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BEFORE THE ARIZONA CORPORATION COMMISSION

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2009 MAR 20 P 12: 36

Arizona Corporation Commission

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AZ CORP COMMISSION
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MAR 20 2009

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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:

By Procedural Order dated February 3, 2009, interested parties were directed to file any recommendations concerning whether Qwest Corporation's ("Qwest") intrastate access rates should be included as part of Phase II, of the access charge docket.

On February 18, 2009, Qwest and AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T") filed comments pursuant to the February 3, 2009 Procedural Order.

On February 19, 2009, the Residential Utility Consumer Office ("RUCO") filed its comments.

On March 5, 2009, AT&T and Qwest filed Reply Comments.

On March 10, 2009, the Commission docketed Reply Comments, dated March 4, 2009, from Sprint Communications LP, Spring Spectrum LP and Nextel West Corp. (collectively "Sprint").

Qwest and RUCO argue that Qwest's access charges should not be part of the inquiry in Phase II of the docket. Qwest asserts that its access charges were reviewed in Phase I of the Access Charge Docket and reduced in conjunction with its rate cap plan. See Decision No. 68604 (March 23, 2006). Qwest argues that when the Commission bifurcated the Access Charge Docket, it determined to address the access charges of all carriers other than Qwest in Phase II, and there is no

1 indication either in the Procedural Order that bifurcated the docket, or Decision No. 68604 that
2 approved Qwest's price cap plan and reduced Qwest's access charges, that Qwest's charges would
3 again be under consideration in Phase II. Qwest argues that neither is there a compelling rationale for
4 including Qwest's access charges in the current review. Qwest noted that its intrastate switched
5 access rates have been reduced several times, while other carrier's rates, which are higher, have not
6 been reduced. Further, Qwest states that including Qwest in Phase II will only create a greater
7 disparity in access charge rates and increase the size of the problems for other carriers. Finally,
8 Qwest argues that to include it in Phase II is unfair. Qwest states the access charge investigation
9 should now focus on independents and Competitive Local Exchange Carriers ("CLECs"), as
10 originally envisioned by the Commission's procedural bifurcation.

11 Qwest argues for inclusion of the CLECs' access charges in Phase II because many of the
12 CLECs also have higher rates than Qwest. Qwest states that its total minutes of use have steadily
13 declined as competition takes more of Qwest's market share, and the CLECs are handling an
14 increased number of exchange access minutes in proportion to the total. Qwest states the higher
15 access charges are implicit subsidies to these providers and unfair to competing providers such as
16 Qwest. Qwest argues that sending data requests only to incumbent carriers will only obtain a
17 fragment of the picture, and will not fulfill the Commission's objectives of a comprehensive
18 investigation. Qwest argues that to gain an understanding of what needs to occur in these dockets,
19 there should be data requests that are designed to determine how the various wireline carriers in all
20 categories compare with regard to minutes of use or originating and terminating switched access, and
21 how they compare with regard to the amount of dollars charged.

22 Qwest does not argue that its intrastate access charges are forever exempt from further review
23 and possible reduction, but argues that if the higher access charges of other carriers can be addressed
24 and reduced to levels on par with Qwest in Phase II, then in a future Phase III proceeding involving
25 all carriers, including Qwest, further reductions may be easier to achieve as all carriers will be
26 starting from the same levels.

27 RUCO asserts that the issue of whether Qwest should be involved in Phase II of the Access
28 Charge Docket was considered in November 2003, when the Commission bifurcated the matter. At

1 that time, it was ordered that Phase II of the Access Charge Docket would consider access charges for
2 all other telephone carriers that provide access services. RUCO states that now that Phase I, which
3 reduced Qwest's access charges, has concluded, including Qwest in Phase II is tantamount to re-
4 litigating the matter already decided. RUCO states that AT&T has not provided any evidence that
5 Qwest's rates are inappropriate. RUCO suggests that including Qwest may only serve to delay final
6 resolution and may make it more difficult for the parties to narrow the issues in the scheduled
7 workshops. RUCO further suggests that if any additional reductions in Qwest's access charges are
8 warranted as AT&T suggests, the matter could likely be resolved more expeditiously in Qwest's
9 request to extend its Price Cap Plan now pending in Docket No. T-01051B-03-0454.

10 AT&T argues that intrastate access charge reform is urgently needed for all carriers, including
11 Qwest. AT&T states that high access rates keep in-state long distance prices over wireline networks
12 higher than they should be. AT&T asserts that since Qwest's access rates were last addressed,
13 traditional wireline networks are facing increased competition from new technologies and providers,
14 none of whom are subject to the same access charge subsidy regime that characterizes the wireline
15 carriers. AT&T notes that Qwest's intrastate switched access rate is 5 times more than its interstate
16 rate, and argues there is no basis for the difference. AT&T argues that the Commission cannot solve
17 the problems caused by high intrastate switched access rates without including Qwest in the process.
18 Furthermore, AT&T argues it is administratively efficient to reform Qwest's intrastate switched
19 access rate in this phase of the proceeding. According to AT&T, the information needed to address
20 the issues and the solutions will apply to all carriers, including Qwest, and it will be more efficient to
21 address these issues in one proceeding.

