line charge to end users. Further, the CCL is not sustainable as packet networks grow and eventually replace circuit switched networks. Qwest has eliminated the CCL from its Arizona intrastate access rate structure.

21. Do you believe that the Commission should quantify implicit subsidies:

- a. At all?
- b. As part of this proceeding?
- c. As part of proceedings that address each carrier individually?

Please see response to Question 8.

22. If you believe that the Commission should quantify implicit subsidies, what is the appropriate cost standard to be used to determine whether access charges are free of implicit subsidies?

Please see response to Question 8.

23. What issues do you believe should be addressed in a proceeding to determine whether and to what extent intrastate access charges ought to be reformed?

Please see response to number 17.

24. Do you believe that there is a difference in the costs of providing interstate switched access service versus intrastate-switched access service? In your response, please include a description of how costs are defined in your response and how those costs relate to costs allocated to the intrastate jurisdiction under the FCC's current rules.

Because interstate and intrastate switched access both perform the same functions and use the same equipment, it is Qwest's belief that the costs of interstate access service would be very similar to the cost of intrastate switched access service.

25. Should the Commission address CLEC access charges as part of this Docket?

Yes, all segments of the industry should be included in access reform.

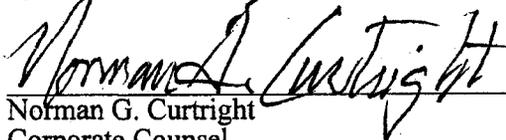
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Docket No. RT-00000H-97-0137
Docket No. T-00000D-00-0672
Attachment A to Exhibit B
January 7, 2008

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2 would be beneficial; and 6) outreach programs that should be implemented to increase
3 subscribership in Arizona.

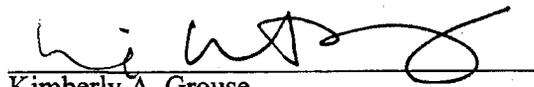
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5 RESPECTFULLY SUBMITTED THIS 21st day of December, 2005

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**Report and Recommendations of the Arizona Eligible Telecommunications Carriers on
Lifeline and Link-Up Issues**

On April 29, 2004, the Federal Communications Commission ("FCC") issued its "Report and Order and Further Notice of Proposed Rulemaking." FCC 04-87 ("FCC Lifeline Order"). The FCC Lifeline Order expanded the federal default eligibility criteria for the Lifeline and Link-Up telephone assistance programs to include the Temporary Assistance to Needy Families program ("TANF") and the National School Lunch program ("NSL"). Additionally, the FCC expanded the eligibility criteria to include households whose size and income level was at or below 135% of the Federal Poverty Guidelines. The FCC Lifeline Order also introduced new requirements for certification and annual verification of qualification on the part of all states and emphasized the continued need for outreach to individuals likely to qualify for the Lifeline and Link-Up programs. The FCC based its Lifeline Order upon recommendations in the April 2, 2003 decision of the Federal-State Joint Board on Universal Service.

On June 21, 2005, the Arizona Corporation Commission ("Commission") adopted the FCC's expansion of Lifeline and Link-Up eligibility criteria in Decision No. 67941 ("Decision"). The Decision required all Eligible Telecommunications Carriers ("ETCs") to meet with the Arizona Department of Economic Security ("DES") within 30 days of the Decision's effective date and to docket within six months a report to the Commission with recommendations on the following: (1) whether the development of an electronic interface for Lifeline verification and certification would be beneficial in Arizona; (2) how other states' on-line electronic interfaces operate; (3) whether such interfaces have had an impact on subscribership rates in these other states; (4) cost recovery options to cover the costs of an on-line interface of this nature; (5) whether centralized administration by DES of all ETC end-user assistance programs would be beneficial; and (6) outreach programs that should be implemented to increase subscribership in Arizona.¹

¹ The Decision also required that ETCs should (1) amend the Lifeline and Link-Up provisions in their tariff to reflect compliance with the Lifeline Order; (2) docket updated tariff pages within 60 days from the effective date of the Decision for review and approval by the Utilities Division; and (3) docket a report with the Commission within 12 months from the effective date of the Decision which discusses the

To comply with the requirements of the Decision, a team of Arizona ETCs (the "Team") met regularly from mid-July through mid-December. Representatives from Arizona DES-Community Services Administration ("DES-CSA") and Arizona DES-Family Assistance Administration ("DES-FAA") also participated in those meetings. In addition, representatives from the Commission Staff and the Arizona Community Action Association ("ACAA") met with the Team to answer questions and to offer suggestions. (See Exhibit A for a list of Team members, participants, and meeting dates.)

The Team determined their overall objective was to develop a plan to increase enrollment of qualified individuals in the Arizona Lifeline program. Approximately 60,000 households currently receive Lifeline discounts through the ETCs represented on the Team, of these, roughly 50,000 receive Enhanced Lifeline² discounts. Although the Team agrees that automatic enrollment appears to be the single most effective means to accomplish its objective, the Decision's new eligibility criteria, centralized agencies, and electronic interfaces should also contribute to the Team's objective to increase Lifeline enrollment.

The Team proposes the following two-phase Lifeline enrollment program. Additionally, a report on the six areas of interest identified by the Decision is summarized below.

A. The Two-Phase Lifeline Enrollment Program

The proposed hybrid program incorporates automatic enrollment, where feasible, with traditional self-certification enrollment for those individuals qualifying for Lifeline based on participation in programs that are not currently administered by a centralized agency.

carriers' outreach programs utilizing the new FCC guidelines and their impact on subscribership levels. These additional requirements, however, are outside the scope of this report.

² Enhanced Lifeline (sometimes called Tribal Lifeline or Tier Four Support) provides qualifying residents of Native American Indian and Alaska Native tribal communities additional support under the Lifeline Assistance Program and Link-Up America. Lifeline provides discounts on monthly service for qualified telephone subscribers ranging from \$8.25 to \$10.00 per month, depending upon the applicable state provisions. Link-Up helps qualified low-income consumers pay the initial costs for commencing service by offsetting one-half of the initial hook-up fee, up to \$30.00. Enhanced Lifeline supplies further assistance up to an additional \$25.00 in monthly Lifeline support and up to an additional \$70.00 in Link-Up support.

Phase I: *Engage DES-FAA to automatically enroll individuals in Arizona Lifeline, as well as Tribal Lifeline,³ and have ETCs participate in cooperative outreach programs that target ACAA offices.*

DES-FAA currently administers three Lifeline and Link-Up qualifying programs: Food Stamps, TANF, and Arizona Health Care Cost Containment System (Title 19 Medicaid) (“AHCCCS”).⁴ DES-FAA estimates that there is an unduplicated caseload of 432,559 households enrolled in these three programs, which is approximately 77% of Arizonans who qualify for Arizona Lifeline. Since DES-FAA is already working with the majority of those who qualify for Lifeline, DES-FAA is in the best position to automatically enroll these individuals into Lifeline.

It is the Team’s understanding that DES-FAA can modify its current application for Food Stamps, TANF, and AHCCCS to include a specific question about Arizona Lifeline. The application would ask applicants to indicate: (1) if they would like to enroll in Lifeline, (2) to identify their current ETC, and (3) to authorize the release of their information to their chosen ETC. Information from these new enrollees would be captured by DES-FAA caseworkers and then electronically transmitted to the ETC identified by the applicant on a weekly basis. It is anticipated that through this process as many as 400,000 new households could be enrolled in Arizona Lifeline over the course of a year, a substantial increase in today’s enrollment. It could result in an increase of over \$38 million dollars in federal funding coming into the state (\$8.00 per month x 12 months x 400,000 households).

Although this represents a significant increase in the number of households currently enrolled in Arizona Lifeline, the 2000 Decennial Census reports a total of 1,189,431 persons at

³ There are several tribal-owned ETCs, not under the jurisdiction of the ACC, who provide Lifeline and Link-Up assistance. These ETCs should also benefit from the implementation of Phase I.

⁴ Different agencies of federal and state government administer the other qualifying programs. For example, the Department of Education administers the NSL program, the Social Security Administration administers Supplemental Security Income (“SSI”), the Department of Housing and Urban Development administers Federal Public Housing, the Arizona Community Action Network administers Low-Income Home Energy Assistance Program (“LIHEAP”), and AHCCCS determines eligibility for Title 21 Medicaid (“KidsCare”).

or below 150% of the poverty level in Arizona.⁵ An additional 491,445 may be eligible based on the KidsCare program, which qualifies individuals at 200% of the poverty level. These statistics increase the number of potentially qualified persons up to 1,680,876. Assuming an average household size of three persons per household, this translates to a potential increase of 560,292 qualified households in Arizona. Taking into consideration the unduplicated caseload of 432,559 via automatic enrollment with DES-FAA, this still leaves approximately 127,733 (23%) of qualified households who need another way of enrolling in Arizona Lifeline.

The remaining 23% would continue to self-certify for Arizona Lifeline using a paper application just as they do today. To address the gap by automatic enrollment, all ETCs will participate in cooperative outreach programs to reach and enroll the remaining 23%. The cooperative outreach programs will target ACAA offices where individuals apply for LIHEAP, as well as any other public offices identified as locations where those who qualify for Lifeline might be reached and made aware of the application process.

Engaging DES-FAA to automatically enroll approximately 77% of Arizonans into Lifeline is a relatively straightforward process that can be accomplished in the very near term, provided that funding for administrative costs is made available to do so. (See Report below at issue 4 for funding options.)

Assuming that the Commission proceeds with Phase I and appropriate funding is available, the Team recommends the Commission appoint a standing subgroup to work through the programming and implementation details associated with the DES-FAA automatic enrollment program and the cooperative outreach plan. The subgroup should be responsible for evaluating the success of Phase I and report the results to the Commission with recommendations before Phase II is implemented.

Phase II: *Identify and implement additional outreach programs and engage the Arizona Department of Revenue to include Arizona Lifeline Certification when sending the tax returns of qualifying individuals.*

⁵ Decision No. 675941 established the Arizona income-level criteria at 150% of the federal poverty level instead of the FCC's 135%.

After evaluation of outcomes realized in Phase I, new and innovative outreach strategies and materials should be developed to reach individuals not enrolled during Phase I. Working with the ACAA will be necessary to identify new ways to outreach.

In addition to developing new outreach strategies, the Team recommends partnering with the Arizona Department of Revenue to identify qualifying households based on their annual Arizona Income Tax filing. Using tax records, it might be possible for the Arizona Department of Revenue to identify Arizona households whose size (number of dependents) and household income is at or below 150% of the Federal Poverty Guidelines. The Arizona Department of Revenue could then mail these individuals an "Arizona Lifeline Certification form," which they could then forward to the ETC providing their phone service.⁶ (See Exhibit B for a similar form used by North Dakota for Lifeline enrollment.) These efforts, combined with the automatic enrollment implemented in Phase I, could significantly improve Lifeline enrollment in Arizona.

B. Discussion on Six Areas of Interest

Pursuant to the Decision, the Team submits the following report addressing the six issues of interest set forth in the Decision, which supports the Team's recommendations above.

(1) Whether the development of an electronic interface for Lifeline verification and certification would be beneficial in Arizona.

The Team believes that an electronic interface between DES-FAA and the various ETCs is necessary to facilitate enrolling the large number of households qualifying for Arizona Lifeline each month. Although specific details to implement the program have yet to be worked out, information on qualified applicants could be electronically transferred from DES-FAA to the applicant's current ETC, thereby facilitating automatic enrollment in Lifeline.⁷ DES-FAA has provided a high-level estimate for the development and maintenance of such an enrollment program (see Exhibit C). Based on the Team's high-level discussion of system requirements,

⁶ It should be noted that Phase II of the team's recommendation has not been discussed with any representatives of the Arizona Department of Revenue and would require further exploration and negotiation between the appropriate parties.

⁷ Applicants without current telephone service would not be automatically enrolled but would be provided information on Lifeline and Link-Up programs.

DES-FAA has estimated an initial programming cost of \$27,558 and an annual cost of \$325,300 to determine eligibility status. The foregoing estimate of ongoing costs is based on a monthly application rate of 90,000, which may vary, and assumes that DES-FAA would only handle notification of eligibility status. Cost recovery options are addressed later in this report.

Although an electronic and online application for individual consumer enrollment was discussed, the Team believes that such an application would not have a significant impact on increasing enrollment because Lifeline benefits low-income consumers who may be less likely to have easy access to online resources. However, this premise should be re-examined after the completion of Phase I.

The Team also considered an electronic interface with a centralized database containing all qualified applicants in the state. An electronic interface such as this would allow individual ETCs to easily verify customer enrollment in Lifeline. The Team, however, decided that a single database containing all qualified individuals in the state was cost prohibitive.

(2) How other states' on-line electronic interfaces operate.

The Team examined automatic enrollment programs for Lifeline and Link-Up currently operating in four of the six states identified in the FCC Lifeline Order. The investigation found that each of the four state's automatic enrollment systems operates differently, including the interface, electronic or otherwise, between the telecommunications companies and the relevant state welfare agencies. Below is a short summary of four states' automatic enrollment systems and interfaces. For a more detailed discussion on each state's system, see Exhibit D.

In Massachusetts, the Department of Transitional Assistance modified its public assistance application to include a box that the applicant can check to receive Lifeline and Link-Up discounts and to release the applicant's information to the telephone companies for enrollment purposes. Once checked, the agency electronically sends the applicant's information to the telephone companies. The telephone companies then compare this information against their own customer records and enroll only their customers found on the information list.

In Nevada, the State Welfare Department electronically sends a report twice a year with names and addresses of those persons who are enrolled in public assistance programs to the telephone companies. This information is e-mailed to the appropriate ETCs based on zip code and telephone number. The companies review the report for two purposes: (1) to enroll customers who have become eligible for these discounts; and (2) to verify that their current Lifeline and Link-Up customers remain eligible.

In New York, the Office of Temporary and Disability Assistance ("OTDA") electronically sends a list of individuals who are eligible for Lifeline to the telephone companies in July and December of each year. These individuals are current OTDA clients receiving public assistance. The telephone companies then compare the OTDA client list with their own customer base. The telephone companies notify their eligible customers by letter stating that they will begin to receive the Lifeline discount unless the customer objects within 30 days.

When Texas first adopted an automatic enrollment program, it was similar to the current programs in Massachusetts and Nevada. In 2003, the Texas Commission created a third-party administrator, the Low Income Discount Administrator ("LIDA"). Each month, the Texas Human and Health Services Department sends LIDA its database of consumer names that are enrolled in public assistance programs and the telephone companies also send their customer database. LIDA then compares these two databases against each other to determine who is eligible to receive Lifeline and Link-Up discounts (but not currently enrolled) and who has become ineligible to receive these discounts. LIDA creates a list of these eligible or ineligible customers and sends it to each telephone company through secured electronic mail.

