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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

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

Docket No. T-01051B-03-0454

**COMMENTS OF AT&T IN
RESPONSE TO FEBRUARY 3,
2009 PROCEDURAL ORDER**

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Pursuant to the Procedural Order entered in these dockets¹ dated February 3, 2009, AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively, "AT&T") provide their recommendations concerning whether Qwest's intrastate access rates should be included in this proceeding. The answer to that question is a resounding yes. Comprehensive reform of all carriers' intrastate access charges is urgently needed. Contrary to Qwest's statements, there is no procedural or precedential road block to the Commission's examination of Qwest's access charges in this phase of the proceeding.²

¹ Commission records indicate that per "Decision No. 67047, dated 6/18/04, [Dockets] T-01051B-03-0454 and T-00000D-00-0672 are consolidated." See also, Procedural Order in Dockets T-00000D-00-0672 and T-01051B-03-0454, dated Nov. 17, 2003, p. 4.

² This proceeding should also examine the intrastate switched access charges of all CLECs. AT&T will not include in this pleading its arguments specific to CLECs because the February 3, 2009 Procedural Order limited these comments to Qwest's switched access rates and indicated the CLEC coverage issue will be addressed in the workshops.

1 **I. THERE IS AN URGENT NEED TO REFORM THE SWITCHED ACCESS**
2 **RATES OF ALL CARRIERS, INCLUDING QWEST.**

3 A. High Intrastate Switched Access Rates Harm Arizona and Its Citizens.

4 The harms created by high intrastate switched access charges cannot be avoided without
5 comprehensive reform of all carriers' access charges, including those of Qwest. While high
6 switched access charges may have provided a viable method for keeping local rates low in the
7 historical retail monopoly environment, they are no longer sustainable in today's vigorously
8 competitive market. Today, those high intrastate charges, imposed primarily on traditional
9 wireline competitors, harm competition and Arizona consumers in several ways.

10 First, high access rates keep in-state long distance prices over wireline networks higher
11 than they should be. The implicit subsidies hidden in access charges cause rates for some
12 services to be under-priced, while other rates, most notably in-state long distance, remain too
13 high. Traditional wireline competitors now compete against an array of technologies and service
14 providers that can fulfill some or all of the functions that were once provided only by wireline
15 long distance services. The availability of these alternatives has exploded since Qwest's access
16 charges were addressed three years ago. They include cable telephony and VoIP providers,
17 wireless carriers, e-mail, social web sites and other forms of communication. None of these
18 providers, however, is subject to the same high access charge subsidy regime that competitive
19 wireline long distance carriers face. As a result, consumers increasingly receive misleading price
20 signals that drive them to services that may be less economically efficient.

21 It's no surprise, therefore, that consumers are shifting away from wireline long distance
22 service. The shift isn't because AT&T and other IXC's provide poor service. Instead, it's
23 because customers pay "hidden" charges they don't even know are there. AT&T cannot

1 compete when burdened with huge costs its competitors (using alternative technologies not
2 saddled with the same access charges) don't pay.

3 The economically inefficient choices spawned by high switched access charges harm
4 Arizonans in other ways. As customers move away from landline services because of high
5 switched access charges, landline carriers obviously receive less revenue from access charges.
6 Yet, it is the subsidy in that dwindling switched access charge revenue that those carriers depend
7 upon to support universal and rural service. Thus, the viability of universal service is threatened.

8 High access charges also can discourage investment in broadband infrastructure to the
9 detriment of Arizonans and the Arizona economy. The Arizona Department of Commerce
10 recently published a report recognizing that the development of a broadband telecommunications
11 infrastructure in Arizona is crucial to the economic well-being of Arizona and its citizens. The
12 report described Arizona's need for broadband infrastructure as follows:

13 Reliable, affordable access to high-capacity telecommunications infrastructure has
14 become as essential as water, sewer, transportation and electricity service in creating
15 healthy and successful communities in the 21st century. This is true for all communities,
16 not just the urban or affluent.

17 ...
18 If Arizona is going to take a leadership position in this area the state must act quickly.
19 The opportunity for states to use ubiquitous broadband deployment as a competitive
20 differentiator is quickly passing. Soon the availability of such infrastructure will be
21 expected, and states that have not found a way to establish it will be penalized as business
22 and technology-dependent workers of tomorrow choose to locate elsewhere.³

23 In light of these observations, the need for Arizona to foster timely investment in
24 broadband infrastructure is obvious. However, a paper recently published by the Phoenix Center
For Advanced Legal & Economic Public Policy Studies found that high switched access rates
discourage, rather than foster, broadband investment. The paper stated: "[H]igh non-uniform

³ Arizona Broadband Initiative and Framework: Analysis and Report, Arizona Department of Commerce, p. 2
(April 2007).

