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1 BEFORE THE ARIZONA CORPORATION

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3 IN THE MATTER OF THE INVESTIGATION)
4 INTO THE BILLING PRACTICES OF)
5 TELECOMMUNICATION PROVIDERS IN)
6 ARIZONA.)

DOCKET NO.
T-00000D-04-0582

5

6 IN THE MATTER OF DISSEMINATION OF)
7 INDIVIDUAL CUSTOMER PROPRIETARY)
8 NETWORK INFORMATION BY)
9 TELECOMMUNICATIONS CARRIERS.)

DOCKET NO.
RT-00000J-02-0066
PUBLIC COMMENT
SPECIAL OPEN MEETING

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11 AT: Kingman, Arizona

12 Date: November 18, 2004

13 Filed: DEC -6 2004

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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

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ORIGINAL

1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, at the Mohave County Board
4 of Supervisors Meeting Room, 809 East Beale Street,
5 Kingman, Arizona, commencing at 6:10 p.m. on the 18th of
6 November, 2004.

7

8 BEFORE: MARC SPITZER, Chairman
9 KRISTIN K. MAYES, Commissioner

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1 CHAIRMAN SPITZER: Good evening. This is
2 the time set for the public comment in Kingman, Arizona,
3 November 18th, 2004, on the issues of -- two issues in
4 telecommunications.

5 The first issue is the billing practices of
6 telecommunications companies. The second is the
7 dissemination of customer proprietary network information,
8 which is the privacy of the materials over the phone.

9 We have been around the state on these two
10 issues. I think I can safely say I received more
11 complaints in the area of telecommunications than all of
12 the other utility matters put together, times ten.

13 It is simply wrong when customers don't
14 understand their phone bills. It's simply wrong when
15 customers are promised a certain price for a certain
16 package of services and then those prices are either not
17 effective or increased arbitrarily.

18 And it's simply wrong when customers purchase
19 telecommunications services, whether wire line or
20 wireless, and the companies squeeze extra dollars out of
21 them by labeling fees as regulatory fees or regulatory
22 surcharges when, in fact, they are not authorized or
23 mandated by any governmental entity.

24 Instead, it simply means the company is
25 recouping extra cash, additional investment from each

1 line. And these things are wrong. They need to be dealt
2 with.

3 I support competition in telecommunications,
4 free, fair competition, intramodal/intermodal; that means
5 wire line to wire line, cell phone. And then some people
6 use cell phone as their primary phone line, and that's
7 okay, too.

8 Whether it comes from a power line, whether it
9 comes from a cable modem, whether it comes from the
10 typical telephone line to your home or a wireless phone,
11 customers ought to be able to choose and select a product
12 based on price and quality of service.

13 And the current circumstances we're in with the
14 confusion, the confusing bills, the misleading
15 advertising, and the fraudulent promises has gotten so out
16 of hand we no longer have a state of fair competition in
17 telecommunications.

18 What we have is a state of anarchy, and that is
19 unacceptable. And we are here tonight in Kingman and
20 tomorrow in Lake Havasu to hear what the people of Mohave
21 County have to say.

22 And with that, I would ask Commissioner Mayes
23 for her remarks.

24 COM. MAYES: Thank you, Mr. Chairman. It's
25 great to be back here in Kingman and to be in Mohave

1 County. Every time we have one of these meetings outside
2 of the confines of the Corporation Commission, we learn
3 something new.

4 I particularly find that we learn things
5 from the people of this county and -- you know. And I
6 know there aren't a lot of folks here tonight, but I have
7 been hearing from the people of Mohave County on this
8 issue, and I know that they are concerned.

9 And, you know, we are here to gather
10 information. We're doing these meetings to gather
11 information, but we have some evidence already from what
12 we've been hearing before we started, before we commenced
13 these meetings.

14 We've gathered a lot of comment in other
15 cities already: I was in Prescott the other night, we
16 were in Flagstaff, we were in Sun City, Mesa; and then we
17 will be in Lake Havasu, as the chairman said, tomorrow.
18 And then we're going to be in the southern part of the
19 state later on in the year.

20 What we've learned is that companies are
21 increasingly using fees and surcharges as a sneaky way to
22 raise revenues. And there is nothing wrong with, you
23 know -- A company has the right to charge for services
24 rendered, but they don't have a right to add fees to
25 people's bills that are mislabeled and that are not

1 expected.