The Team believes that a combination of the methods above would best serve Arizona consumers immediately. This includes: (1) modifying DES' application to include Lifeline and Link-Up enrollment; (2) having DES compile the list of qualified applicants and continue to verify the eligibility of the applicants; and (3) having DES electronically send the list to the ETCs on a weekly basis.

(3) Whether such interfaces have had an impact on subscribership rates in these other states.

Although the answer to this question seems intuitive, it is difficult to isolate a single factor, such as electronic interfaces, to credit having an impact on subscribership rates. Multiple factors work together to increase subscribership rates, including the number of eligibility programs and criteria, automatic enrollment, electronic interfaces, third-party administrators, outreach efforts, and so on.

For example, automatic enrollment and electronic interfaces have made a significant impact on enrollment in Texas and New York. In Texas, telephone companies are required to file annual reports quantifying how many customers receive Lifeline and Link-Up discounts. After informally analyzing enrollment rates, a Texas Commission staff attorney concluded that enrollment increased approximately 30-35% in 2000 when Texas implemented automatic enrollment with an electronic interface. In 2004, Texas formed a third-party administrator and that same year Lifeline enrollment increased another 35% and Link-Up increased 43%.

In New York, penetration rates increased 35-40% with the introduction of automatic enrollment and electronic interfaces. However, while penetration among low-income households initially increased with the introduction of these factors, it subsequently fell as fewer families qualified. (See Exhibit E, testimony of Dr. Trudi J. Renwick, Ph.D. for the Public Utility Law Project). Dr. Renwick recommended that the number of qualifying programs must be increased to expand Lifeline and Link-Up enrollment even further. The Commission has already added several qualifying programs, such as TANF, NSL, KidsCare, and income level, as new eligibility criteria for Arizona Lifeline.

(4) Cost recovery options to cover the costs of an on-line interface of this nature.

DES-FAA's participation in the Team's meetings has been very instrumental and it is willing to implement measures that will bring Lifeline and Link-Up services to more Arizona residents. However, as may be expected, there are costs associated with implementation and the on-going administration. The initial start-up costs for Phase I are expected to be approximately

\$27,558. The ongoing administrative costs of automatic enrollment for all ETCs are estimated to be at least \$325,300 per year (see Exhibit C for more detailed cost analysis). The costs associated with Phase II are undetermined at this juncture and will require further analysis.

The Team considered several options for defraying the administrative costs of Phase I and concluded that funding from the Arizona Universal Service Fund ("AUSF") should be considered. The AUSF mechanism could be utilized to reimburse DES and/or the ETCs for administrative costs incurred in administering Phase I. This mechanism includes prescribed surcharges for obtaining the necessary funds and a fund administrator to oversee collection and disbursement. At present, the fund administrator is the National Exchange Carrier Association ("NECA"). In its current form, the Commission's AUSF rule prescribes three types of surcharges. Local telephone companies are assessed a flat monthly fee per access line, and toll providers are assessed a percentage of intrastate revenues. Both kinds of providers may, in turn, pass through their assessments to their subscribers. Similarly, a flat monthly charge is levied against wireless carriers' interconnecting trunks.

The three AUSF surcharges provide a fair and economical way of covering the administrative costs of Phase I. First, both wireline and wireless telephone subscribers benefit by adding more customers to the public switched network and keeping existing customers on the network. A larger network benefits all subscribers because they are able to reach and be reached by a larger number of persons. Second, the surcharges are broad-based. Because the surcharges are broadly applied to all classes of telephone users, there are few opportunities for users to escape paying the surcharges by subscribing to substitute services that are not assessed. Third, financing Phase I administrative costs using the AUSF surcharges will add little to NECA's current costs to administer the fund. DES and the ETCs would be able to submit to NECA proof of the costs they have incurred, and after reviewing those submissions, NECA could factor the associated costs into the size of the fund.

The Team considered and rejected several alternatives to using the current AUSF mechanism as a means of financing Phase I expenditures. One undesirable alternative is to

subsume Phase I costs into the ETCs overall cost of doing business in Arizona. This alternative hides Phase I costs from consumers. Absorbing Phase I costs will force ETCs to attempt recovery throughout the full array of their products and services, and the ETCs' subscribers will be unaware of the extent to which their individual purchases are burdened by Phase I costs. Should an ETC be unable to obtain complete recovery throughout its price schedules and tariffs, then its shareholders and owners will unfairly bear a disproportionate burden of Phase I costs.

Another option the Team rejected is to finance Phase I costs by levying a surcharge on customers' bills separate and apart from the current AUSF surcharge. This approach has at least two disadvantages as compared to relying upon the existing AUSF mechanism. First, if adopted, it will further complicate consumers' bills by adding yet another surcharge. As is widely acknowledged, consumers frequently complain their telephone bills are already too complicated for them to understand. Second, ETCs would incur additional administrative costs associated with setting up, billing, collecting and keeping track of another surcharge, and the Commission would have to dedicate resources to review the reasonableness and monitoring the application of a new surcharge.

The Team also considered seeking legislation to finance the Phase I costs shouldered by DES. Such legislation, however, might introduce a new tax or it might require DES to get special budgetary authority to obtain funding through general tax revenues. Introducing a new tax has many of the same objections as establishing a new telephone surcharge, if not more. Giving some kind of special budgetary preference to funding DES' Lifeline and Link-Up activities may jeopardize DES' other vital functions. Moreover, the legislative approach is full of uncertainties and opportunities for delay. This method of financing was, therefore, rejected by the Team.

In the end, the significant advantage in using the AUSF mechanism is that the Commission has the authority to issue an order allowing immediate recovery through the AUSF. The rules governing AUSF funding are broad in nature. (A.A.C. R14-2-1201 *et seq.*) For example, A.A.C. R14-2-1203 broadly states that requests for AUSF funding should include a

“statement describing the need for such funding.” Allowing immediate cost recovery through the AUSF avoids the delay and uncertainty associated with seeking legislation and eliminates the need for a new and separate surcharge or retention of another fund administrator. Furthermore, Arizona would not be the first state to finance the cost of administering telephone assistance plans using a state universal service fund. As noted in Exhibit D, the Texas Universal Service Fund finances both the Lifeline and Link-Up discounts and the administrative costs of a third-party administrator.

(5) Whether centralized administration by DES of all ETC end-user assistance programs would be beneficial.

While centralized administration of all end-user programs is ideal, no agency in the State of Arizona is currently in a position to solely fulfill that role. As discussed earlier in this report, DES-FAA is in a position to handle centralized administration of programs, which serve approximately 77% of those qualifying for Arizona Lifeline. DES-FAA is in the best position of existing agencies to incorporate automatic enrollment—the single most effective tool for increasing participation in the Arizona Lifeline program.

(6) Outreach programs that should be implemented to increase subscribership in Arizona.

Implementing automatic enrollment for participants in AHCCCS, TANF, and Food Stamps provides automatic and immediate outreach to the estimated 77% of households qualifying for Arizona Lifeline.

In order to provide effective outreach to the additional 23% of qualifying households, the Team recommends a cooperative outreach campaign that targets the low-income community, including ACAA offices where individuals apply for LIHEAP as well as other locations. The Team suggests that bi-lingual posters and Lifeline brochures be developed to explain the Arizona Lifeline program, list participating ETCs, and include a generic Arizona Lifeline application form acceptable by all ETCs. This information could be displayed in the 37 ACAA offices located throughout the state, as well as additional offices which are under contract to the ACAA (see Exhibit F). This information, as well as the generic Lifeline application, could also be

posted on websites such as www.arizonaselfhelp.org and www.azcaa.org. It is envisioned that the various ETCs could help fund this cooperative outreach effort, proportionate to the number of residential customers they serve in the state.

In addition to this cooperative program, each ETC will continue its own outreach efforts, in addition to what is currently being done. Implementation of the Team's Phase II program could further improve outreach efforts in Arizona.

The Team requests that the Commission expeditiously adopt and implement the recommendations in this report. The Team recommends April 30, 2006 as the target date for implementation of Phase I to enable the ETCs to improve Lifeline enrollment in Arizona in the near term.

CONCLUSION

The Arizona Lifeline Team has developed what it believes is a viable plan for expanding the Arizona Lifeline and Link-Up programs to reach more eligible consumers and to facilitate the use of over \$38 million in annual federal aid for the benefit of low-income consumers. Engaging DES-FAA to act as a centralized agency to enroll over 400,000 households in the program is a key component to the overall recommendation. Implementing this recommendation requires a cost recovery mechanism to ensure that all of the ETCs and their customers benefit from DES-FAA's efforts. The Team recommends that the Commission issue an order allowing for the recovery of Phase I administrative costs through the AUSF.

Once a source of funding has been determined, the Team recommends that the Commission appoint a standing subgroup to work through all of the programming and implementation details associated with the DES-FAA automatic enrollment recommendation and the cooperative outreach plan in Phase I.

Wherefore, the following Eligible Telecommunications Carriers support the recommendations in this Lifeline Report:

Accipiter Communications Incorporated
Arizona Telephone Company
Century Telephone of the Southwest, Inc.
Citizens Telecommunications Company of the White Mountains
Citizens Utilities Rural Company, Inc.
Copper Valley Telephone
Midvale Telephone Exchange, Incorporated
Navajo Communications Co., Inc.
Qwest Corporation
Rio Virgin Telephone Company
South Central Utah Telephone Association
Southwestern Telephone Company
Table Top Telephone Company
Valley Telephone Cooperative, Inc.
Verizon California, Inc.
Smith Bagley, Inc.
Sprint Spectrum Limited Partnership
Telscape Communications, Inc.

SIGNATURE PAGE

WHEREFORE, the undersigned agents for the following Eligible Telecommunications Carriers support the recommendations in this Lifeline Report.

ACCIPTER COMMUNICATIONS INCORPORATED, a Nevada corporation

By: Charles Gowder
Name: Charles Gowder
Title: President/CEO
Date: 12/16/05

Comments:

ARIZONA TELEPHONE COMPANY, an Arizona company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

CENTURY TELEPHONE OF THE SOUTHWEST, INC, a New Mexico corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SIGNATURE PAGE

WHEREFORE, the undersigned agents for the following Eligible Telecommunications Carriers support the recommendations in this Lifeline Report.

ACCIPITER COMMUNICATIONS INCORPORATED, a Nevada corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

ARIZONA TELEPHONE COMPANY, an Arizona company

By: Jana Feiler
Name: Jana Feiler
Title: Mgr - External Relations
Date: 12/21/05

Comments:

CENTURY TELEPHONE OF THE SOUTHWEST, INC, a New Mexico corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SIGNATURE PAGE

WHEREFORE, the undersigned agents for the following Eligible Telecommunications Carriers support the recommendations in this Lifeline Report.

ACCIPITER COMMUNICATIONS INCORPORATED, a Nevada corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

ARIZONA TELEPHONE COMPANY, an Arizona company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

CENTURY TELEPHONE OF THE SOUTHWEST, INC, a New Mexico corporation

By: Edith M. DeFeg
Name: Edith M. DeFeg
Title: Director - Government Relations
Date: 12/30/05

Comments:

CITIZENS TELECOMMUNICATIONS COMPANY OF THE WHITE MOUNTAINS,
a Delaware company

By: Curt Huttroll
Name: Curt Huttroll
Title: Mgr. - Gov't. & External Affairs
Date: 12/19/05

Comments:

CITIZENS UTILITIES RURAL COMPANY, INC., a Delaware corporation

By: Curt Huttroll
Name: Curt Huttroll
Title: Mgr. - Gov't. & External Affairs
Date: 12/19/05

Comments:

COPPER VALLEY TELEPHONE, an Arizona corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

MIDVALE TELEPHONE EXCHANGE, INCORPORATED, an IDAHO corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

CITIZENS TELECOMMUNICATIONS COMPANY OF THE WHITE MOUNTAINS,
a Delaware company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

CITIZENS UTILITIES RURAL COMPANY, INC., a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

COPPER VALLEY TELEPHONE, an Arizona corporation

By: Kimberly A. Grouse
Name: Kimberly A. Grouse
Title: Attorney for Copper Valley Telephone
Date: 12/21/05

Comments:

MIDVALE TELEPHONE EXCHANGE, INCORPORATED, an IDAHO corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

**CITIZENS TELECOMMUNICATIONS COMPANY OF THE WHITE MOUNTAINS,
a Delaware company**

By: _____
Name: _____
Title: _____
Date: _____

Comments:

CITIZENS UTILITIES RURAL COMPANY, INC., a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

COPPER VALLEY TELEPHONE, an Arizona corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

MIDVALE TELEPHONE EXCHANGE, INCORPORATED, an IDAHO corporation

By: *K. Ellison*
Name: Karen J. Ellison
Title: C.E.O.
Date: December 16, 2005

Comments:

NAVAJO COMMUNICATIONS CO., INC., a New Mexico corporation

By: Carl Hutchell
Name: Carl Hutchell
Title: Mgr. - Govt. & External Affairs
Date: 12/12/05

Comments:

QWEST CORPORATION, a Colorado corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

RIO VIRGIN TELEPHONE COMPANY, a Nevada company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION, a Utah non-profit
association

By: _____
Name: _____
Title: _____
Date: _____

Comments:

NAVAJO COMMUNICATIONS CO., INC., a New Mexico corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

QWEST CORPORATION, a Colorado corporation

By: Carol Rohrkemper
Name: CAROL ROHRKEMPER
Title: MANAGER - TELEPHONE ASST. PLANS
Date: 12-19-2005

Comments:

RIO VIRGIN TELEPHONE COMPANY, a Nevada company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION, a Utah non-profit association

By: _____
Name: _____
Title: _____
Date: _____

Comments:

NAVAJO COMMUNICATIONS CO., INC., a New Mexico corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

QWEST CORPORATION, a Colorado corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

RIO VIRGIN TELEPHONE COMPANY, a Nevada company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION, a Utah non-profit association

By:  _____
Name: BRANT BARTON
Title: CEO / General Manager
Date: 12-20-05

Comments:

SOUTHWESTERN TELEPHONE COMPANY, an Arizona company

By: John Zeiler
Name: John Zeiler
Title: Asst-External Relations
Date: 12/21/05

Comments:

TABLE TOP TELEPHONE COMPANY, a Nevada corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

VALLEY TELEPHONE COOPERATIVE, INC., an Arizona non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

VERIZON CALIFORNIA, INC., a California corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SOUTHWESTERN TELEPHONE COMPANY, an Arizona company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

TABLE TOP TELEPHONE COMPANY, a Nevada corporation

By: WJ Hayes
Name: W. J. HAYES
Title: General Manager
Date: Dec. 20, 2005

Comments:

VALLEY TELEPHONE COOPERATIVE, INC., an Arizona non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

VERIZON CALIFORNIA, INC., a California corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SOUTHWESTERN TELEPHONE COMPANY, an Arizona company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

TABLE TOP TELEPHONE COMPANY, a Nevada corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

VALLEY TELEPHONE COOPERATIVE, INC., an Arizona non-profit corporation

By: Kimberly A. Grouse
Name: Kimberly A. Grouse
Title: Attorney for Valley Telephone Cooperative
Date: 12/21/85

Comments:

VERIZON CALIFORNIA, INC., a California corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments: Verizon California, Inc. reserves its rights to further comment on the development, implementation, and evaluation of any program adopted to increase Lifeline and Link-Up enrollment in Arizona.

