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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 23 2008

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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

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

DOCKET NO. T-00000D-00-0672

PROCEDURAL ORDER

BY THE COMMISSION:

On July 10, 2007, Arizona Corporation Commission ("Commission") Utilities Division ("Staff") filed a Motion to consolidate the above-captioned dockets.

Docket No. T-00000D-00-0672, the "Access Charge Docket," was commenced to examine the cost of access for various companies operating in Arizona. Phase I of the Access Charge Docket, addressed Qwest Corporation's ("Qwest") access charges, and was consolidated with, and resolved, in conjunction with Qwest's rate cap review. Phase II of the Access Charge Docket is intended to address access charges for all other telephone companies that provide access services.

Docket No. RT-00000H-97-0137, the "Arizona Universal Service Fund Docket" was set up to review and revise the Arizona Universal Service Fund ("AUSF") rules in Article 12 of the Arizona Administrative Code. Changes being discussed at the Federal Communications Commission ("FCC") indicate that at the federal level access charges and universal service are being linked to some degree, at least for high-cost rural areas.

By Procedural Orders dated February 12, 2008, April 23, 2008, and August 20, 2008, the Commission ordered the parties to this docket to file a matrix or list of issues and procedural

1 recommendations by October 7, 2008, and scheduled a procedural conference for October 10, 2008,
2 to determine the procedures and a schedule for moving forward in this docket.

3 On October 7, 2008, Cox Arizona Telecom, LLC ("Cox"); AT&T Communications of the
4 Mountain States, Inc. and TCG Phoenix (collectively "AT&T"); Integra Telecom, Inc. ("Integra");
5 McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"); the Arizona Local Exchange
6 Carriers Association ("ALECA"); the Residential Utility Consumer Office ("RUCO"); and Verizon
7 California, Verizon, Business Services, Verizon Long Distance, and Verizon Wireless (collectively
8 "Verizon"); tw telecom of Arizona llc ("tw telecom") and XO Communications Services, Inc.
9 ("XO"); and Arizona Payphone Associations ("APA") filed statements of issues.

10 The parties have not reached a clear consensus on how to proceed in this consolidated matter.
11 Some parties recommended the matter be suspended pending federal action. Other parties
12 recommended setting the matter for a hearing, after discovery and pre-field testimony. Others took
13 no position on how to proceed.

14 Cox believes that any substantive action in these dockets should await further action by the
15 FCC, as there are pending dockets at the FCC concerning review of Intercarrier Compensation that
16 Cox believes may set the stage for federal reform.¹ Cox recommends suspending the docket until the
17 FCC issues its Intercarrier Compensation reform order.

18 McLeodUSA provided its position on the identified issues, and agreed that the docket should
19 be suspended pending resolution of the FCC docket.

20 XO and tw telecom recommended that the procedural schedule be held in abeyance to allow
21 all interested parties to review the November 5, 2008, FCC order² governing intercarrier
22 compensation, and then set a filing deadline for comments on the relevance of the order. In addition,
23 XO and tw telecom oppose examining CLEC access rates in the same proceeding that examines the
24 rates of the Rural LECs.

25 _____
26 ¹ Cox cites t the following FCC dockets: *In the Matter of Universal Service Contribution Methodology*, WC Docket No.
27 06-112; *In the Matter of High-Cost Universal Service Support and Federal-State Joint Board on Universal Service*, WC
28 docket 05-337, CC Docket 96-45; *In the Matter of Developing a Unified Intercarrier Compensation Regime*, WC Docket
No. 01-92; *In the Matter of Intercarrier Compensation for ISP-Bound Traffic*, CCDocket No. 99068; and *In the Matter of
Access Charge Reform*, CC Docket No. 96-262.

² At the time XO and tw telecom filed their recommendations, the FCC had not yet issued its order in Docket CC 96-98.

1 AT&T states that changes in the telecommunications marketplace have transformed access
2 charge reform from an important need to an urgent one, as in AT&T's view the "unreasonably high"
3 access charges of some carriers are distorting competition in the telecommunications marketplace.
4 AT&T argues the Commission should not wait to correct the problem. Procedurally, AT&T believes
5 that the Commission and parties would benefit from having more definite information based on
6 actual data, and proposed, therefore, that Staff issue a data request to all parties which seeks actual
7 carrier-specific data. AT&T proposes that parties should be given 30 days to provide the requested
8 information to Staff and that the information be treated as proprietary and confidential, and that the
9 Administrative Law Judge issue a protective order for the proceeding. AT&T proposed too that
10 parties have 15 days from the date the Staff receives the requested information to propound additional
11 discovery on other parties. Thereafter, AT&T proposed the parties should file direct testimony 60
12 days after Staff has notified the parties that it has received carriers' responses to the data responses,
13 and Reply testimony should be due 30 days thereafter, with a hearing set to commence within 30
14 days.

