

ORIGINAL



RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2009 AUG 13 P 2:11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

COMMISSIONERS

- KRISTIN K. MAYES, Chairman
- GARY PIERCE
- PAUL NEWMAN
- SANDRA D. KENNEDY
- BOB STUMP

DOCKETED BY [Signature]

AZ CORP COMMISSION
DOCKET CONTROL

AUG 13 2009

DOCKETED
Arizona Corporation Commission

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

**AT&T'S REPLY TO QWEST'S
AUGUST 7, 2009 RESPONSE**

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively, "AT&T") reply to "Qwest Corporation's Response to AT&T's Request for Procedural Conference or Procedural Order in AUSF and Access Charge Dockets and Motion to Strike insofar as the Request is Improperly Captioned and Docketed in Docket No. T-01051B-03-0454" ("Qwest Response").

In its response, Qwest does not object to AT&T's request for a procedural conference or order in the AUSF and Access Dockets to discuss Qwest's request to broaden these proceedings. Rather, it asks the Commission to (1) stay the Staff's obligation under the February 5, 2009 Procedural Order to file by August 26, 2009 a request for a procedural conference and (2) strike AT&T's request for a procedural conference to the extent it references Docket

1 No. T-01051B-03-0454—Qwest’s Price Cap Plan Docket—in the caption of AT&T’s pleading.

2 Neither request should be granted.

3

4 **I. THE COMMISSION SHOULD NOT DELAY STAFF’S REQUEST FOR A**
5 **PROCEDURAL CONFERENCE TO DETERMINE HOW TO PROCEED IN**
6 **CONSIDERING REFORM OF INTRASTATE ACCESS CHARGES AND THE**
7 **AUSF.**

8 Qwest’s Response asks the Commission to delay evaluation of major substantive issues
9 concerning access charges and the AUSF that have been pending for years, while it considers
10 Qwest’s recent request to infuse new issues into this proceeding. In a July 27, 2009 filing in
11 these dockets, Qwest asked the Commission to investigate unsubstantiated allegations that some
12 CLECs may have entered into agreements with certain interexchange carriers to provide
13 intrastate switched access services at rates different than those specified in the CLECs’ Arizona
14 tariffs. In response, AT&T asked the Commission to set a briefing schedule or procedural
15 conference so parties could address whether these new issues should be included in this
16 proceeding (“AT&T Request”).¹

17 When the Administrative Law Judge establishes the procedure for receiving comments
18 on this issue, AT&T will explain why Qwest’s new claims have no place in these proceedings.
19 If Qwest believes that some CLECs are not in compliance with an Arizona law or regulation, it
20 should proceed by complaint against those CLECs as it has done elsewhere. These policy
21 proceedings are not the place to address allegations of non-compliance against individual
22 carriers.

23 The Commission need not, and should not, delay its consideration of access charge and
24 AUSF reform by staying the requirement that Staff request a procedural conference. The need

¹ RUCO and Integra have joined in the AT&T Request.

1 for access and related AUSF reform has been pending before this Commission for several years.
2 Some progress is now being made. Two workshops have been completed in the past 60 days and
3 that progress should not be impeded by Qwest's improper attempt to insert a brand new
4 compliance issue into these proceedings.

5 Obviously, the Commission can establish a schedule to receive parties' comments on the
6 new issue raised by Qwest and Staff can request a procedural conference by August 26, 2009;
7 the two activities can occur concurrently. There is simply no reason to allow Qwest to derail the
8 progress the Commission is making in this proceeding. The request for stay should be rejected.

9
10 **II. QWEST'S OBJECTION TO THE CAPTION OF AT&T'S REQUEST FOR A BRIEFING SCHEDULE IS MISPLACED.**

11 Although Qwest does not object to AT&T's request to hold a procedural conference in
12 the Access and AUSF Dockets, it does object to the caption of AT&T's request, which includes
13 reference to Qwest's Price Cap Plan Docket.² It is not clear why Qwest fears having its Price
14 Cap Plan Docket appear in the joint captions of the pleading, but it is clear that there is precedent
15 for including that docket in the captions.

16 On the Commission's eDocket website, for example, the following notation appears for
17 the Access Docket:

18 Per Decision No. 67047, dated 6/18/04 T-01051B-03-0454 [Qwest's Price Cap
19 Plan Docket] and T-00000D-00-0672 [the Access Docket]
are CONSOLIDATED.

20 Additionally, consistent with that notation, the captions for Decision Nos. 67047 and 68604, as
21 well as the November 17, 2003 Procedural Order, indicate T-00000D-00-0672 and
22

23 ² AT&T has included Qwest's Price Cap Plan Docket in the caption of all of its pleadings in this consolidated docket
24 since October 2008.

1 T-01051B-03-0454 as consolidated. There is no ground for striking the reference to the Price
2 Cap Plan Docket from the captions of AT&T's Request.

3 AT&T also takes exception to Qwest's attempt to trivialize the extent of its involvement
4 in this proceeding. Qwest states in its Response that the March 17, 2009 Procedural Order "only
5 subjects Qwest to data requests." To the contrary, that Procedural Order held that "until further
6 order, the investigation under Phase II of the Access Charge Docket will include Qwest
7 Corporation and the Arizona CLECs."³ The Commission's inquiry here clearly encompasses
8 much more than just "data requests." As Staff has indicated, the "Renewed Price Cap Plan
9 docket" will then be available to implement whatever decisions the Commission reaches
10 concerning the level of charges determined to be appropriate in the Access Docket. Staff
11 April 9, 2009 Response, p. 2.

12 **III. CONCLUSION.**

13 Qwest's Motion to Strike and Request to temporarily stay should be denied.

14 RESPECTFULLY SUBMITTED this 13th day of August, 2009.

15 GALLAGHER & KENNEDY, P.A.

16
17 By 
18 Michael M. Grant
19 2575 East Camelback Road
20 Phoenix, Arizona 85016-9225
21 Attorneys for AT&T Communications
22 of the Mountain States, Inc. and TCG Phoenix

23 _____
24 ³ March 17, 2009 Procedural Order, p. 5.

1 **Original and 17 copies** filed this
13th day of August, 2009, with:

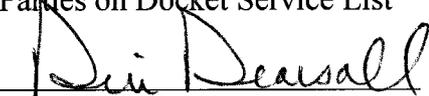
2
3 Docket Control
4 Arizona Corporation Commission
1200 West Washington Street
5 Phoenix, Arizona 85007

6 **Copies** of the foregoing delivered
this 13th day of August, 2009, to:

7
8 Maureen Scott
9 Legal Division
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Will Shand
14 Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 **Copies** of the foregoing mailed this
19 13th day of August, 2009, to:

20 Parties on Docket Service List
21 
22 17840-11/2160507

23
24