SOUTHWESTERN TELEPHONE COMPANY, an Arizona company

By: _____
Name: _____
Title: _____
Date: _____

Comments:

TABLE TOP TELEPHONE COMPANY, a Nevada corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

VALLEY TELEPHONE COOPERATIVE, INC., an Arizona non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

VERIZON CALIFORNIA, INC., a California corporation

By: Donald Eachus
Name: DONALD EACHUS
Title: SENIOR STAFF CONSULTANT
Date: December 20, 2005

Comments: Verizon California, Inc. reserves its rights to further comment on the development, implementation, and evaluation of any program adopted to increase Lifeline and Link-Up enrollment in Arizona.

Donald Eachus

SMITH BAGLEY, INC., a District of Columbia corporation

By: Carl V. Wibel
Name: _____
Title: _____
Date: _____

Comments:

SPRINT SPECTRUM LIMITED PARTNERSHIP, a Delaware limited partnership

By: _____
Name: _____
Title: _____
Date: _____

Comments:

TELSCAPE COMMUNICATIONS, INC., a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SMITH BAGLEY, INC., a District of Columbia corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SPRINT SPECTRUM LIMITED PARTNERSHIP, a Delaware limited partnership

By: Mark D. Koval
Name: MARK D. KOVAL
Title: REGULATORY AFFAIRS MANAGER
Date: DECEMBER 19, 2005

Comments:

TELSCAPE COMMUNICATIONS, INC., a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

Comments:

SMITH BAGLEY, INC., a District of Columbia corporation

By: _____
Name: _____
Title: _____
Date: _____

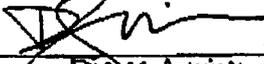
Comments:

SPRINT SPECTRUM LIMITED PARTNERSHIP, a Delaware limited partnership

By: _____
Name: _____
Title: _____
Date: _____

Comments:

TELSCAPE COMMUNICATIONS, INC., a Delaware corporation

By:  _____
Name: Diana Aquino
Title: Regulatory Administrator
Date: 12-16-05

Comments:

EXHIBIT A

EXHIBIT A: Arizona Lifeline Team Membership, Participants, and Meeting Dates

I. Team Members: Arizona Eligible Telecommunications Carriers

a. ILECs

- Accipiter Communications
 - Charles Gowder, President/CEO
- Arizona Telephone Company
 - John Zeiler, Manager – External Relations
- Century Telephone of the Southwest
 - Edie Ortega, Director of Government Relations
- Citizens Telecommunications Company of the White Mountains
 - Curt Huttzell, Manager – Government & External Affairs
- Citizens Utilities Rural Company
 - Curt Huttzell, Manager – Government & External Affairs
- Copper Valley Telephone
 - Steve Metts, CEO
 - ALECA member, represented by Karen Ellison
- Midvale Telephone Exchange
 - Karen J. Ellison – CEO & President of ALECA
- Navajo Communications
 - Curt Huttzell, Manager – Government & External Affairs
- Qwest Corporation
 - Carol Rohrkemper, Manager – Telephone Assistance Plans (Arizona Lifeline Team Chairperson)
 - Monica Luckritz, Staff Advocate – Public Policy
 - Norm Cutright - Counsel
- Rio Virgin Telephone Company
 - Harold Oster, General Manager
- South Central Utah Telephone Association
 - Brant Barton, CEO / General Manager

- Southwestern Telephone Company
 - John Zeiler, Manager - External Relations
- Table Top Telephone Co., Inc.
 - Lisa Rossi, Customer Service & Marketing Manager
- Valley Telephone Cooperative
 - Steve Metts, CEO
 - ALECA member, represented by Karen Ellison
- Verizon California, Inc.
 - Lorraine Kocen, Specialist – Regulatory Policy & Planning

b. CLECs and Wireless

- Smith Bagley Inc., d/b/a Cellular One of NE AZ
 - Carl Wibel, Project Coordinator - Network Development
- Sprint Spectrum L.P.
 - Lil Taylor, Regulatory Affairs Manager
- Telscape Communications, Inc.
 - Diana Aguirre, Regulatory Administrator

II. Participants

- a. Arizona DES – Community Services Administration
 - Mary Ellen Kane
 - Sandra Mendez
- b. Arizona DES – Family Assistance Administration
 - Rick Anderson, DBME Systems Administrator
 - Kathy Montano, Executive Staff Assistant to the Assistant Director
- c. ACC Staff
 - Richard Boyles, Utilities Engineer
 - Brad Morton, Public Utilities Consumer Analyst II
 - Maureen Scott, Attorney
- d. Arizona Community Action Association
 - Cynthia Zwick, Executive Director
- e. Snell & Wilmer L.L.P.
 - Kimberly A. Grouse
 - Marcie Montgomery

III. Schedule of Team Meetings

July 15, 2005

August 10, 2005

August 24, 2005

September 15, 2005

October 4, 2005

October 19, 2005

November 1, 2005

November 7, 2005

November 15, 2005

December 8, 2005

EXHIBIT B

CASE NUMBER:

MAILED DATE:

N D DEPARTMENT OF HUMAN SERVICES

02

HOME TELEPHONE ASSISTANCE CERTIFICATE

Dear

You have received this certificate because you are eligible to participate in the Link Up and Telephone Assistance programs. The Link Up program assists with initial telephone hook up costs. The Telephone Assistance program will pay a part of your monthly local telephone service (not long distance calls or service).

To access the Link Up and Telephone Assistance programs, complete this certificate and mail or deliver it to your local telephone company. In the spaces below, enter your telephone number (if you have one), the name of the individual responsible for the bill, your signature, and the date. If you do not have a telephone, please provide your name, signature and the date.

Case Name:

Telephone number: _____ Billing name _____

Eligible applicant's signature _____ Date _____

Your local telephone company will verify your continued eligibility once per year.

If your local telephone service is provided by Qwest Communications, mail this certificate to PO BOX 2738, Omaha NE 68103-2738. Otherwise, send or deliver this completed certificate to your local telephone company.

Most telephone companies in North Dakota participate in the Telephone Assistance program. If you have questions about Link Up or Telephone Assistance, contact your telephone company. The North Dakota Public Service Commission can also answer your questions at 701-328-2400.

RIGHTS TO A HEARING

If you believe the decision contained in this notice is incorrect, you may request a hearing before the North Dakota Department of Human Services. Contact your county social service office for instructions on how to request a hearing. You must request a hearing in writing within 30 days from the date of this notice for Medicaid. For Food Stamps, a request for hearing must be made orally or in writing within 90 days from the date of this notice.

If your request for a hearing is made within 10 days (five days in the event of probable fraud in Medicaid), the action described on the reverse side of this notice will not be taken pending the hearing decision unless:

- (1) notice is not required,
- (2) you withdraw your request for the hearing,
- (3) you fail to appear at a scheduled hearing, or
- (4) it is decided that the only issue in the appeal is one of federal or state law or policy.

You are advised, however, that if the hearing decision by the Department of Human Services is not in your favor, the total additional amount paid to you or on your behalf will be considered an overpayment subject to recovery.

You can have an attorney, relative, friend or any other person assist you in your hearing. If you would like an attorney to help, but do not have the money to pay an attorney, you can contact one of the free legal service organizations in your area to see if they can assist you. If you would like one of these organizations to represent you at your hearing, it is advisable that you contact them as soon as possible. The North Dakota Department of Human Services makes this listing of Legal Aid organizations available for your use.

NONDISCRIMINATION

In accordance with Federal law, U.S. Department of Agriculture (USDA) policy and U.S. Department of Health and Human Services (HHS) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, religion or political beliefs. To file a complaint of discrimination, contact the USDA or HHS. Write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). Write HHS Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington D.C. 20201 or call (202) 619-0403 (voice) or (202) 619-3257 (TDD). USDA and HHS are equal opportunity providers and employers.

RESPONSIBILITY TO REPORT CHANGES

UNDER PENALTY OF LAW, IT IS THE APPLICANT'S/RECIPIENT'S RESPONSIBILITY TO REPORT TO THE COUNTY SOCIAL SERVICES OFFICE ANY CHANGE IN INCOME, ASSETS, ADDRESS, LIVING ARRANGEMENT, THE NUMBER OF PERSONS LIVING IN THE HOME, THE RETURN HOME OF A HUSBAND/WIFE, A CHILD'S DROPPING OUT OF SCHOOL, ETC.

- * **CHANGES MUST BE REPORTED WITHIN TEN DAYS** by contacting the county social services office to verbally report a change, by writing to the county social service office, or by completing the Change Report Form.

EXHIBIT C

EXHIBIT C: DES-FAA Cost Estimates Associated with Automatic Enrollment

DES/FAA was asked to estimate the automation and implementation effort necessary for the categorically eligible referrals to the ETC's. The following narrative describes how the FAA arrived at the estimates:

Automation

To send changes from one ETC to another, one new data element needs to be added to an existing data base file. This requires efforts from the application side for both the technical and user teams as well as efforts from the Data Base Administration and the Technical Support areas in the form of re-organizing files to allow for the additional data element. Application programming and user testing have the lion's share of the automation effort to select the correct records for transmission, and to install necessary cross relational editing to ensure data integrity. The total automation effort has been estimated at 1,043 person hours at a total cost of \$27,557.97.

Policy and field staff notification/training effort

The policy effort of eight person hours consists of adding a question to the application for assistance, developing the policy and procedure, and drafting the field notifications for implementation. The policy unit cost has been estimated at \$250.86.

Eligibility Costs

The interface design that has been discussed calls for a Lifeline eligibility determination each time an application for assistance is received. This means the Eligibility Interviewer ("EI") would need to examine the potential Lifeline eligibility for both initial applications and all re-determinations (for new phone service, changes or terminations). We have estimated this activity at approximately one minute per application received. This activity would consist of

discussing the Lifeline program with the client, determining if the client is with an ETC (or may be known to multiple ETC's) and correctly updating the data in the eligibility system. One minute of an EI's salary is worth \$.30 times 90,361 applications received per month (or 1,084,332 apps received per year) for an annual cost of \$325,300.00.

One Time Cost Estimate for DES-FAA: \$27,808.83

On-going, Annual Cost Estimate for DES-FAA: \$325,300.00*

* On-going Annual Cost Estimate does not include costs associated with handling customer calls associated with their Lifeline enrollment and status. Whether or not DES would be responsible for handling customer inquiries has yet to be determined.

EXHIBIT D

EXHIBIT D

The task force group examined automatic enrollment programs for Lifeline and Linkup currently operating in four states. This task force group looked into how these automatic enrollment programs function. Below is a summary of our research highlighting four automatic enrollment states: Massachusetts, Nevada, New York, and Texas.

1. Massachusetts

The Massachusetts Department of Transitional Assistance modified its public assistance application to include a privacy waiver to release customer eligibility information and enroll into Lifeline and Linkup. Applicants have to check a box on the application to release their information and enroll. Once checked, the agency releases the applicant's information to the telephone companies. The telephone companies then compare this information against their own customer records and enroll only their customers found on the information list. Telephone companies have signed confidentiality agreements limiting the use of customer information.

The Massachusetts Department of Telecommunications and Energy ("MDTE") is currently working with telephone companies to establish an automated program of matching customer records like the program used by electric and gas companies. Electric and gas companies were ordered by MDTE to electronically transfer customer account information on a quarterly basis to the Executive Office of Health and Human Services ("EOHHS"). Then, EOHHS matches the customer account information with information in its database of recipients of public benefits programs in order to identify customers who are eligible for Lifeline and Linkup. EOHHS returns a list of eligible customers to the electric and gas companies and these companies enroll the customers.

2. Nevada

The Nevada State Legislature passed a law allowing the Nevada State Welfare Department ("Welfare Department") to release information to telephone companies. The Welfare Department issues a report twice year with names and addresses of those persons who are enrolled for assistance programs. Social security numbers are not used.

The telephone companies then review the report for their customer names to verify that current Lifeline and Linkup customers remain eligible to receive the discounts and to enroll customers who have become eligible. For those who are eligible but are not currently enrolled in Lifeline and Linkup, the telephone companies may contact those individuals on the report whether or not they are a current customer.

Individuals who are not currently receiving public assistance but still qualify for Lifeline or Linkup may contact the telephone company directly to sign up for Lifeline and Linkup.

3. New York

The New York Public Service Commission, the New York Department of Family Assistance ("NYDFA"), and NYNEX (now Verizon) helped create an automatic enrollment database. The Office of Temporary and Disability Assistance ("OTDA"), one of two offices

within NYDFA, is charged with transferring customer confidential information to the telephone companies for Lifeline enrollment. In July and December of each year, OTDA sends a report to the telephone companies listing individuals who are eligible for Lifeline. These individuals are current OFTDA clients receiving public assistance. The telephone companies have entered into confidentiality agreements with NYDFA stating that the telephone companies will only use the OTDA list for Lifeline purposes.

The telephone companies then compare the OTDA list with their own customer base. The telephone companies notify their eligible customers by letter stating that they will begin to receive Lifeline discount unless the customer objects within 30 days.

4. Texas

In Texas, the Texas State Legislature promulgated two statutes, Sections 55.015 and 56.021, ordering the Texas Commission to implement rules for automatic enrollment of Lifeline and Linkup. Specifically, Section 55.015 calls for the Texas Commission to adopt rules providing for automatic enrollment of Lifeline service for eligible customers. Section 56.021 empowers the Texas Commission to adopt and enforce rules requiring local exchange companies to establish a universal service fund to reimburse telephone companies providing Lifeline service.

