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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

**DOCKETED**

OCT 30 2008

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

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

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

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

**QWEST CORPORATION'S REPLY TO THE RESPONSE OF AT&T COMMUNICATIONS**

Qwest Corporation ("Qwest") replies to the Response of AT&T Communications of the Mountain States ("AT&T") filed September 3, 2008, regarding the request by Qwest to extend its existing Renewed Price Cap Plan.

In its Response, AT&T, which decided not to participate in the Renewed Price Cap Plan proceeding which reduced Qwest's intrastate switched access revenues by \$15 million over a three year period, now seeks to further its campaign to reduce those rates to the interstate rate. In other times, AT&T's campaign may have been appropriate in the evolution of the telecommunications regulation from state approved monopolies, with implicit subsidies of local service, to competitive markets in all jurisdictions. Now, however, AT&T's press on this issue is particularly ill-timed and inappropriate for the reasons set out herein.

The Arizona Corporation Commission (the "Commission") at the urging of AT&T, split the Access Charges Docket (Docket No. T-00000D-00-0672 into two phases. Procedural Order, November 17, 2003. Phase I was ordered to consider access charges in combination with the

1 review of Qwest's price cap plan. Phase II was supposed to consider access charges for all other  
2 telephone carriers that provide access services. Phase I was completed by the Commission, by  
3 its order approving the settlement agreement between Qwest, the Commission Staff, RUCO, the  
4 federal executive agencies, and four telecommunications carriers who compete directly with  
5 Qwest in Arizona. The matter was noticed for public hearing, public hearings were held, and the  
6 Commission ordered changes to the settlement. With respect to Phase II, interested participants  
7 are still identifying the issues and determining the hearing process that shall apply. Procedural  
8 Order, *In the Matter of the Review and Possible Revision of Arizona Universal Service Fund*  
9 *Rules, Article 12 of the Arizona Administrative Code*, Docket No. RT-00000H-97-0137;  
10 T-00000D-00-0672, July 12, 2007.

11 What is clear, however, is that Phase II has been reserved for examination of the switched  
12 access rates of Arizona local exchange providers other than Qwest. As AT&T stated, "Based on  
13 the language of the Procedural Order, [fn omitted] it appears that the regulatory policies  
14 regarding the intrastate access charges for both incumbent local exchange carriers ("ILECS") and  
15 competitive local exchange carriers ("CLECs") will be addressed in this docket *with the*  
16 *exception of Qwest Corporation.*" Comments of AT&T, *In the Matter of the Review and*  
17 *Possible Revision of Arizona Universal Service Fund Rules, Article 12 of the Arizona*  
18 *Administrative Code*, Docket No. RT-00000H-97-0137; T-00000D-00-0672, August 14, 2007,  
19 (emphasis added).

20 Despite the fact that AT&T argued for bifurcation of the Access Charges docket into two  
21 phases, one phase specifically examining Qwest's access charges (Phase I), and another for all  
22 other LECs (Phase II), AT&T *voluntarily withdrew* from the Phase I proceeding, long before it  
23 was concluded, by motion which was granted by the Commission. Notification of Intervention,  
24 Docket No. T-00000D-00-0672, November 10, 2004. Because AT&T quit the case, AT&T  
25 should not be heard to complain that the Phase I access reductions were not adequate.

26 When it was in favor of bifurcation of the Access Charges Docket, AT&T proposed that

1 the Access Charges docket for all other telephone carriers should be considered separately, but  
 2 expeditiously. AT&T Brief on Procedural Issues, Docket No. T-00000D-00-0672, November 3,  
 3 2003, p. 3. AT&T proposed that both phases should be concluded by the end of 2004. Yet, not  
 4 only did AT&T decamp from the Phase I proceeding involving Qwest—AT&T did nothing to  
 5 advance the Phase II proceeding involving the other CLECs until the docket was consolidated  
 6 with the AUSF proceeding in late 2007. AT&T has not demonstrated either the legitimacy or the  
 7 urgency of its cause.

8 AT&T should have moved Phase II along. Now that it is finally moving its stalled access  
 9 charges campaign forward again, AT&T's attempt to leap-frog over the long-dormant Phase II  
 10 and revisit Qwest's rates yet again, is uncalled for, and holds potential for unjustified competitive  
 11 peril for Qwest. Further efforts to reduce Qwest's intrastate access charge rates without having  
 12 completed and implemented Phase II, can only be described as unfair. The following illustrates  
 13 the amounts of access charge reductions Qwest has undertaken in relation to other carriers since  
 14 the Commission opened its Investigation into the cost of Telecommunications Access:

<b>Qwest</b>				<b>ILECs and CLECs</b>		
<u>Date</u>	<u>Amount</u>	<u>Order No.</u>		<u>Date</u>	<u>Amount</u>	<u>Order No.</u>
4-1-01	\$5.0 M	63487				
4-1-02	\$5.0 M	63487				
4-1-03	\$5.0 M	63487				
4-1-06	<u>\$12.0 M</u>	68604				
Total	\$27.0 M					

23  
 24 This history demonstrates that when it comes to intrastate switched access charge reductions in

25 <sup>1</sup> Cox filed a tariff to restructure its access rates on 11/21/05. However, the amount of reduction in intrastate access  
 26 charges, if any, could not be verified from Cox's filing.

1 Arizona, Qwest has made reductions time and time again. None of the other ILECs in the state  
2 have reduced their access charge rates, which are substantially higher than Qwest's. Further,  
3 Cox, who is the largest competitive carrier in the state, charges access rates that are more than  
4 double Qwest's.