1 intercarrier compensation rates can deter broadband deployment when broadband represents a
2 threat to existing revenue streams drawn from high termination rates.”⁴ The paper noted that its
3 discussion focused on terminating switched access service, although it could be applied more
4 generally to other forms of intercarrier compensation.⁵

5 In sum, high switched access rates create real problems for Arizona. These problems
6 must be resolved. That can occur only if the high switched access rates of all carriers in Arizona,
7 including those of Qwest, are reduced.

8 B. Qwest’s Switched Access Rates are Excessive and Compose a Substantial Portion of
9 the Total Intrastate Switched Access Charges Paid By Wireline Long Distance
10 Providers in Arizona and Need to Be Examined in this Phase of the Proceeding.

11 Qwest’s estimated average *interstate* switched access unit rate in Arizona is \$0.0033.⁶ In
12 sharp contrast, Qwest’s estimated average *intrastate* switched access unit rate is \$0.0187, over
13 500% more than the interstate rate. This huge difference highlights the problem, because the
14 origination and termination functions and pathways used by Qwest to provide switched access
15 service are materially identical for interstate and intrastate calls. The cost underlying each
16 service, therefore, is the same. There simply is no basis to leave in place intrastate switched
17 access rates like these that are significantly higher than interstate rates.

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20 ⁴ “Do High Call Termination Rates Deter Broadband Deployment?” Phoenix Center Policy Bulletin No. 22, p. 9 (Oct. 2008).

21 ⁵ *Id.* at 6.

22 ⁶ AT&T calculated an “average unit rate” to allow easier comparison of interstate and intrastate rates. These rates
23 were calculated as follows: Average switched access unit rates are calculated from publicly available switched
24 access tariffs. To facilitate an “apples to apples” comparison, this analysis assumes 50% originating usage/50%
terminating usage, 20% tandem usage, tandem facilities mileage at 10 miles, and “direct access” rates where
applicable. Switched access includes the following, as applicable: common carrier line, local switching,
information surcharge, interconnection charge, common port, common transport, tandem transport, tandem
switching. It excludes non-usage dedicated transport rate elements.

1 To the contrary, the FCC has set the interstate switched access rates for incumbent LECs
2 like Qwest “to ensure that their interstate access charges are just and reasonable.”⁷ Indeed, the
3 FCC has stated that in order to achieve more economically rational ILEC switched access rates,
4 it aligned access rate structures more closely with the manner in which costs are incurred and
5 reduced subsidies from interstate access rates.⁸ The difference between Qwest’s interstate and
6 intrastate switched access rates, therefore, represents a subsidy which contributes to the problems
7 identified in the previous section. That implicit subsidy should be removed from intrastate rates.
8 Indeed, in its January 7, 2008 initial comments in this proceeding, Qwest suggested that it “may
9 be able to reduce switched access rates to FCC levels, and do so by increasing other service rates
10 or establishing one flat rate charge.”⁹

11 Moreover, the Qwest subsidy is a substantial part of the overall subsidy generated by the
12 switched access revenues of all Arizona LECs. Based on publicly available information, AT&T
13 estimates that excessive switched access revenues (revenues greater than would be generated by
14 interstate rate levels) collected by incumbent LECs, including both Qwest and independent
15 companies, are approximately \$45 million annually and subsidies in Qwest’s intrastate switched
16 access revenues account for a substantial portion of that amount.¹⁰ In other words, the hidden
17 charges in Qwest’s switched access rates are a major contributor to the problems described
18 above. The Commission cannot solve those problems unless it (1) includes Qwest in this review
19
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21 ⁷ *In the Matter of Access Charge Reform/Reform of Access Charges Imposed by Competitive Local Exchange*
22 *Carriers*, CC Dkt. No. 92-262, *Seventh Report and Order and Further Notice of Proposed Rulemaking*, 16 FCC
23 *Rcd.* 9923, FCC 01-146 (rel. Apr. 27, 2001), ¶¶ 8.

24 ⁸ *Id.*

⁹ Qwest Initial Comments, Exhibit B, p. 2.