With this authority, the Texas Commission worked with the Texas Human and Health Services Department ("THHSD") to establish an automatic enrollment program. At first, the idea was to have the telephone companies use THHSD's database to determine who needs to be enrolled in Lifeline and Linkup. Before this could happen, THHSD had to get permission to release the information in that database from the federal agency over them. To get this permission, THHSD had to enter into confidentiality agreements with the telephone companies indicating that the use of the database information was only for Lifeline and Linkup programs. In addition, the Texas State Legislature was concerned about the use of social security numbers, so only names and other identification indicators are used in the database.

In 2003, the Texas Commission amended Section 26.412 – the rules relating to Lifeline and Link Up service programs – to improve the automatic enrollment program. The 2003 amendments created a third-party administrator, the Low Income Discount Administrator ("LIDA").¹

a. *LIDA: General Overview*

LIDA's primary role is to collect the names of customers from the telephone companies who are enrolled in Lifeline and Linkup and compare them to the names listed in the THHSD database. LIDA also entered into a confidentiality agreement regarding the proper uses of the database. The amendments to Section 26.412 states that the functions of LIDA will be established in more detail in the "Low-Income Discount Procedural Guide." Although a draft of this Guide was created, it never became official. Regardless, the telecommunication companies' IT administrators worked out the details with LIDA and established the necessary procedure.

¹ Project No. 28056, Order Adopting Amendments to §26.412 As Approved at the December 30, 2003 Open Meeting (Dec. 2003).

b. *LIDA's Relationship with the Texas Commission*

LIDA contracts with the Texas Commission. Every few years the contract changes and is updated. Companies bid for the contract making it a competitive process. National Exchange Carriers Association ("NECA") received the most recent contract from the Texas Commission. NECA also administers the Texas Universal Fund Services ("TUSF").

c. *Funding for LIDA*

The Lifeline and Linkup discounts as well as the administration costs of LIDA are funded through TUSF.

d. *How LIDA Operates*

THHSD sends LIDA its database of consumer names that are enrolled in public assistance programs. The telephone companies also send their customer database to LIDA. This is done on a monthly basis. LIDA then compares these two databases against each other to determine who is eligible to receive Lifeline and Linkup discounts (and not currently enrolled) and who has become ineligible to receive these discounts. LIDA creates a list of these eligible or ineligible customers and sends it to each telephone company. This customer list does not include names of those who are currently enrolled in Lifeline and Linkup and remain eligible for these discounts. Once the companies receive the LIDA list, they can adjust the billing rates for their customers identified on the list.

For customers who no longer qualify to receive the discounts, LIDA follows certain procedures before the customer can be dropped from the discount programs. LIDA first determines that the customer is not eligible to continue to receive the discounts by comparing databases as described above. Next, LIDA sends a letter to the customer explaining its position and allows the customer to submit documentation to prove that he/she should continue to receive the discount. The letter includes a 1-800 number that the customer can call to ask about the qualifications to receive the discounts. Notably, LIDA – not the telephone companies – handles correspondence with customers regarding Lifeline and Linkup. LIDA then requires the customer to submit self-service forms and provide verification that shows continuing eligibility. If the customer cannot provide any verification, the customer's name is removed from the LIDA database after 60 days from the date of notification. LIDA then advises the telephone companies that the customer is no longer eligible to receive the discount. At that point, telephone companies can remove the discount from the customer's account.

e. *Linkup Customers*

Consumers who do not have phone lines or who are not in LIDA's database can still receive the benefits of Lifeline and Linkup if they qualify. Usually these consumers are not enrolled in any public assistance program but are 150% below the poverty line. These consumers must call LIDA using the 1-800 number to request a self-service form. The consumer then fills out and returns the form with supporting documentation. If LIDA determines that the consumer is qualified, LIDA enters the consumer's name into its database. Within 60 days, the consumer should be enrolled in Lifeline and Linkup.

The majority of Linkup customers are not new customers, but rather are current Lifeline customers who move and need service established at their new residence. Only 10-15% of Linkup customers are brand new telephone customers.

f. *Penetration Rate*

Automatic enrollment has made a very significant impact on Texas' state enrollment. Telephone companies are required to file annual reports that quantify how many customers receive the discounts. Texas Commission staff attorney, Janice Irvine informally reviewed all company reports and analyzed penetration rates for the last few years. According to Ms. Irvine, Lifeline and Linkup enrollment significantly increased approximately 30-35% once Texas implemented automatic enrollment with an electronic interface in 2000. In 2004, Lifeline enrollment increased another 35% and Linkup increased 43%. Both increases are credited to having LIDA administer the program instead of the telephone companies.

Consumer groups have pointed out at least one "downfall" with LIDA. LIDA removes customers faster from these discount programs than in the past. LIDA usually removes customers who are no longer eligible within 60 days. When companies administered the program, companies removed customers much slower. The Texas Commission expects that enrollment statistics will flatten since more customers are already enrolled in the programs and LIDA can remove ineligible customers quicker.

EXHIBIT E

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the
Commission To Consider Cost
Recovery by Verizon and to
Investigate the Future
Regulatory Framework

Case 00-C-1945

Testimony of Dr. Trudi J. Renwick, Ph.D.

for the

Public Utility Law Project

February 14, 2002

Case 00-C-1945
Testimony of Trudi J. Renwick
February 14, 2002
for the Public Utility Law Project

1 Q. **Please identify yourself?**

2 A. My name is Trudi J. Renwick.

3 Q. **By whom are you employed?**

4 A. I am employed by the Fiscal Policy Institute as a Senior Economist.

5 Q. **What is your educational background and experience?**

6 A. Attached to this testimony as Exhibit A is a copy of my curriculum vitae.

7 Q. **Are you familiar with the Telephone Lifeline program?**

8 A. Yes, in New York for Verizon customers, the current tariff provides basic
9 residential service at a significant discount to qualifying low-income
10 customers. The funds to supply this discount come first from the federal
11 government through the universal service surcharge collected from all
12 telephone customers and, at the State level, through the Targeted Assistance
13 Fund that is also supported by telephone customers.

14 Q. **What is the purpose of the telephone Lifeline program?**

15 A. The purpose of the Lifeline program is to raise the penetration of telephone
16 usage by reducing by a significant degree the economic barriers to telephone
17 subscribership for low-income customers. The benefits from this increased
18 subscribership flow to the customers who are able to participate as well as to
19 other customers who then have the ability to reach additional customers over
20 the switched network and to society in general because of the benefits and
21 increased functionality for households that are able to maintain telephone
22 service.

23 Q. **How is eligibility for assistance from the Telephone Lifeline program
24 determined?**

25 A. Customers are eligible for Lifeline benefits if they qualify for one of eight
26 government assistance programs. Several of these programs are identified by

Case 00-C-1945
Testimony of Trudi J. Renwick
February 14, 2002
for the Public Utility Law Project

1 the federal government in its design for the minimum program that states must
2 implement to qualify for federal universal service support. After states meet
3 this minimum requirement, a state may choose to add additional programs to
4 qualify additional low-income customers for Lifeline benefits. New York
5 already has exercised its option to utilize an expanded list of programs to
6 establish eligibility.

7 **Q. What programs currently qualify a household or individual for**
8 **Telephone Lifeline assistance in New York?**

9 A. In New York, the programs are:

- 10 - Family Assistance
- 11 - Food Stamps
- 12 - Home Energy Assistance Program (HEAP)
- 13 - Medicaid
- 14 - Safety Net Assistance
- 15 - Supplemental Security Income (SSI)
- 16 - Veteran's Disability Pension (non-service related)
- 17 - Veteran's Surviving Spouse Pension (non-service related)

18 **Q. Which of these programs are not required by the federal regulations?**

19 A. Family Assistance, Safety Net Assistance, Veteran's Disability Pension, and
20 Veteran's Surviving Spouse Pension.

21 **Q. Is the qualification for these programs income based?**

22 A. Yes.

23 **Q. What are the income limits for the HEAP program in New York?**

24 A. The income limits for the HEAP program in New York are \$2,510 per month
25 for a family of three and \$2,988 per month for a family of four.

Case 00-C-1945
Testimony of Trudi J. Renwick
February 14, 2002
for the Public Utility Law Project

1 Q. **What are the income limits for the Family Assistance program in New**
2 **York?**

3 A. The income limits for the Family Assistance program are based on the New
4 York State standard of need which varies by county, family size and type of
5 heating fuel. For a family of three in New York City with heat included in
6 their rent, the Family Assistance income limit is \$577 per month.

7 Q. **What are the income limits for the Food Stamp program in New York?**

8 A. The income limits for the food stamp program in New York are \$1,585 per
9 month for a three-person family and \$1,912 for a four-person family.

10 Q. **What are the income limits for the Medicaid program in New York?**

11 A. The income eligibility limits for Medicaid in New York vary by family and
12 applicant type, e.g. adults, pregnant women and children. As of January 1,
13 2001, the income eligibility limits for pregnant women and children were
14 \$909 per month for a three-person family and \$917 per month for a four-
15 person family. Adult income eligibility limits for the Medicaid program vary
16 by county.

17 Q. **What are the income limits for the Safety Net Assistance program in New**
18 **York?**

19 A. The income limits for the Safety Net Assistance program in New York are the
20 same as the income limits for the Family Assistance program.

21 Q. **What are the income limits for the SSI disability program in New York?**

22 A. The monthly income limits for the SSI disability program in New York were
23 \$549 for an individual and \$873 for a couple in 2000. For 2002, the income
24 limits for the SSI disability program in New York were \$632 per month for
25 individuals and \$921 per month for couples living independently.

Case 00-C-1945
Testimony of Trudi J. Renwick
February 14, 2002
for the Public Utility Law Project

1 **Q. What are the income limits for the Veteran's Disability Pension program**
2 **and the Veteran's Surviving Spouse Pension program in New York?**

3 A. The income limits for the Veteran's Disability Pension program are \$1,178 per
4 month for a three-person family and \$1,315 per month for a four-person
5 family. The income limits for the Veteran's Surviving Spouse Pension
6 program in New York are \$835 per month for a three-person family and \$971
7 per month for a four-person family.

8 **Q. What is the enrollment history for the Telephone Lifeline program in**
9 **New York?**

10 A. After the introduction of automatic enrollment, New York greatly expanded
11 the enrollment of low-income customers in the Lifeline program. The most
12 recent data from the Federal Communications Commission reports the
13 percentage of households in March 2000 having telephone service for
14 individual states and for the nation. According to this data, 92% of New
15 Yorkers with annual household incomes less than \$16,676 had telephone
16 service, while for the nation as a whole only 87.5% of this population had
17 service. For those with incomes less than \$33,352, which includes most of
18 those often characterized as the "working poor", the percentage with
19 telephone service was 96.9% in New York compared with 93.3% in the
20 nation. See, "Telephone Penetration by Income by State (Data Through
21 2000)", Alexander Belinfante, Industry Analysis Division, Common Carrier
22 Bureau, Federal Communications Commission (July 2001).

23 **Q. Don't these statistics demonstrate that the Verizon Lifeline program has**
24 **been very successful?**

25 A. These statistics show that the program has succeeded in accomplishing its
26 goal of increased telephone subscribership among low-income households and

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1 has been more successful in this effort than other states. Other data indicates,
2 however, that the New York program has lost a substantial portion of its
3 effectiveness and has not adapted to the changing public assistance
4 environment since its inception.

5 **Q. When and at what level did enrollment for the Telephone Lifeline**
6 **program peak?**

7 A. I understand from Verizon's response to PULP's information requests that
8 Verizon's Lifeline subscribership was more than 720,000 customers in
9 December 1996. In comments filed with the Federal Communications
10 Commission, the Universal Service Company reported that Lifeline
11 enrollment in New York in the fourth quarter of 2001 had fallen to 586,000. I
12 understand from the Verizon responses that enrollment has declined further
13 and, as of December 2001, stood at 452,000 customers. Assuming that
14 Lifeline subscribership was never higher than 720,000 customers and has
15 declined no further since December 2001, this is a 37% decline in Lifeline
16 participation over this period.

17 **Q. Is this data the reason you conclude that the performance of the Lifeline**
18 **program in New York has degraded in recent years?**

19 A. Yes. The loss of over 274,000 customers from the program is a very
20 substantial decline in effectiveness. Some of these customers undoubtedly
21 lost service altogether. Others maintained service by paying the regular
22 residential rate. For flat rate customers, this increased their bills by \$9.11 per
23 month. For measured rate customers, the increase was \$10.11 per month.

24 **Q. Can you estimate the additional revenue that Verizon received because of**
25 **the migration of customers from Lifeline to basic residential service?**

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1 A. Not precisely, but I believe it is unlikely that Verizon received any additional
2 revenue. This is because, from Verizon's point of view, the difference
3 between the charges for Lifeline and non-Lifeline service is made up from the
4 federal Universal Service Fund and from the State Targeted Assistance Fund.
5 Any revenue gain from a transfer of a customer from Lifeline to non-Lifeline
6 basic service would be offset by revenue losses from reduced federal or State
7 support money.

8 **Q. How much federal support is lost when a customer switches from Lifeline**
9 **to non-Lifeline service?**

10 A. For measured rate customers, the loss to the State is \$7.87 per month, for flat
11 rate customers, the loss is \$7.54 per month. To provide a rough estimate, if
12 we assume that the 250,000 customers who lost Lifeline service were evenly
13 divided between flat rate and measured rate service, the annual loss in federal
14 revenue was \$1,926,500 per month or \$23,115,000 per year.

15 **Q. Do you perceive a trend or pattern to this enrollment decline?**

16 A. Yes, enrollment in the Verizon Lifeline program has been declining steadily.

17 **Q. Do you attribute this loss in enrollment to actions that Verizon has taken?**

18 A. No. I assume that Verizon has administered the program in the same way
19 throughout this period, and I have no information to suggest that Verizon's
20 administrative practices or procedures are responsible for this precipitous
21 decline in enrollment.

22 **Q. To what do you attribute the significant decline in Lifeline enrollment in**
23 **New York?**

24 A. In New York, customers qualify for Lifeline because of their participation in
25 one or more of several programs providing assistance for low-income
26 households. These programs each have another programmatic purpose, i.e.,

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1 they are administered to provide some assistance other than inexpensive
2 telephone service. These programs are used, however, to identify the low-
3 income households that the Lifeline program is designed to assist, and the
4 significant advantage of using existing programs to do this is in the avoidance
5 of separate means determinations for each prospective Lifeline customer. In
6 this way, very large numbers of Lifeline eligible customers can be identified
7 and helped with very low administrative costs. In recent years, however,
8 several of the programs that are being used for this purpose have changed.