5 For example, the local switching element of Qwest's terminating switched access rate is  
6 0.016 per minute, while the rate Cox charges for the local terminating local switching element is  
7 0.034 per minute.<sup>2</sup> Given Cox's substantial presence in the Phoenix market for local exchange  
8 services, the largest metropolitan area in the state, the focus of switched access charge reduction  
9 must turn to Cox and the other local exchange providers.

10 As the Commission is aware, Qwest's intrastate switched access rates are the lowest in  
11 Arizona. Indeed, Qwest's rate has been described in the Phase II Access Charges Docket as the  
12 "target" for reductions other carriers should make. As Verizon states in the Phase II proceeding,  
13 "As a starting point for access reform in Arizona, all carriers rates should be reduced to Qwest's  
14 current intrastate levels . . ." See Initial Comments of Verizon, Docket No. T-00000D-00-0672  
15 and RT-00000H-97-0137, January 7, 2008, page 4. See also Verizon List of Issues, Docket No.  
16 T-00000D-00-0672 and RT-00000H-97-0137, October 7, 2008, page 2. AT&T's suggestion  
17 that the Commission turn once again to scrutiny of Qwest's access charges before any reform of  
18 other carriers' rates, is out-of-turn and unfair. Phase II of the Access Charges docket must be  
19 completed next, as the Commission contemplated when it bifurcated the docket.

20 It is ironic that AT&T has chosen this time to become so active on access charges. As is  
21 often the case when a party seeking change, such as AT&T, says it wants something, but does  
22 not pursue the matter for years, events overtake the debate. The FCC has a number of issues  
23 before it which appear to be heading toward some form of resolution. A possible order on some,  
24 or all of these issues is expected by November 5, 2008. At issue are general intercarrier

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26 <sup>2</sup> See Qwest Corporation Arizona Access Service Price Cap Tariff, Section 6.8.2.A and Cox Arizona Telcom, LLC  
Arizona CC Tariff No. 2, Section 3.10.2.

1 compensation, ISP reciprocal compensation, and specific industry problems such as phantom  
2 traffic and traffic pumping. In light of the impending FCC decisions in these matters, but  
3 without benefit of knowing what those decisions may be, Commission action regarding access  
4 charges is premature at best.

5 Qwest also believes that the Commission should understand the complete history of  
6 AT&T's actions with regard to switched access. As noted above, there was a long hiatus  
7 between AT&T's pushes for regulatory action on intrastate switched access rates. It could be  
8 that the urgency AT&T once felt was diminished when AT&T was partially successful in  
9 entering into private agreements with some CLECs for substantially discounted switched access  
10 rates. Beginning in 2004, the Minnesota Public Utilities Commission conducted a series of  
11 investigations focused on the fact that approximately 27 CLECs had entered into off-tariff,  
12 unfiled agreements in connection with their provision of intrastate switched access services to  
13 selected IXCs, primarily AT&T. *See Minnesota PUC Dockets C-04-235, C-05-1282 and C-06-*  
14 *498.* In the course of those proceedings, a handful of the private agreements were made public.  
15 Those agreements are not limited to the CLECs' provisioning of switched access in Minnesota,  
16 but are national in scope. Qwest has reason to believe that similar agreements were entered  
17 between many CLECs in Arizona and AT&T. Qwest believes, based on AT&T's own public  
18 comments in the Minnesota pleadings, that AT&T's practice was widespread and not limited to  
19 the 27 CLECs identified in the Minnesota proceedings. In fact, AT&T explained, "[i]n the past  
20 four years or so, AT&T has entered into hundreds of agreements based on the same form with  
21 CLEC providers of switched access throughout the United States." *See AT&T Comments,*  
22 *Motion to Dismiss and Motion for Summary Judgment, Docket C-04-235 (MN PUC, Aug. 19,*  
23 *2004) (underline added).* In addition, based on correspondence received from Cox in March  
24 2008, Qwest believes that AT&T and Cox have entered into one or more agreements that provide  
25 "discounts on Intrastate switched access services based on volume purchases of special access  
26 services." Qwest submits that these private agreements between CLECs and AT&T discriminate

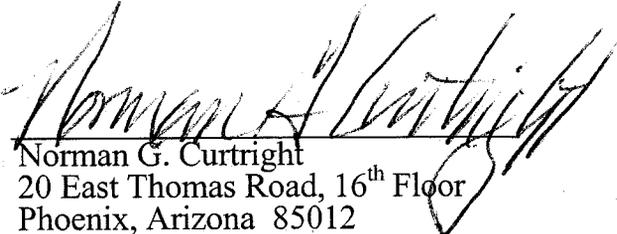
1 against carriers that are charged the tariffed rate. It is ironic that AT&T now comes back to the  
2 Commission to seek regulatory resolutions after it has entered anti-competitive agreements such  
3 as those described above with a number of CLECs.

4 Last, in this case Qwest merely asks that its Price Cap Plan be extended. Qwest has not  
5 asked that its revenue opportunity be increased, that its authorized rate of return be adjusted, or  
6 that any of its rates be raised. In those circumstances, AT&T's request that Access Charges be  
7 reduced in this docket, are simply misplaced, and would amount to single issue ratemaking.

8 In summary, AT&T's request that in this proceeding Qwest's switched access rates be  
9 reduced, is both poorly timed, inappropriate in the proceeding, and unfair.

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