22 In addition, AT&T argues that no Commission precedent impedes examination of Qwest's
23 access rates in this phase of the proceeding. AT&T states that the assumptions at the time Qwest's
24 access rates were bifurcated about how the docket would proceed turned out to be wrong, and it was
25 unforeseen that no action would be taken in the second phase of the proceeding for five years. AT&T
26 argues Qwest's access rates are ripe for review now because Qwest's Renewed Price Cap Plan is
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1 currently up for review,¹ and there is nothing contained in the order that bifurcated the docket that
2 prevents re-examination of Qwest's access rates.

3 Sprint believes the current intercarrier compensation system is in urgent need of reform and
4 also urges the Commission to include Qwest in the current review of intrastate switched access rates.
5 Sprint asserts that CLECs, wireless carriers, and Voice Over Internet Protocol ("VoIP) carriers are
6 paying inflated access rates to Arizona local exchange carriers ("LECs"), and consumers are paying
7 more. Sprint claims that competing carriers cannot compete on a equal footing with local exchange
8 carriers if local exchange carriers are permitted to impose costs on their competitors that are far
9 above the cost of providing those functions. Sprint asserts that Qwest's intrastate switched access
10 rate is among the highest of the large LECs in any state. Sprint argues that to exclude the largest
11 local exchange carrier in Arizona from the proceeding would limit the consumer benefits that would
12 result from access charge reform.

13 The goal of these dockets is to determine whether, and how, Arizona's intercarrier
14 compensation scheme regarding switched access charges and the Arizona Universal Service Fund
15 should be revamped. It is difficult to see how the Commission can get a clear picture of the issues
16 and fairly assess the impact of access charges in the state without the participation of Qwest, the
17 largest carrier in the state, as well as the Arizona CLECs. Consequently, Staff should be able to
18 include Qwest and the Arizona CLECs in the data requests to be sent prior to workshops. The 2003
19 Procedural Order that envisioned that Phase II of the Access Charge Docket would involve all
20 carriers except Qwest has little relevance to the current inquiry after the passage of more than five
21 years.

22 Qwest's position with respect to its access charges is somewhat different than other carriers in
23 that Qwest's switched access rates were set in connection with its Price Cap Plan, which is currently
24 before the Commission for renewal. Staff has not expressed its recommendations concerning
25 whether Qwest's switched access rates should be subject to review, either in these dockets, or Docket
26 No. T-01051B-03-0454. Consequently, Staff is directed to file Comments and Recommendations in
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28 ¹ See Docket Nos. T-01051B-03-0454.

1 these dockets regarding whether, and in what context, Qwest's switched access charges should be
2 reviewed, including Staff's position on the relationship, if any, between Qwest's request to renew its
3 Price Cap Plan Docket and Phase II of the Access Charge Docket.

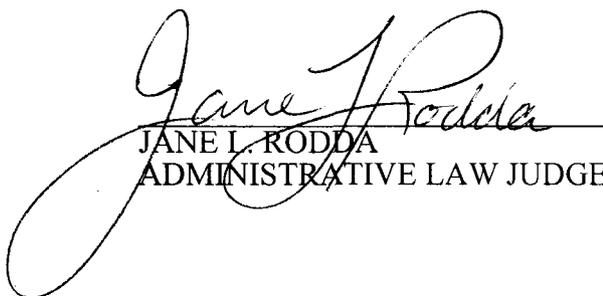
4 IT IS THEREFORE ORDERED that until further order, the investigation under Phase II of
5 the Access Charge Docket will include Qwest Corporation and the Arizona CLECs.

6 IT IS FURTHER ORDERED that **Staff shall file Comments and Recommendations**
7 concerning the appropriateness of including Qwest Corporation's switched access charges as part of
8 Phase II of the Access Charge Docket, and the relationship, if any, between these dockets and the
9 renewal of Qwest's Price Cap Plan in Docket No. T-01051B-03-0454 by **April 10, 2009**.

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

12 DATED this 17th day of March, 2009.

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JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

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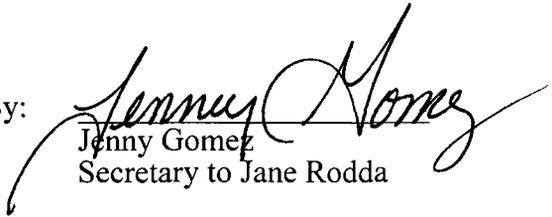
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17 * Parties marked with an "*" have agreed to accept service electronically.
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