9 **Q. In what way have these programs changed?**

10 A. The enactment of the Personal Responsibility and Work Opportunity
11 Reconciliation act of 1996 (PRWORA) marked an extraordinary turning point
12 in U.S. social policy. The legislation is probably best known for having
13 repealed the Aid to Families with Dependent Children Program and having
14 provided states with block grants to design work-focused, time-limited
15 welfare programs. The law reduced federal requirements and protections for
16 individuals while expanding state discretion and flexibility in numerous
17 aspects of social policy. The law also made major changes affecting child
18 support enforcement, childcare, the Food Stamp Program, disability benefits
19 for children, and the eligibility of immigrants for federal, state and local
20 benefits.

21 **Q. Has this resulted in changes in the enrollment for the Lifeline qualifying
22 programs?**

23 A. In New York, as in other states, enrollment in several of these programs has
24 fallen significantly. Family Assistance caseloads in New York State have
25 fallen from 393,424 in January 1997 to 207,259 in September 2001. Safety
26 Net Assistance cases have declined from 200,309 to 99,516 over the same

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1 period. The number of households receiving food stamps has fallen from
2 918,966 in January 1998 to 654,138 in September 2001.

3 **Q. Has this affected the enrollment of customers in the telephone Lifeline**
4 **program?**

5 A. I believe that the decline in families receiving public assistance and food
6 stamps has been a major factor in reducing the number of recipients of
7 telephone Lifeline in New York.

8 **Q. Are the incomes of most of the families that no longer receive food stamps**
9 **and public assistance in excess of the income guidelines for the existing**
10 **eight Telephone Lifeline assistance programs?**

11 A. No, the studies that have been completed on those that have left public
12 assistance in New York report that the vast majority continue to have incomes
13 below the federal poverty guidelines. A study by the Rockefeller Institute of
14 Government used administrative data to track families who left welfare in the
15 first quarter of 1997. This study found that only 40% of these families had an
16 adult employed in at least one day in each quarter in the year after they left
17 welfare and that outside New York City, the median annual earnings of
18 families with an adult employed in all four quarters were only \$12,611 (\$1051
19 per month), far below the \$16,660 poverty line for a family of four in 1998.
20 Even in New York City, the median earnings were only a meager \$17,431
21 (\$1453 per month). Researchers working with the New York City Human
22 Resources Administration conducted phone interviews in May 1998 with
23 families who left public assistance in November 1997. These researchers
24 were only able to find 211 of 596 randomly selected families and were able to
25 complete interviews with only 126 of these families. Of these families, only

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1 25 percent had incomes above the federal poverty guidelines and less than a
2 third said they were better off financially after leaving public assistance.

3 **Q. Are less New Yorkers meeting the income thresholds today than was true**
4 **in earlier years?**

5 A. Yes. While most of the benefits of the economic expansion of the 1990s have
6 been skewed toward the upper end of the income distribution, there has been
7 some indication of rising living standards over this period. The number of
8 families in New York with incomes below the official poverty line has
9 decreased from 650,000 in 1998 to 504,000 in 2000, the most recent year for
10 which data from the U.S. Bureau of the Census is available. Despite this
11 decline, one in five families in New York, (980,365) had incomes below
12 175% of the federal poverty guidelines in 2000. Under the HEAP program,
13 assistance is available (and therefore Telephone Lifeline assistance is
14 available) to families (with seven or fewer members) with incomes less than
15 approximately 180% of the federal poverty guidelines.

16 **Q. How could the Telephone Lifeline Program's design be supplemented to**
17 **enhance its ability to reach the existing low-income population?**

18 A. There most efficient method of enhancing the Telephone Lifeline Program's
19 ability to reach its target population is by adding to the list of programs, which
20 will qualify a customer for Telephone Lifeline benefits.

21 **Q. Are there other income tested assistance programs for which these low-**
22 **income New Yorkers are qualified which could be used as a supplemental**
23 **test for eligibility for participation in the Telephone Lifeline Program?**

24 A. Yes. The three best examples of such programs are: the National School
25 Lunch Program, the State Child Health Plus Program, and the State Earned
26 Income Tax Credit Program. Each of these programs makes an excellent

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1 addition to the programs that create Telephone Lifeline Eligibility because
2 each reaches the low-income population through means different from the
3 existing Lifeline qualifying programs. In other words, while the same social
4 service agencies often administer Family Assistance and Food Stamps, they
5 are unlikely to be responsible for the School Lunch program. Similarly,
6 households that qualify for the State Earned Income Tax Credit receive this
7 benefit by filing for it on a State tax return, and not through application or
8 other mechanism of interaction with the local social services infrastructure.
9 Also in the case of each of these programs, there is a high likelihood that
10 participation in these programs will not be significantly affected by the
11 developing changes in the assistance programs occasioned by welfare reform.
12 Accordingly, each program is likely to continue accurately to identify low-
13 income households independently of changes that may be occurring in the
14 other programs now used to establish Telephone Lifeline eligibility.

15 **Q. Aren't most of the families who would be eligible for these supplemental**
16 **programs already income eligible for the programs that are currently**
17 **used to certify Telephone Lifeline eligibility?**

18 **A.** While the income guidelines for these programs often overlap, each program
19 has a series of other eligibility requirements so a household may be eligible
20 for one program but not another. For example, residents living in subsidized
21 housing are not eligible for the HEAP program even if their incomes fall
22 below the guidelines (unless they pay heating costs separately from their
23 heat), but may have been Food Stamp eligible and, before welfare reform,
24 would have received Telephone Lifeline benefits. When their participation in
25 the Food Stamp Program ended, they may have lost the Lifeline benefit. This
26 family, however, is likely to have children participating in Child Health Plus

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1 or the Free or Reduced Price National School Lunch Program or to have
2 claimed a State Earned Income Tax Credit, and could retain their Lifeline
3 participation, if these were added to the list of programs used to establish
4 Lifeline eligibility.

5 **Q. What is the National School Lunch program and what are its income**
6 **eligibility criteria?**

7 A. The National School Lunch program is the federal program by which school
8 age children from low-income households qualify to receive free or reduced
9 price lunch (and in some cases, breakfast) at school. Eligibility for the
10 program is based on family income and the income thresholds are established
11 by federal statute (42 U.S.C. § 1758 (b)(1)(A)), for free lunches, as “130
12 percent of the applicable family size income levels contained in the nonfarm
13 income poverty guidelines prescribed by the Office of Management and
14 Budget ... “ and, for reduced price lunch, as “185 percent of the applicable
15 family size income levels contained in the nonfarm income poverty guidelines
16 prescribed by the Office of Management and Budget“

17 **Q. Has the National School Lunch Program been used in other jurisdictions**
18 **as a program to qualify households for Telephone Lifeline assistance?**

19 A. Yes, the FCC recently addressed its concern that telephone subscription was
20 low on Indian and tribal land by expanding the list of programs which could
21 qualify customers for Telephone Lifeline assistance. Among the added
22 programs was the National School Lunch program. The FCC recognized the
23 National School Lunch program to be one of four “more suitable income
24 proxies” for the low-income population that was the subject of its concern.
25 Twelfth Report and Order, Memorandum Opinion and Order, and Further
26 Notice of Proposed Rulemaking, Federal Communications Commission, CC

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1 Docket No. 96-45, FCC 00-208 (adopted June 8, 2000, released June 30,
2 2000) at ¶ 69.

3 **Q. What is the State Earned Income Tax Credit (EITC) program and what
4 are its income eligibility criteria?**

5 A. The State EITC is administered through the State income tax program. It is
6 modeled on the federal EITC and is targeted on low-income households and,
7 in particular, households of the “working poor” which may not qualify for
8 other assistance programs but which are likely to have significant needs.
9 Under the State EITC, the taxpayer identifies himself or herself on the State
10 tax return as a recipient of the federal EITC and claims the additional State tax
11 credit on the State return. Because of its design, the State EITC adds no
12 additional eligibility criteria to those established for the federal EITC. Under
13 the federal EITC, eligibility is provided for households with two or more
14 children and incomes below \$32,121, for households with one child and
15 incomes below \$28,250, and for households with no children and incomes
16 below \$10,700.

17 **Q. What is the State Child Health Plus program and what are its income
18 eligibility criteria?**

19 A. The State Child Health Plus program is a health insurance program for
20 children in low-income households that do not qualify for Medicaid.
21 Eligibility is open to all, without regard to income, but family contributions to
22 the premium costs depend upon family income. Children from families with
23 incomes below the Federal Poverty Line (FPL) are generally enrolled in
24 Medicaid rather than Child Health Plus. Children from families with incomes
25 above 192% of the FPL may enroll in Child Health Plus but the family is
26 required to pay the entire cost of the premium. It is therefore reasonable to

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1 assume that most Child Health Plus families have incomes between 100% and
2 200% of the FPL.

3 **Q. Does this conclude your testimony?**

4 **A. Yes.**

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M.A. IBERO-AMERICAN STUDIES <i>University of Wisconsin - Madison</i>	1976 <i>Madison, Wisconsin</i>
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DIRECTOR OF GRANTS AND CONTRACTS <i>Antioch School of Law</i>	1980-1982 <i>Washington, DC</i>
PROJECT DIRECTOR <i>National Association of Farmworker Organizations</i>	1977-1980 <i>Washington, DC</i>

PUBLICATIONS

Poverty and Single Parent Families: A Study of Minimal Subsistence Household Budgets (New York: Garland Publishing) 1998.

Basic Needs Budgets Revisited: Does the Consumer Price Index Overestimate the Changes in the Cost of Living for Low-Income Families? *Journal of Feminist Economics*, Winter 1998.

"Argentina: Neoliberal Restructuring and Its Impact on Employment, Income and Labor Organization," in *Economic Liberalization and Labor Markets*, edited by Dabir-Alai and Odekun (Westport, Connecticut: Greenwood Press) 1998, with Aldo C. Vacc.

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Committee on the Future Role of Regulated Utilities; New York State Public Service Commission, Case 00-M-0504: *Energy Competition: Next Steps*

Self-Sufficiency Standard for New York State Steering Committee

Economic Policy Institute Family Budgets Advisory Committee

Economic Policy Institute Living Wage Campaigns Research Advisory Group

New York State Energy Research and Development Authority System Benefits Charge Advisory Group

New York State Energy Research and Development Authority Residential Energy Affordability Program Low-Income Program Review Group

TESTIMONY AND COMMENTS

Comments before the New York Public Service Commission on the Staff Report on the Future of the Natural Gas Industry In the Matter of Issues Associated with the Future of the Natural Gas Industry and the Role of Local Distribution Companies Case 97-G-1380, November 19, 1997.

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Comments before the New York Public Service Commission on the Staff Report on Nuclear Generation In the Matter of Competitive Opportunities Regarding Electric Service Case 94-E-0952, October 14, 1997.

Testimony before the State of New York Public Service Commission Petition of New York State Electric & Gas Corporation for Approval of a Second-stage Electric and Gas Rate Filing as agreed to in Paragraph 11-f of the Settlement Agreement, which was approved by the Commission's Order issued on August 31, 1993, filed in Cases 92-E-1084, 92-E-1085 and 92-G-1086 Case 94-M-0349, June 1995 and March 1996.

Testimony before the State of New York Public Service Commission In the Matter of Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of the National Fuel Gas Corporation Case 94-G-0885, March 1995.

Testimony on behalf of United Tenants of Albany before the State of New York Public Service Commission In the Matter of Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of the Niagara Mohawk Power Corporation Case 94-E-0098 et al., August 31, 1994.

Comments on Further Notice of Proposed Rulemaking on behalf of the Public Utility Law Project to the Federal Communications Commission In the Matter of Billed Party Preference for InterLATA Calls Case 92-77, August 1994.

Comments on the Staff Report and Oral On-the-Record Presentation before the State of New York Public Service Commission In the Matter of Proceeding on Motion of the Commission to Address Issues Associated with the Restructuring of the Emerging Competitive Natural Gas Market Case 93-G-0932, May 1994.

Testimony before the State of New York Public Service Commission In the Matter of Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of the Brooklyn Union Gas Company for Gas Service Case 93-G-0941, February 1994.

EXHIBIT F

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**ROSTER OF CAA AGENCIES
FOR FISCAL YEAR 2005-06
FUNDED BY THE COMMUNITY SERVICES BLOCK GRANT**

Arivaca Coordinating Council Human Resources Group

P.O. Box 93
Physical Address: 17252 W. 5th Street
Arivaca, AZ 85601

President: James Johnson
Contact: Donna Sala
Phone: 398-2771
Fax: 398-9788

Provides congregate/home delivered meals and food boxes to low-income residents in the Arivaca area.

The Brewster Center Domestic Violence Services

2425 N. Haskell Drive, Building #4
Tucson, AZ 85716

Executive Director: Michele Schubert
Contact: Michele Schubert
Phone: 320-7556
Fax: 323-0122

Provides shelter services, support services, and education through Casa Amparo to women and children who are victims of domestic violence.

Catholic Community Services of Southern Arizona

5009 E. 29th Street
Tucson, AZ 85711

Executive Director: Marguerite Harmon
Contact: Linda Hutchings
Phone: 624-1562
Fax: 519-1303

Maintain and operate a food bank in the Robles Junction/Three Points area. Services will be provided one day a week (Tuesdays 3-6 p.m.).

Community Home Repair Projects of Arizona (CHRP)

P.O. Box 26215
Tucson, AZ 85726

Executive Director: Scott Coverdale
Contact: Scott Coverdale
Phone: 745-2055
Fax: 745-2359

Provides minor home repair services to low-income residents of Pima County.

Community Food Bank

3003 S. Country Club Road
Tucson, AZ 85726-2767

Executive Director: Barbara Joy Tucker
Contact: Varga Garland
Phone: 622-0525
Fax: 624-6349

Provide nutrition education and assisting low-income residents of Pima County in establishing a garden at their homes to increase their food security.

El Rio Santa Cruz Neighborhood Health Center

839 W. Congress Street
Tucson, Arizona 85745

Executive Director: Kathy Byrne
Contact: Linda Lopez
Phone: 670-3918
Fax: 670-3814

Provides prescription medication and medical supplies to patients who are low-income and registered with El Rio Health Center.

Family Counseling Agency

209 S. Tucson Blvd., Suite 1
Tucson, AZ 85716

Executive Director: Frank Williams
Contact: Lana Baldwin
Phone: 327-4583
Fax: 795-7604

Provide shelter services and other support services to pregnant youth who are homeless or at risk of becoming homeless in the Marana, Picture Rocks, Avra Valley and other areas in the northwest side of town.