2 And there is one particular situation that I've
3 been very concerned about in this state, and that is the
4 decision by Qwest recently to add a \$2.99 per line fee to
5 their Qwest long distance plan.

6 And they did this just a mere six months after
7 having offered to their customers a
8 no-monthly-fee-long-distance plan. They brought a number
9 of customers in under that no-monthly-fee plan, and then
10 they added this \$2.99 charge.

11 And there was a great uproar over that amongst
12 people who believed that they were the victims of
13 essentially a bait and switch scam, and I won't pass
14 judgment on -- you know, right now on whether it
15 technically was, but I can certainly say that on the
16 surface it looks like it. It looks like something close
17 to that.

18 In any case, people were brought into that plan
19 believing they were going to get one thing and then they
20 got another. So that's an example of the kind of thing
21 we're talking about, and I think it's the surprise factor
22 that I find particularly harmful.

23 It's just not fair to blindsides people with new
24 charges. And to make an analogy, it's what I was most
25 upset about last winter when we had the UniSource Natural

1 Gas case and people were dealing with huge rate increases
2 that they had no idea were coming.

3 So it's sort of that surprise factor that is so
4 difficult for people to deal with. So we'll be dealing
5 with that \$2.99 charge going forward. There are lots of
6 different ways that it could be addressed.

7 The Commission could issue an order to show
8 cause to the company. The Commission staff could issue an
9 order to show cause to the company to tell us why they
10 think that \$2.99 fee was legal and whether or not they
11 believe that under our Commission's regulations they had a
12 duty to come and get our approval before adding that fee
13 to people's bills. So I will end with that.

14 Again, Mr. Chairman, I appreciate you coming up
15 here with me, and I enjoy being here and certainly look
16 forward to hearing what the people in Mohave County have
17 to say about that.

18 CHAIRMAN SPITZER: Thank you, Commissioner.

19 And I would point out that we have two of our
20 colleagues down with the flu so they could not make it;
21 but we're, at least for the time being, the healthy ones,
22 and we're very pleased to be here.

23 And with that, we'll be very pleased now to
24 invite members of the public to come forward to testify.

25 (Brief pause.)

1 CHAIRMAN SPITZER: And I do understand,
2 Brad, that there was an individual who was going to come
3 at 6:30.

4 MR. MORTON: One gentleman called and said
5 he wouldn't be able to get here until 6:30.

6 CHAIRMAN SPITZER: So everyone else is from
7 the press?

8 MR. HAWKINS: I'm presuming we've got press
9 and the industry representatives here.

10 May I ask a question?

11 CHAIRMAN SPITZER: Yes, you may.

12 MR. HAWKINS: I'm not here to provide
13 input; but hopefully, maybe we can get something
14 constructive out of the exercise.

15 You were sharing with me by telephone today,
16 Mr. Spitzer, that on the telephone billing confusion, that
17 as deregulation has occurred over the years, a lot of
18 people have never shopped and developed a better plan and
19 they're paying charges that are quite exorbitant. And I
20 understand that.

21 Beyond that, I must plead guilty to being kind
22 of like the all-too-trusting consumer. I never check my
23 bill. I just pay it. I'm wondering what advice you could
24 give to customers who aren't here to complain today.

25 Can companies stack charges on us without our

1 authorization or -- unless we look, we'll never know it?

2 CHAIRMAN SPITZER: Well, the reason that
3 utilities have been regulated for a thousand years
4 differently than widgets is precisely because of what you
5 assert. Most people don't carefully examine utility
6 bills, and we're talking about millions of people with a
7 very small amount of money.

8 Now, what I addressed on the phone was we have a
9 situation where taxes are very high. Taxes imposed by the
10 state of Arizona, by the federal government, by the county
11 and the city apply to the phone bills, which is why the
12 basic phone line that the Commission sets at \$13.18 ends
13 up being 20 bucks. A lot of it is taxes.

14 There is another element that's pretty
15 substantial. And again, that gets into the breakup of
16 AT&T in 1983; the local companies, they were called the
17 Baby Bells. There were nine of them, and now there are
18 four. And we're in the Qwest service territory.

19 Qwest is the smallest of the Baby Bells. But
20 there are three other so-called Baby Bells, and they were
21 separated from the long distance companies. And in 1983
22 long distance was very expensive, and now long distance is
23 headed down.