¹⁰ These estimates do not include intrastate switched access revenues collected by CLECs operating in Arizona,
because less information about CLEC access rates and volumes is publicly available. As AT&T has advocated,
CLEC intrastate switched access rates are also excessive and should be reduced to interstate levels.

1 and (2) decreases Qwest's switched access rates along with the switched access rates of all other
2 local exchange carriers operating in our state.

3
4 C. Not Only is it Necessary to Reform Qwest's Switched Access Rates in this Phase of
the Proceeding, it is Administratively Efficient to Do So.

5 As just explained, the problems caused by high switched access charges are not unique to
6 one local exchange carrier or even one group of local exchange carriers in Arizona. Thus, while
7 the degree to which rates are excessive may vary among carriers, the issues of whether an excess
8 should be allowed to exist for any carrier, what consequences flow from allowing such an
9 excess, how excessive rates should be reduced and how carriers should be allowed to recover lost
10 switched access revenues are issues common to all local exchange carriers.

11 Similarly, the information needed to address those issues will apply to all local exchange
12 carriers, including Qwest. It will be far more efficient for the Commission and the parties to
13 address these issues in one proceeding. Moreover, by addressing the switched access rates of all
14 carriers simultaneously, the Commission will avoid the possibility of reaching inconsistent and
15 discriminatory results that might result from considering common issues in separate proceedings.

16 One example graphically illustrates this point. Carriers are likely to argue that any
17 reduction in their switched access revenues should be offset by increases in other revenues in
18 order to provide an opportunity for revenue neutrality. These offsetting increases could come
19 from increased retail rates, the Arizona Universal Service Fund ("AUSF") or a combination of
20 the two. How the Commission chooses to resolve this issue will hinge to some degree on the
21 overall amount of switched access charge reductions that need to be offset. Yet, the Commission
22 will not know this total amount if it examines the access rates of just a subset of local exchange
23 carriers. A recovery method that might be appropriate for the amount of revenue associated with

1 just rural carriers, for example, might not be appropriate for the amount of revenue associated
2 with all local exchange carriers, including Qwest.

3 **II. NO COMMISSION PRECEDENT IMPEDES THE COMMISSION'S**
4 **EXAMINATION OF QWEST'S SWITCHED ACCESS RATES IN THIS PHASE**
5 **OF THE PROCEEDING.**

6 In previous pleadings before the Commission, Qwest has argued that its switched access
7 rates were “resolved” in Phase I of the proceeding and, therefore, are outside the scope of this
8 phase of the proceeding.¹¹ Qwest’s main support for this argument is that many years ago the
9 Commission bifurcated this examination into two “phases”—the first to examine Qwest’s access
10 charges and the second to examine the access charges of all other local exchange carriers. Qwest
11 claims the second phase should be completed before Qwest’s switched access rates are
12 reexamined.¹² There simply is no merit to that sequential claim—particularly given the
13 significant time lapse which has occurred.

14 Beyond that, Qwest tries to avoid the real merits of whether its access charges should be
15 examined and reformed by raising points that are irrelevant to the debate, such as a five-year old
16 statement by AT&T advocating bifurcation of the access charge review; a four-year old decision
17 by AT&T to withdraw from Phase I of the proceeding; and efforts by AT&T to seek access
18 reductions via agreement. None of those allegations bears on the central question here: Should
19 the Commission evaluate all carriers’ access charges, including those of Qwest, to determine if
20 they are excessive and, if so, determine how to reform them in a manner that is fair and non-
21 discriminatory. Contrary to Qwest’s claim, that evaluation is needed now for all local exchange
22 carriers, including Qwest. As the ALJ’s February 3, 2009 Procedural Order recognized, “several

23 ¹¹ See, e.g., Qwest Corporation’s Motion to Strike AT&T’s Procedural Comments Relating to Qwest Corporation,
24 Docket No. T-01051B-03-0454, and Qwest Corporation’s Intrastate Switched Access Rates, (Jan. 28, 2009).

¹² *Id.* at 2-3.

1 years have passed” since Qwest’s access charges were reduced in Phase I. This proceeding is the
2 most logical and efficient venue for a further and a complete examination of the subject.

3 AT&T recognizes that the Commission, in a Procedural Order dated November 17, 2003,
4 determined that Phase I of the Access Charge Docket, which addressed Qwest’s access charges,
5 should be considered in conjunction with the review of Qwest’s then-current rate cap plan.
6 Phase II would then look at the access charges of all other carriers.