Greater Littletown Human Resources Group

6465 S. Craycroft (Location Site)
6816 S. Van Buren (Mail)
Tucson, AZ 85706

President: W.L. (Roy) Smalley
Contact: Phyllis McKenzie or Dolly Hurley
Phone: 574-2263
Fax: 574-2273

Provides emergency food boxes and limited financial emergency assistance to low-income residents of Pima County.

Pima County Cooperative Extension

4210 N. Campbell Avenue
Tucson, AZ 85719

Executive Director: Cynthia Flynn
Contract: Linda Block
Phone: 626-5161
Fax: 626-5849

Provides information (Resource Manual) to grandparents raising grandchildren, support groups, and support services to help maintain family stability.

St. Elizabeth of Hungary Clinic

140 W. Speedway, Suite 100
Tucson, AZ 85705-7698

Executive Director: Nancy Metzger
Contact: Maria Elena Acuna
Phone: 628-7871
Fax: 205-8461

Provides medications and/or medical supplies to low-income residents of Pima County.

San Ignacio Yaqui Council

785 W. Sahuaro
Tucson, AZ 85705

President: Arcadio Gastellum
Contact: Emilio Caiz
Phone: 884-8527
Fax: 792-1650

Provides emergency assistance, including but not limited to, rent/mortgage assistance, clothing, food vouchers, bus passes, non-prescription medications to low-income residents of Pima County.

Wingspan

425 E. 7th Street
Tucson, AZ 85705-8513

Executive Director: Kent Burbank
Contact: J.C. Olsen
Phone: 624-1779
Fax: 624-0364

Provides a drop-in center, weekly support groups, leadership and skill-building for LGBT youth.

Youth on Their Own

1443 W. Prince Road
Tucson, AZ 85705

Executive Director:
Contact:
Phone:
Fax:

Provides monthly stipends to homeless youth ages 8-22 who are attending school. Other services include food, a clothing bank, tutoring, counseling, medical/dental care, personal hygiene items, and scholarship opportunities.

Emergency Services Network Roster of Agencies

(Revised August 8, 2005)

Chicanos Por La Causa
Attn: Cristine Abeyta
200 N. Stone
Tucson, AZ 85701
(520) 882-0018
Fax: 882-4191

Tucson Urban League
Attn: Shani Stewart
2305 S. Park Avenue
Tucson, AZ 85713
(520) 791-9522
Fax: 623-9364

Salvation Army
Attn: John Barnes
3525 E. 2nd Street, #1
Tucson, AZ 85716
(520) 323-8080
Fax: 546-5968

Project PPEP
Attn: Danny Dyas
806 E. 46th Street
Tucson, AZ 85713
(520) 622-3553
Fax: 622-1480

Traveler's Aid
Attn: Paula Block
40 W. Veterans Blvd.
Tucson, AZ 85713
(520) 622-8900
Fax: 622-2964

Az. Hsg. & Prev. Svs.
P.O. Box 13122
Tucson, AZ 85711
(520) 498-4613 (VP)
Fax: 795-1727

Interfaith Community Services
Attn: Terri Smith/Bonnie Kampa
2820 W. Ina Road
Tucson, AZ 85741
(520) 297-6049
Fax: 797-3029

Tucson Indian Center
Attn: Jacob Bernal
97 E. Congress
Tucson, AZ 85701
(520) 884-7131
Fax: 884-0240

Ajo Community Svs.
Attn: Mary Garcia
120 Estrella
Ajo, AZ 85321
1-520-387-5611
Fax: 1-520-387-5596

PIMA COUNTY LIHEAP AFFILIATES

Greater Littletown HRG
Attn: Phyllis McKenzie
~~6846 S. Van Buren~~ P.O. Box 22648
Tucson, AZ 85706 85734
(520) 574-2263
Fax: 574-2273

Catalina Area
14380 N. Oracle
Tucson, AZ 85737
(520) 825-8288 or 825-9611

Marana Food Bank
Attn: Dolores Escobedo
11734 W. Grier Road
Marana, AZ 85653
(520) 682-3001
Fax: 682-4136

Arivaca Coord. Council HRG
Attn: Donna Sala
P.O. Box 93
Arivaca, AZ 85601
(520) 398-2771
Fax: 398-9788

Picture Rocks Community Ctr.
Attn: Billie Donahue
5615 N. Sanders Road
Tucson, AZ 85743
(520) 682-7166
Fax: 682-7026

Az. Hsg. & Prevention Svs.
P.O. Box 13122
Tucson, AZ 85711
(520) 498-4613 (VP)
Fax: 795-1727

San Ignacio Yaqui Council
Attn: Jackie Lopez
785 W. Sahuaro
Tucson, AZ 85705
(520) 884-8527
Fax: 792-1650

BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission

DOCKETED

JUN 29 2006

DOCKETED BY

RB

COMMISSIONERS

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

IN THE MATTER OF
PAC-WEST TELECOMM, INC.,
Complainant,
vs.
QWEST CORPORATION,
Respondent.

DOCKET NO. T-01051B-05-0495
DOCKET NO. T-03693A-05-0495

DECISION NO. 68820

OPINION AND ORDER

DATE OF HEARING: October 24, 2005 (oral argument only)
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Jane Rodda¹
APPEARANCES: Joan S. Burke, OSBORN MALEDON, on behalf
of Pac-West Telecomm; and
Norman G. Curtright, Corporate Counsel, on
behalf of Qwest Corporation.

BY THE COMMISSION:

On July 13, 2005, Pac-West Telecomm, Inc. ("Pac-West") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint Regarding Enforcement of an Interconnection Agreement against Qwest Corporation ("Qwest") alleging that Qwest has failed to comply with certain terms of the parties' interconnection agreement.

On July 15, 2005, Qwest was notified by the Commission's Docket Control of the formal complaint docketed by Pac-West.

On August 16, 2005, Pac-West and Qwest filed a Joint Stipulation for Extension to File Answer and for Briefing Schedule with a suggested briefing schedule.

¹ Administrative Law Judge Jane Rodda conducted the hearing in this proceeding and Administrative Law Judge Amy Bjelland drafted the Recommended Opinion and Order.

1 On August 22, 2005, Qwest filed its Answer to Pac-West's Complaint to Enforce its
2 Interconnection Agreement and Counterclaims.

3 On September 13, 2005, a Procedural Order was issued in this docket setting forth a briefing
4 schedule and a time for oral argument.

5 On September 14, 2005, Pac-West and Qwest each filed a simultaneous Opening Brief in this
6 docket.

7 On October 5, 2005, the parties filed a Joint Stipulation Regarding Briefing Schedule
8 requesting an extension of time for filing simultaneous response briefs.

9 On October 14, 2005, a Procedural Order was issued in this docket extending the deadline for
10 filing response briefs and retaining the date for oral argument.

11 On October 19, 2005, the parties each filed a simultaneous Response Brief in this docket.

12 A hearing for the purpose of oral argument convened on October 24, 2005, before a duly
13 authorized Administrative Law Judge of the Commission. Each party appeared with counsel and
14 agreed that a recommended order should be issued based on the legal issues raised and argued in the
15 docket and at oral argument. At the conclusion of the hearing, the matter was taken under
16 advisement pending issuance of a recommended opinion and order.

17 On December 7, 2005, Qwest filed a Notice of Filing Supplemental Authority.

18 On December 20, 2005, Qwest filed a Notice of Second Filing of Supplemental Authority.

19 On January 9, 2006, Pac-West filed a Response to Qwest's Supplemental Citations of
20 Authority.

21 On January 17, 2006, Qwest filed a Reply to Pac-West's Response to Qwest's Supplemental
22 Citations of Authority.

23 On January 23, 2006, Qwest filed its Notice of Third Filing of Supplemental Authority.

24 On February 1, 2006, Qwest filed its Notice of Fourth Filing of Supplemental Authority.

25 On February 3, 2006, Qwest filed its Notice of Fifth Filing of Supplemental Authority.

26 On February 13, 2006, Pac-West filed its Notice of Filing of Supplemental Authority.

27 On February 16, 2006, Fennemore Craig, attorneys for Qwest, filed a Notice of Withdrawal,
28 stating that Qwest has been advised of and consented to the withdrawal, and that pleadings in the

1 matter previously sent to Fennemore Craig should be directed to Norman Curtright. Substitution of
2 counsel was approved by procedural order on February 23, 2006.

3 On March 10, 2006, Pac-West filed its Second Citation of Supplemental Authority.

4 On March 28, 2006, Qwest filed its Notice of Sixth Filing of Supplemental Authority.

5 On April 5, 2006, Pac-West filed its Third Citation of Supplemental Authority.

6 On April 12, 2006, Qwest filed its Notice of Seventh Filing of Supplemental Authorities.

7 On April 13, 2006, a Recommended Opinion and Order was issued.

8 On April 20, 2006, Qwest filed a Motion for an Order Suspending the Recommended Opinion
9 and Order, and for Additional Briefing, with Request for Expedited Consideration.

10 On April 21, 2006, Pac-West filed a Response to Qwest's Motion.

11 On April 24, 2006, Qwest filed Exceptions to the Administrative Law Judge's Recommended
12 Opinion and Order. On this day Staff filed a Motion for Clarification of the Recommended Opinion
13 and Order. Pac-West responded to Staff's Motion on May 16, 2006.

14 On April 25, 2006, by procedural order, the parties were ordered to provide supplemental
15 legal briefing regarding *Global NAPs v. Verizon New England*, 2006 WL 924035 (1st Cir., April 11,
16 2006).

17 On May 10, 2006, the parties filed supplemental briefs.

18 On May 16, 2006, Qwest filed a Reply to Supplemental Brief of Pac-West Telecom.

19 On May 17, 2006, Level 3 Communications filed Comments Regarding the *Global NAPs*
20 Decision in this docket.

21 On May 22, 2006, Qwest filed a Motion to Strike Level 3's Comments.

22 On May 30, 2006, a letter from Pac-West's President and CEO, Hank Carabelli, was
23 docketed.

24 On June 2, 2006, a letter from Qwest's State President, Patrick J. Quinn, was docketed.

25 On June 15, 2006, a procedural order was issued granting Qwest's motion to strike Level 3's
26 comments in this docket.

27 * * * * *

28 Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. Pac-West is a public service corporation and competitive local exchange company
4 (“CLEC”) that is certified to provide competitive telecommunications services in Arizona. Pac-West
5 is authorized to provide switched and non-switched local exchange and long distance service in
6 Arizona.

7 2. Qwest is an incumbent local exchange company (“ILEC”), as defined in 47 U.S.C. §
8 251(h), that provides local exchange and other telecommunications services throughout Arizona.

9 3. Pac-West and Qwest are parties to a Local Interconnection Agreement
10 (“Interconnection Agreement” or “ICA”), approved by the Commission in Decision No. 62137
11 (December 14, 1999).

12 4. On April 27, 2001, the FCC released its Order on Remand and Report and Order *In*
13 *the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of*
14 *1996 and Intercarrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 & 99-68, FCC
15 01-131 (“ISP Remand Order”). The ISP Remand Order held that, through §251(g) of the
16 Telecommunications Act of 1996 (the “Act”), Congress intended to exclude ISP-bound traffic from
17 the reach of §251(b)(5). ISP Remand Order ¶1. Thus, the FCC found that ISP-bound traffic is not
18 subject to reciprocal compensation under § 251(b)(5). *Id.* ¶35. The FCC reaffirmed that ISP traffic is
19 predominantly interstate access traffic subject to Section 201 of the Act and on an interim basis
20 established rates for the exchange of such traffic, as well as set growth caps.

21 5. On May 24, 2002, Pac-West and Qwest entered into an amendment (“ISP
22 Amendment”) to their Interconnection Agreement, which was filed with the Commission and became
23 effective by operation of law pursuant to § 252(e)(4) of the Act on May 19, 2003. The ISP
24 Amendment provides that each party presumes that traffic delivered to the other party that exceeds a
25 3:1 ratio of terminating to originating traffic is ISP-bound. The parties agree that Pac-West
26 terminates more calls for Qwest than Qwest terminates for Pac-West.

27 6. Sections 1.4 and 3.1 of the ISP Amendment provide that “ ‘ISP Bound’ [traffic] is as
28 described by the FCC in [the ISP Remand Order],” and that “Qwest elects to exchange ISP-bound

1 traffic at the FCC ordered rates pursuant to the [ISP Remand Order].” Section 5 of the ISP
2 Amendment provides “the reciprocal compensation rate elected for (§251(b)(5)) traffic is the rate
3 applied to ISP traffic.” The ISP Amendment also provided for a cap on minutes for which
4 compensation is required for the years 2001, 2002, and 2003.

5 7. Due to a dispute regarding whether Qwest was obligated to compensate Pac-West for
6 minutes over the growth caps after December 31, 2003, Pac-West and Qwest entered into private
7 arbitration as provided for in the dispute resolution provision of their ICA. While the Pac-
8 West/Qwest arbitration was pending, the FCC issued its Core Order.²

9 8. In an arbitration decision dated December 2, 2004, the Pac-West/Qwest arbitrator
10 found that the ISP Remand Order discontinued the minutes cap after December 31, 2003. The Pac-
11 West/Qwest arbitrator further found that, rather than changing the law established by the ISP Remand
12 Order, the Core Order clarified the FCC’s intent to discontinue the minutes cap after 2003. Based on
13 these findings, the Pac-West/Qwest arbitrator ordered that Pac-West was entitled to compensation for
14 all ISP-bound traffic, without application of the growth caps, beginning on January 1, 2004.

15 9. Subsequent to the Pac-West/Qwest arbitration decision, Qwest notified Pac-West on
16 December 29, 2004, that it would withhold reciprocal compensation for Virtual NXX (“VNXX”)
17 traffic retroactive to the beginning of 2004. Pac-West offers VNXX service by assigning an NPA-
18 NXX to an ISP customer physically located outside the rate center to which the NPA-NXX is
19 assigned. The North American Numbering Plan provides for telephone numbers consisting of a three
20 digit area code (Number Plan Area or “NPA”), a three digit prefix (“NXX”) and a four digit line
21 number. As the Commission noted in Decision No. 66888 (April 6, 2004) (“AT&T Arbitration”):

22 NXX calls are assigned to particular central offices or rate centers within
23 the state and are associated with specific geographic areas or exchanges.
24 The definition is important for determining whether a call will be routed
25 and rated as a local call, and subject to reciprocal compensation, or as a
26 toll call subject to access charges....Qwest offers an FX service, under
27 which for a monthly fee, Qwest provides customers in one rate center with
a NPA-NXX assigned to another rate center, so that calls can be placed to
and from the FX subscriber to and from customers in the foreign rate

28 ² *Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. § 160(c) from application of the ISP Remand Order*, WC Docket 03-171, FCC Release No. 04-241 (October 18, 2004).