15 Verizon believes that the Commission should require testimony and a hearing on all contested
16 issues.

17 ALECA provided its position on the nine substantive issues and recommended that the issues
18 be further narrowed and addressed through a combination of workshops and evidentiary hearings.

19 Integra set forth its position on the identified issues, but took no position on how to proceed to
20 resolve the issues.

21 RUCO submitted a list of outstanding issues, but did not include its position thereon and did
22 not make a procedural recommendation.

23 At the October 10, 2008 Procedural Conference, Staff recommended that if the Commission
24 determines to wait to see what the FCC does with respect to intercarrier compensation, that the
25 parties spend some time determining, in light of the scope and breadth of the identified issues, the
26 best means to proceed. For example, should the Commission proceed with a rulemaking, and/or
27 should there be some process before any rulemaking commence? Staff believed that until it can be
28

1 determined what type of proceeding would be appropriate; it would be premature to establish a
2 procedural schedule.

3 At the October 10, 2008 Procedural Conference, the parties agreed that having a Protective
4 Order in place would facilitate the process and allow for the exchange of information. Staff agreed to
5 review its standard recommended Protective Order to determine if any "tweaks" to it would be
6 required for it to be effective in this case.

7 There are a number of issues that the parties have identified as relevant to this proceeding.
8 Until the Commission determines how best to address those issues, whether it be in a rulemaking or
9 evidentiary hearing, or some other proceeding, it does not make sense to establish a procedural
10 schedule. Since the October 10, 2008 Procedural Conference, the FCC has issued at least one order
11 affecting intercarrier compensation. Thus, prior to setting a procedural schedule, another Procedural
12 Conference will be set with the goal of determining the most efficient way to approach the specific
13 issues that have been raised (e.g. rulemaking, workshops, evidentiary hearing, etc.). Addressing the
14 various issues may require more than a single process or a combination of processes. At that time,
15 the parties should be prepared to recommend specific process(es) for resolving the various issues. In
16 addition, prior to such Procedural Conference, Staff should file a proposed form of Protective Order
17 to govern in this proceeding, and parties should be prepared to comment on that proposed Protective
18 Order at the Procedural Conference. The parties are encouraged to discuss the process in an attempt
19 to present a joint proposal for moving forward.

20 IT IS THEREFORE ORDERED that a **telephonic Procedural Conference** for the purpose of
21 determining the procedures and a schedule going forward shall commence on **January 28, 2009**, at
22 **10:00 a.m.**, or as soon thereafter as is practical, at the Commission's Tucson offices, Room 218, 400
23 West Congress, Tucson, 85701. The parties should contact the Hearing Division at **(602) 542-4250**
24 in the week prior to the Procedural Conference to determine the procedures participating
25 telephonically.

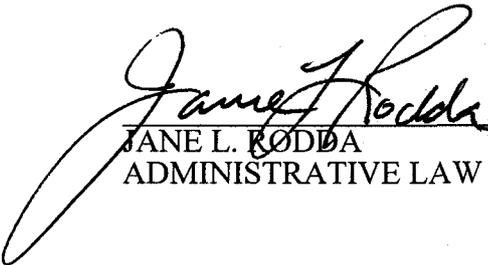
26 IT IS FURTHER ORDERED that Staff shall file a proposed form of Protective Order in
27 these dockets by **January 15, 2009**.

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1 IT IS FURTHER ORDERED that the parties shall **file comments** on the proposed Protective
2 Order and their procedural recommendations by **January 23, 2009**.

3 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
4 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

5 DATED this 19th day of December, 2008.

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7
8 
9 JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

10 Copies of the foregoing mailed
this 19th day of December, 2008 to:

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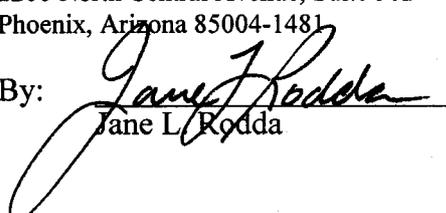
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28 * Parties marked with an “*” have agreed to accept service electronically.