7 But, unlike Qwest, AT&T also recognizes that the Commission’s and the parties’
8 assumptions about how Phase II would proceed—which served as the basis for bifurcation in the
9 first place—proved wrong. For example, when it advocated in 2003 that the Commission should
10 bifurcate, AT&T had no idea that examination of other carriers’ switched access charges would
11 still have not taken place by today in 2009. Rather, AT&T made that recommendation in the
12 context of its concurrent recommendation that a Phase II “other carrier” decision would be
13 rendered no later than six months after a decision in Phase I.¹³

14 Similarly, while Qwest opposed bifurcation at that time (citing the inefficiency of
15 conducting two separate proceedings), it proposed that if the Commission did order bifurcation,
16 it should adopt a schedule that would have reply briefs in Phase II due only five months after
17 reply briefs were due in Phase I.¹⁴ Consistent with the assumption that both decisions would be
18 rendered promptly, the Commission stated when it ordered bifurcation that a subsequent
19 procedural order would schedule “testimony and hearing dates for both phases of the

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23 ¹³ AT&T Brief on Procedural Issues, Docket No. T-00000D-00-0672, p. 4 (Nov. 3, 2003).

24 ¹⁴ Qwest Memorandum Regarding Constitutional Requirements for Changing Access Rates and Comments on
Procedural Schedule, Docket No. T-00000D-00-0672, pp. 6-8 (Nov. 3, 2003).

1 proceeding.¹⁵ Clearly, no one intended that Phase II would lay dormant for more than five
2 years after the decision was made to bifurcate.

3 The fact that an unintended five-year delay did occur is certainly not a valid reason to
4 now delay an examination of Qwest's switched access rates. Just the opposite is true. All
5 excessive switched access rates, including those charged by Qwest, produce market distortions
6 that negatively affect Arizona in several ways. All need to be fixed now. To delay the fix due to
7 an unintended and unforeseen delay in conducting Phase II would truly exalt form over
8 substance to the detriment of Arizona consumers.

9 Equally important, the Phase I switched access rates adopted for Qwest as part of
10 Qwest's Renewed Price Cap Plan ("Plan") are expiring now. Hence, they are ripe for review.
11 The Plan has a term of three years which expires soon, on March 22, and renewal or revision of
12 the Plan is subject to approval by the Commission.¹⁶ Qwest has applied to the Commission for
13 renewal and last year, AT&T objected—as it has here—to renewal of the Plan's switched access
14 provisions.¹⁷ Thus, contrary to Qwest's assertions, it is a perfect time to consider Qwest's
15 switched access charges. In fact, they would be ripe for further consideration now, even if the
16 switched access charges of other carriers were not subject to review.

17 **III. CONCLUSION.**

18 The Commission should not allow excessive switched access rates to remain in place for
19 any carrier, including Qwest. Some customers are paying too much for traditional long distance

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21 ¹⁵ Consolidated Docket Nos. T-00000D-00-0672 and T-01051B-03-0454, Procedural Order, p. 4 (Nov. 17, 2003)
(emphasis added).

22 ¹⁶ Consolidated Docket Nos. T-01051B-03-0454 and T-00000D-00-0672, Decision No. 68604, Opinion and Order,
Exhibit A, p. 13 (Mar. 23, 2006).

23 ¹⁷ See Consolidated Docket Nos. T-01051B-03-0454 and T-00000D-00-0672, Qwest Corporation's Request to
Extend Renewed Price Cap Plan (Jun. 23, 2008); Consolidated Docket Nos. T-01051B-03-0454 and T-00000D-00-
0672, Response of AT&T Communications of the Mountain States, Inc., to Qwest Corporation's Request to Extend
Renewed Price Cap Plan (Sept. 3, 2008).

1 service, while new entrants are not burdened with the obligation to pay a local exchange carrier's
2 uneconomic switched access charges. As a result, high intrastate switched access rates charged
3 by any local exchange provider threaten universal service and broadband deployment.

4 The Commission should reform the access rates charged by Qwest and all other local
5 exchange carriers. Only comprehensive reform will solve the problems created by high switched
6 access rates. Qwest is a major contributor to the problems created by those rates and has no
7 legitimate complaint about being part of that reform. Its Renewed Price Cap Plan is expiring and
8 switched access rates are ripe for further examination. The Commission should order that
9 Qwest's switched access rates will be examined in this proceeding, along with the switched
10 access rates of all other local exchange carriers.

11 RESPECTFULLY SUBMITTED this 18th day of February, 2009.

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