1 center without incurring toll charges....Both FX service and VNXX
2 services have the effect of expanding the local calling area for the
customer.

3 AT&T Arbitration, pp. 7-8.

4 **Reciprocal Compensation Under the ISP Amendment**

5 **Pac-West Position**

6 10. Pac-West argues that Qwest breached its obligation under the ICA and ISP
7 Amendment by refusing to compensate Pac-West for all ISP-bound traffic, including VNXX traffic
8 originated by Qwest customers and terminated by Pac-West via Pac-West's VNXX service. Pac-
9 West alleges that Qwest has withheld \$443,784.34 in compensation owed Pac-West for local
10 exchange traffic terminated between January 1, 2004 and May 31, 2005.

11 11. Pac-West states that, in a practical sense, VNXX is indistinguishable from FX service
12 and that therefore it is eligible for reciprocal compensation under the ISP Amendment. Pac-West
13 further contends that, pursuant to *WorldCom, Inc. v. FCC*, 288 F. 3d 429 (U.S.App.D.C. 2002), ISP-
14 bound traffic is not §251(g) traffic, or toll traffic, and therefore all ISP-bound traffic, including
15 VNXX, is subject to reciprocal compensation pursuant to §251(b)(5).

16 12. Pac-West distinguishes the AT&T Arbitration, which excluded VNXX traffic from the
17 definition of "Exchange Service" for an ICA between AT&T and Qwest, from the instant matter in
18 three ways. First, the AT&T Arbitration decided prospective language for an ICA; second, the
19 parties in that matter disputed and sought clarification for the term "Exchange Service" with regard to
20 VNXX traffic and not to intercarrier compensation; and third, the Decision indicated the
21 Commission's reluctance to decide in that matter "a future dispute concerning AT&T's VNXX
22 service which may or may not arise under that provision." AT&T Arbitration at 13.

23 13. Pac-West requests that the Commission order Qwest to comply with the ICA with
24 regard to the reciprocal compensation allegedly owed Pac-West for the transport and termination of
25 all local traffic, including ISP-bound traffic and all VNXX traffic originated by Qwest. Pac-West
26 requests that Qwest be ordered to make the payment owed to Pac-West, as well as interest for all
27 overdue payments at the interest rate specified in the ICA.

28 14. In its Supplemental Brief, Pac-West addressed the impact of the *Global NAPs* decision

1 (2006 WL 924035 (1st Cir., April 11, 2006)) on the Recommended Opinion and Order. Pac-West
2 argued that *Global NAPs* does not affect the Recommended Opinion and Order because its holding
3 deals solely with whether the ISP Remand Order preempted state authority to impose access charges
4 for interexchange VNXX ISP-bound traffic. In addition to discussing the merits of *Global NAPs* and
5 whether it is relevant to our consideration of the matters in this docket, Pac-West pointed out that the
6 decision is not binding in Arizona, which is within the jurisdiction of the Ninth Circuit Court of
7 Appeals.

8 **Qwest's Position**

9 15. Qwest argues that it has not breached its obligation under the ICA and ISP
10 Amendment because VNXX traffic is not included in ISP-bound traffic for purposes of reciprocal
11 compensation. Qwest states that routing ISP-bound calls to a server that is not physically located in
12 the same local calling area ("LCA") is contrary to the regulatory scheme set forth in the ISP Remand
13 Order, as well as contrary to well-established telecommunications jurisprudence. Qwest contends
14 that VNXX traffic is not local exchange traffic and is therefore not eligible for reciprocal
15 compensation under the ICA and ISP Amendment. Qwest denies Pac-West's allegation regarding the
16 amount of money at issue and states that the maximum amount owed for the period from January 1,
17 2004 through May 31, 2005 is \$436,854.34.

18 16. Qwest states that VNXX traffic is distinguishable from FX service because FX
19 customers must purchase a local connection, pay for transport from the central office to their location,
20 and because of the extreme disparity in the volume of traffic. Qwest's Opening Brief, pp. 30-31.
21 Qwest specifies that VNXX traffic is not local traffic, and cites the Enhanced Service Provider
22 ("ESP") Exemption to support its contention. Qwest argues that the ESP Exemption was a policy
23 decision made by the FCC before the Act, wherein ESPs, or providers of communication that
24 modifies content, were authorized to connect their points of presence through local service tariffs,
25 even though the services provided were interstate in nature. Qwest states that based on the Act,
26 "[t]he FCC determined that ISPs, the heirs to the old "enhanced service provider" designation, were
27 entitled to the same treatment [as ESPs] for compensation purposes. Thus, when an ISP is served by a
28 CLEC, the same analysis applies under Section 251(g) of the Act." Qwest Answer, ¶21.

1 17. Qwest provided numerous supplements in this docket which included decisions from
2 other states purporting to support its argument against inclusion of VNXX within the definition of
3 ISP-bound traffic and cites the AT&T Arbitration in arguing that VNXX does not fall under the
4 definition of local traffic. In that matter, we adopted Qwest's proposed definition of "Exchange
5 Service", which did not specifically include VNXX traffic.

6 18. Qwest requests that the Commission deny all relief requested by Pac-West in its
7 Complaint.

8 19. In its Supplemental Brief, Qwest addressed the impact of *Global NAPs* on the
9 Recommended Opinion and Order. Qwest argued that *Global NAPs* requires reversal of the
10 Recommended Opinion and Order and quoted extensively from the *Global NAPs* decision as well as
11 the Amicus Brief filed by the FCC in that case. Qwest argued that the *Global NAPs* decision
12 "requires (1) that the term 'ISP-bound traffic' must be read in context and (2), when read in the
13 proper context, that the term 'ISP-bound traffic' refers only to local ISP traffic." Qwest
14 Corporation's Supplemental Brief, p. 11.

15 Resolution

16 20. The crux of the dispute is whether VNXX ISP-bound traffic is eligible for reciprocal
17 compensation under the ICA, the ISP Amendment and the ISP Remand Order. The ICA and its
18 amendments only authorize certain categories of traffic (e.g., Extended Area Service ("EAS")/Local
19 Traffic, Transit Traffic, Switched Access Traffic, Ancillary Traffic). The ICA and ISP Amendment
20 make no reference to VNXX. The precise classification of VNXX traffic remains unsettled. Current
21 jurisprudence at the federal level is inconclusive, and state jurisprudence is conflicting.

22 21. We agree with Qwest that FX and VNXX services are distinct. However, this
23 difference does not mean that VNXX traffic is ineligible to receive reciprocal compensation pursuant
24 to the ICA and ISP Amendment.

25 22. The *WorldCom* court reviewed the FCC's ISP Remand Order and explicitly rejected
26 the proposition that §251(g) carved out ISP-bound traffic from §251(b)(5) traffic, however the Court
27 did not vacate the Order as it found that the FCC could have arrived at the same result under different
28 reasoning. We cannot say that the ISP Remand Order is limited to ISPs with a server located in the

1 same local calling area as its customers. Nor do we believe that the ESP Exemption relied upon by
2 Qwest precludes the use of VNXX arrangements.

3 23. The *Global NAPs* case arose from an arbitration decision issued by the Massachusetts
4 Department of Telecommunications and Energy (“DTE”), which determined that Global NAPs, the
5 CLEC in that case, was required to pay Verizon, the ILEC in that case, access charges for VNXX
6 traffic, including for non-local ISP-bound traffic. It is helpful to note the *Global NAPs* court’s
7 succinct description of the intercarrier compensation debate:

8 The treatment of intercarrier compensation for ISP-bound traffic has been
9 a matter of considerable debate in recent years. Calls to ISPs tend to be
10 long, and generally go exclusively from the ISP customer to the ISP. This
11 has created opportunities for regulatory arbitrage. For example, in the
12 context of reciprocal compensation, since reciprocal compensation flows
13 from the LEC whose customer makes the phone call to the LEC whose
14 customer receives the phone call, an [sic] LEC with a high proportion of
15 ISP customers – as Global NAPs has – stands to gain a windfall in a
16 reciprocal compensation scheme which includes traffic to an ISP.

17 *Global NAPs* at 11³ (citations omitted).

18 24. Global NAPs contended that the ISP Remand Order had preempted the DTE’s
19 authority to regulate intercarrier compensation for all ISP-bound traffic. Verizon argued that VNXX
20 allowed Global NAPs to engage in regulatory arbitrage. The DTE’s decision classified VNXX calls
21 according to the geographic end points of the call, and ordered the parties to work together to
22 determine geographic end points of VNXX calls to facilitate imposition of access charges. Global
23 NAPs challenged the imposition of these access charges on VNXX ISP-bound calls.

24 25. In its analysis of the issue, the *Global NAPs* court referred to the FCC’s brief as
25 “helpful”, saying

26 that “[i]n some respects, the ISP Remand Order appears to address all calls
27 placed to ISPs” but also that “the administrative history that led up to the
28 ISP Remand Order indicates that in addressing compensation, the [FCC]
was focused on calls between dial-up users and ISPs in a single local
calling area.” Thus [the FCC Amicus Brief] concludes that the ISP
Remand Order “can be read to support the interpretation set forth by
either party in this dispute.”

³ For ease of reference, *Global NAPs* citations reflect the pagination used in the copy appended to Qwest’s Notice of Seventh Filing of Supplemental Authority.

1 The FCC further notes that “in establishing the new compensation scheme
2 for ISP-bound calls, the [FCC] was considering only calls placed to ISPs
3 located in the same local calling area as the caller.” According to the
4 FCC, “[t]he [FCC] itself has not addressed application of the ISP Remand
5 Order to ISP-bound calls outside a local calling area or decided the
6 implications of using VNXX numbers for intercarrier compensation more
7 generally.”

8 *Id.* at 31-32 (quoting the FCC Amicus Brief) (emphasis added). After careful analysis of the *Global*
9 *NAPs* decision and the briefs of the parties, we find that the *Global NAPs* court and the FCC’s
10 Amicus Brief make more evident the fact that the law remains unsettled, in contrast to Qwest’s
11 assertion that these two documents affirm its position, alone. Reasonable minds may differ on the
12 issue of what exactly the FCC meant with its ISP Remand Order. Ultimately, the *Global NAPs* court
13 held that the ISP Remand Order did not preempt state authority to regulate intercarrier compensation
14 for all ISP-bound traffic, but, as Pac-West has pointed out in its Supplemental Brief, this is not
15 dispositive to the resolution of this matter.

16 26. The ISP Amendment provides in Section 2 that “Pursuant to the election in Section 5
17 of this Amendment, the Parties agree to exchange all EAS/Local (§251(b)(5)) traffic at the state
18 ordered reciprocal compensation rate.” Section 5 provides “The reciprocal compensation rate elected
19 for (§251(b)(5)) traffic is...[t]he rate applied to ISP traffic.” The plain language of the ISP
20 Amendment provides for reciprocal compensation for all ISP-bound traffic. Because it does not
21 exclude VNXX ISP-bound traffic, we find that such traffic should be subject to reciprocal
22 compensation under the terms of the ICA and ISP Amendment.

23 27. The AT&T Arbitration prospectively dealt with the establishment of language to be
24 included in an ICA between the parties, specifically with the definition of “Exchange Service”, rather
25 than how to deal with intercarrier compensation. Most importantly, we acknowledged in that
26 Decision our unwillingness to determine a matter of such gravity without broad industry participation
27 and the participation of Staff. In this matter, again, we are disinclined to make a sweeping
28 pronouncement regarding the appropriateness of VNXX as it relates to intercarrier compensation.
29 We base our decision in this matter on the plain language of the specific contract terms.

30 28. For the foregoing reasons, we find that by withholding reciprocal compensation for

1 VNXX ISP-bound traffic, Qwest has breached the terms of the ICA and ISP Amendment.

2 29. VNXX allows carriers to effectively extend the local calling areas established by the
3 Commission. It is a departure from the historic means of routing and rating calls and has broad
4 implications for intercarrier compensation. Because the issue of VNXX has now come before the
5 Commission more than once, and we anticipate that it will continue to be an issue in the future, we
6 will order Staff to open a generic docket to investigate and make recommendations in the form of a
7 Staff Recommendation to the Commission regarding VNXX. Issues to be addressed by Staff should
8 include what rates are applicable on an ongoing basis; whether VNXX results in misassigned local
9 telephone numbers; and whether VNXX results in misused telephone numbering resources. Our
10 finding in the matter before us is premised on the language of the ICA and ISP Amendment and the
11 holding in the ISP Remand Order, and makes no findings concerning the appropriateness of VNXX
12 arrangements on a going-forward basis.

13 **Course of Dealing/Estoppel, Res Judicata, Discrimination**

14 30. Pac-West raised claims that the doctrines of "course of dealing"/estoppel and res
15 judicata preclude Qwest from raising objections to the use of VNXX, and that Qwest's opposition to
16 assigning phone numbers to allow VNXX arrangements is discriminatory. Given our resolution of
17 Pac-West's claim based on the plain meaning of the ICA and ISP Amendment, we do not reach these
18 issues.

19 **Qwest's Counterclaims**

20 **Qwest's Position**

21 31. Qwest made several counterclaims based on allegations that Pac-West violated
22 federal and state law, as well as the ICA.

23 32. Qwest contends that Pac-West has misassigned local telephone numbers and
24 NPA/NXXs in local calling areas other than the local calling area where its customer's ISP server is
25 physically located, misused telephone numbering resources and subsequently attempted to bill Qwest
26 the ISP Remand Order rate for VNXX traffic, all in violation of federal law. Qwest Answer ¶60.
27 Qwest asks the Commission to order Pac-West to cease assigning NPA/NXXs in local calling areas
28 other than the local calling area where its customer's ISP servicer is physically located, and cease

1 charging Qwest for such traffic, and further to require Pac-West to properly assign telephone
2 numbers based on the physical location of its end-user or ISP customer. *Id.*

3 33. Qwest contends that Pac-West has knowingly misassigned local telephone numbers to
4 ISP servers that are physically located outside of the local area to which the telephone number is
5 assigned in violation of Section 2.1.4.6.8 of Attachment 5 to the ICA. Qwest Answer ¶66. Section
6 2.1.4.6.8 of Attachment 5 to the ICA provides that “[e]ach Party is responsible for administering
7 NXX codes assigned to it...Each party shall use the [Local Exchange Routing Guide (“LERG”)]
8 published by Bellcore or its successor for obtaining routing information and shall provide all required
9 information to Bellcore for maintaining the LERG in a timely manner.”

10 34. Qwest argues that Pac-West is violating the ICA by attempting to obligate Qwest to
11 send non-local ISP traffic over LIS trunks because the Single Point of Presence (“SPOP”)
12 Amendment⁴ between the parties authorizes them to exchange only certain categories of traffic over
13 LIS trunks. Qwest Answer ¶70. Qwest contends that VNXX traffic is not within one of these
14 authorized categories. *Id.*

15 **Pac-West’s Position**

16 35. Pac-West argues that there is no law that prohibits a carrier from assigning a telephone
17 number associated with one local calling area to a customer who is physically located in a different
18 local calling area, and states that if this were so, Qwest itself would be in violation. Pac-West
19 Opening Brief ¶¶ 1-2. Pac-West further made an “unclean hands” argument that Qwest seeks
20 compensation from Pac-West for calls made to customers using Qwest’s FX service and features,
21 including ISPs. *Id.* Pac-West argues that any alleged federal violation is within the exclusive
22 jurisdiction of the FCC and not the Commission. *Id.* Pac-West further argues that the appropriate
23 venues to raise the issue of how a carrier assigns telephone numbers to its customers would be with
24 the North American Numbering Council, the North American Numbering Plan Administrator, or
25 another body with responsibility for national numbering issues. *Id.*

26 36. Pac-West argues that it has not violated Section 2.1.4.6 of Attachment 5 of the ICA.

27
28 ⁴ Pac-West and Qwest entered into the SPOP Amendment in 2001. The amendment was approved by Decision No. 63736 (June 6, 2001).

1 Pac-West states that Section 2.1.4.6 cannot reasonably be construed to create an independent contract
2 obligation with respect to how a party obtains or uses telephone numbers. Pac-West Opening Brief
3 ¶4. Even if there were such a contractual duty (which Pac-West asserts there is not), Pac-West states
4 that it has not violated such obligation. *Id.* Pac-West quotes Section 2.14 of the Central Office Code
5 (NXX) Assignment Guidelines (“COAG”), which states “from a wireline perspective that [central
6 office] codes/blocks allocated to a wireline service provider are to be utilized to provide service to a
7 customer’s premise physically located in the same rate center that the [central office] codes/blocks
8 are assigned. Exceptions exist, for example tariffed services such as foreign exchange service.”

9 37. Pac-West contends that FX ISP-bound traffic is included within the definition of
10 EAS/Local Traffic, and is covered by the ISP Amendment to the ICA, and therefore Pac-West is not
11 improperly routing traffic over LIS trunks. Pac-West Opening Brief ¶4. The ICA defined toll traffic
12 as “traffic that originates in one Rate Center and terminates in another Rate Center with the exception
13 of traffic that is rated as EAS, and defines EAS as “intraLATA traffic treated as ‘local’ traffic
14 between exchanges (rather than as ‘toll’ traffic) as established by the Commission and as reflected in
15 the effective US West tariffs.”

16 Resolution

17 38. Our resolution of the dispute addresses Qwest’s counterclaims. The generic docket
18 will determine whether VNXX is in the public interest.

19 CONCLUSIONS OF LAW

20 1. Pac-West and Qwest are public service corporations within the meaning of Article XV
21 of the Arizona Constitution.

22 2. Pac-West and Qwest are telecommunications carriers within the meaning of 47 U.S.C.
23 §§ 251 and 252.

24 3. The Commission has jurisdiction over Pac-West and Qwest and the subject matter of
25 the Complaint pursuant to 47 U.S.C. §§ 251 and 252 and A.A.C. R14-3-106.

26 4. The Commission’s resolution of the issues pending herein is just and reasonable,
27 meets the requirements of the Act and regulations prescribed by the FCC pursuant to the Act, and is
28 in the public interest.

ORDER

IT IS THEREFORE ORDERED that Qwest Corporation shall compensate Pac-West Telecomm, Inc. for ISP-bound traffic consistent with this Decision.

IT IS FURTHER ORDERED that Pac-West Telecomm, Inc.'s claims of discriminatory application and res judicata shall be dismissed.

IT IS FURTHER ORDERED that Qwest Corporation's counterclaims of violations of federal and state law, violation of Section 2.1.4.6 of the Interconnection Agreement, and improper routing over Local Interconnection Service trunks shall be dismissed.

IT IS FURTHER ORDERED that Staff shall open a generic docket to investigate and make recommendations to the Commission concerning the use of Virtual NXX, including what rates are applicable on an ongoing basis; whether VNXX results in misassigned local telephone numbers; and whether VNXX results in misused telephone numbering resources.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

Jeffrey A. Hatch-Meller
CHAIRMAN

Commissioner Mundell voted "Aye"
But was unavailable for signature

COMMISSIONER

Janice S. Moran
COMMISSIONER

COMMISSIONER

[Signature]
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 27th day of June, 2006.

[Signature]
BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

AB:mj

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SERVICE LIST FOR:

PAC-WEST TELECOMM, INC. and QWEST CORPORATION

DOCKET NO.:

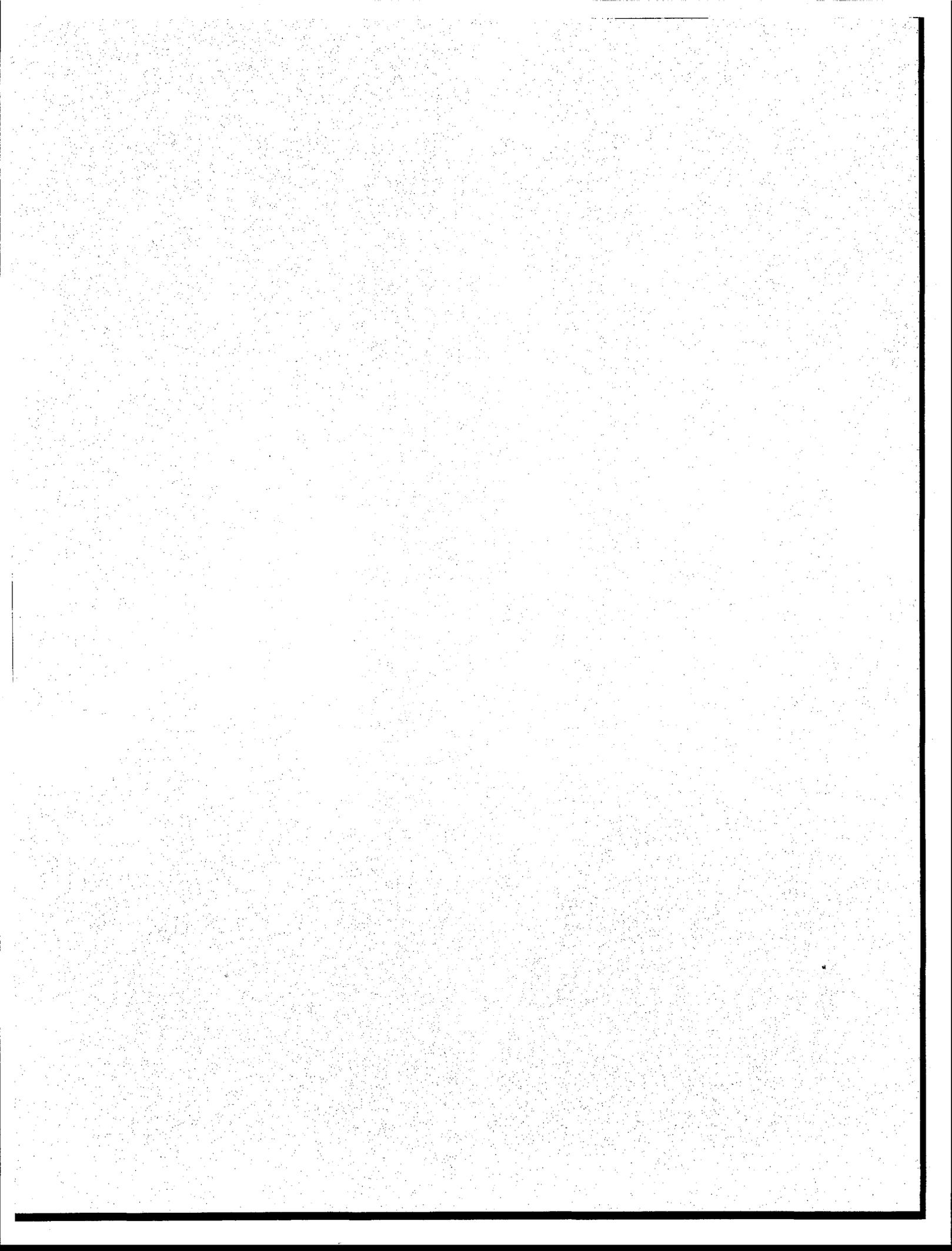
T-01051B-05-0495 and T-03693A-05-0495

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Responses to Staff's Addition to Exhibit "A"
AUSF Issues List – Lifeline and Link-up

21. Should a program to improve participation in Lifeline and Link-Up be supported by AUSF?

Yes, Qwest is in support of the Report and Recommendations of the Arizona Eligible Telecommunications Carriers ("ETCs") on Lifeline and Link-Up Issues ("ETC's Report") which was filed on December 21, 2005 in Docket No. T-00000A-05-0380. In this report, the ETCs stated their belief that "automatic enrollment appears to be the single most effective means to accomplish its objective" to "increase enrollment of qualified individuals in the Arizona Lifeline program."

On June 21, 2005, the Arizona Corporation Commission ("Commission") adopted the FCC's expansion of Lifeline and Link-Up eligibility criteria in an attempt to increase Lifeline enrollment in the state. In January, 2006, Qwest also initiated a quarterly mass media advertising campaign, which includes radio ads and bus signs, to further increase Lifeline enrollment in the state. Although these efforts have increased the number of Qwest customers enrolled in the program from 5,531 in June, 2005, to 9,201 in October, 2007, the number of enrolled households remains significantly below the ETCs' projection that 400,000 households could be added to the program if DES were to provide automatic enrollment for Lifeline concurrent with their enrolling an individual in a qualifying program.

22. Should the enrollment program recommended by the ETCs be implemented or is there another more cost effective method for increasing Lifeline and Link-Up participation?

Automatic enrollment is the most cost effective means to increase enrollment in the Lifeline program because it is targeted specifically to individuals who are eligible for the program and uses automated processes to facilitate their enrollment in Lifeline at the same time as they are being enrolled in one of the qualifying programs.

According to the December 2005 Industry Report, DES estimated that it would take an additional minute of a case worker's time to enroll a qualified individual in the Lifeline program. In addition to the initial programming costs of \$27,808, DES projected processing 1,084,332 applications per year for an annual cost of \$325,300. While this additional expense to the program may be high, it is a relative bargain when compared to the estimated \$38 million in Federal benefits which will be paid to Arizona residents enrolled in the Lifeline program through Arizona's investment in automatic enrollment as proposed in the ETC's Report.

23: Is the funding mechanism for the enrollment program recommended by the ETCs appropriate, should the cost be borne by the ETCs as a cost of doing business and being an ETC or is there some other method of funding that would be better?

ETCs should not be required to fund the enrollment mechanism as a cost of doing business because Lifeline and Link-up are social programs, not telephone services. Requiring them to do so would be like asking grocery stores to pay for the food stamps used by needy individuals. Ideally, social programs like Lifeline and Link-up would be funded through appropriations of tax revenues made by Congress or the state legislature.

Qwest supports the funding mechanism for the enrollment program that was recommended by the Arizona ETCs in December of 2005. However, Qwest believes that a better alternative would be to ask the state legislature to fund DES at a level that would be sufficient for it to perform the activities associated with Lifeline and Link-up administration as part of its general operating budget.

24. Are the projections for potential Lifeline and Link-Up customers reasonable or is there other data that would increase or decrease the cost/benefit estimates contained in the ETC's Report?

Qwest believes Arizona DES is the appropriate agency to have made projections for the number of potential Lifeline and Link-Up customers in the state and is supportive of their estimates.

25. Should the recommendations in the ETC's Report be implemented, how should the AUSF rules be modified to address the enrollment program and the payments that would be made to the Department of Economic Security ("DES") for its participation?

Qwest recommends adoption of a new section of rules within Article 12 of the Arizona Administrative Code to address AUSF Enrollment and Administration. The new rules should provide for DES to work with the ETCs to enroll new participants and to perform ongoing administrative tasks. The rules should be general in nature in order to allow flexibility in the administration based on ongoing needs and circumstances of DES and the ETCs.

As stated in our response to question #23, Qwest believes that the most appropriate method of addressing the administrative costs of Lifeline and Link-up would be through legislative funding of DES' annual budget at a level sufficient to include these activities. However, if the Commission elects to adopt the industry recommendation of

reimbursing DES for these costs through AUSF funds, then Qwest recommends further modification of Article 12 to allow for DES to request Commission approval for disbursements from the AUSF fund for its projected expenses for an ensuing fiscal year. Following Staff review and industry comment on both the current request and the prior year's expenses for DES, the Commission would either approve or modify the request and direct the Administrator to make a disbursement to DES.

26. Should there be a "cap" on the payments that could be made to DES for its participation in the enrollment program and, if so, how might such a cap be determined?

No. Capping the payments that could be made to DES for its participation in the enrollment program would be contrary to the Arizona Corporation Commission's goal of increasing Lifeline and Link-Up participation in the state. Rather, as stated in the response to # 25, DES should be required to make a projection of its costs for the coming year, which, if approved by the commission, could be paid for from AUSF funds.

27. Should there be some form of a "sunset clause" that would end the enrollment program and, if so, what would be appropriate criteria for ending the program?

No. Continuing DES's role in automatic enrollment is the most cost-effective way to ensure that the maximum number of Arizona residents likely to qualify for the Lifeline and Link-Up programs are being enrolled in them.

28. To what extent do other states promote enrollment in Lifeline and Link-Up as recommended in the ETC's Report and to what extent have such state efforts been effective, both from an enrollment and cost perspective?

Enrollment in the Lifeline program differs significantly among the 14 states which Qwest serves. Currently, 11 of our 14 states have an agency other than the ETCs involved in either certifying individuals for the Lifeline program, notifying individuals that they are eligible for Lifeline based on their qualification in a related program, or in providing automatic enrollment similar to what was described in the ETC's Report. While Qwest cannot comment on how cost effective these programs are for each state to administer, it does believe that the number of qualified individuals participating in the Lifeline and Link-Up programs is significantly higher in those states where some agency other than the ETC is involved in the enrollment process.

29. To what extent have communication services from non-ETCs, such as prepaid wireless offerings as one example, become the service of choice for eligible Lifeline customers who otherwise may have subscribed to an ETC's Lifeline service?

Response: Qwest does not have any information about the potential for users to prefer prepaid wireless offerings over Lifeline service.