24 I use my cell phone. I try to get Mrs. Spitzer
25 to do it, too, for when she calls my mom in Philadelphia.

1 What used to be \$.40 a minute a call -- I just looked it
2 up. It was \$.70 when I was in law school, peak -- has
3 come down and it's approaching, actually, zero.

4 But even if you negotiate a little bit -- You
5 can buy Costco cards or get \$.05 to \$.10 per minute, even
6 from your land line. They're very convenient.

7 There is a \$6.50 Access Charge, and that is a
8 legitimate charge that applies to your phone bill, your
9 local phone bill. And that arose from the breakup of
10 AT&T. So there is a reason that charge is on, and people
11 see it.

12 They're concerned about it. But the explanation
13 is that that charge keeps your base rate very low because
14 in the old market, local phone service was subsidized by
15 long distance. Long distance subsidized local. And to
16 some degree, that remains the case, and that's a
17 historical phenomenon.

18 So you've got a bunch of federal, state, and
19 local charges, and the access charges, and we really don't
20 have a problem with that. And if the phone bill sets out
21 these charges and how your \$13.18 bill becomes 20 bucks,
22 you know, I think that's the -- you know.

23 If we have problems, I think we ought to go
24 and -- I know this Commission has worked with the FCC to
25 keep rates low and reduce access charges. So we have done

1 that, and we have a vehicle to do that. But it's
2 important to understand where those access charges came
3 from because that's fair.

4 What's not fair is this -- in the case of Qwest,
5 in my judgment, this \$2.99 monthly fee, which is not
6 mandated by government, not mandated by the Commission or
7 the State of Arizona or Mohave County, but it's a way of
8 the company getting extra money.

9 My cell phone, my trusty cell phone contains a
10 regulatory fee of, I think, \$.86, \$1.26. And that has no
11 basis in law other than the company, the carrier, trying
12 to make an extra buck. And I think that's what's very
13 frustrating to consumers.

14 When you drive around and look for gasoline, you
15 know, you'll see 2.09, 2.12, 2.14. There aren't add-ons.
16 There is no regulatory fee that's added on. That price
17 includes the tax, and it makes it possible for you to shop
18 for gasoline.

19 It forces the gasoline stations and the
20 companies to be competitive. Because if you have five
21 stations that are 2.09 and one station at 2.39, the 2.39
22 station is not going to get any customers, unless you have
23 extraordinary crowds at the other places.

24 So competition works because the consumers have
25 the information. If the consumers don't have the

1 information, competition doesn't work.

2 Commissioner Mayes.

3 COM. MAYES: Well, I'll just add to your
4 question about whether or not they can add things to your
5 bills without your permission or without our permission.
6 The answer, essentially, is no.

7 I think that would come under the rubric of
8 slamming and cramming, at least as it pertains to your
9 wire line. And we have authority to prevent slamming and
10 cramming on hard lines.

11 And slamming to me it means companies can't
12 switch you to another provider without your permission.
13 And cramming means they can't cram new charges onto your
14 bill without your permission.

15 So that can happen, but you're right. Many
16 people don't notice that it's happening because, you know,
17 let's face it, these bills are incredibly Byzantine and
18 difficult to read, and so a lot of us just don't read
19 them.

20 But we do have authority -- one problem that we
21 are having, though, and it's something that the Chairman
22 is taking a lot of leadership on is, we don't have
23 authority over wireless companies. We don't have the
24 authority -- The Corporation Commission does not have the
25 authority to prevent wireless companies from slamming and

1 cramming consumers, and that's a problem.

2 And Chairman Spitzer has taken the lead in
3 advocating for our authority to regulate that, and we're
4 going to have a bill in front of the legislature to try
5 and prevent companies from slamming and cramming on
6 wireless or at least give us the authority to deal with
7 that.

8 Another way that we can help people is, I think
9 we can try to push for companies -- push companies to make
10 their bills easier to read by perhaps breaking the bill up
11 into various sections, one for basic services and then
12 another section for all the bells and whistles. That's
13 something that Commissioner Gleason has advocated for.

14 And then, finally, I think it's important for
15 this Commission to push this issue of companies that don't
16 come to the Commission to receive approval for their new
17 charges; that's exactly what we're dealing within this
18 Qwest \$2.99 fee.

19 They did not come to the Corporation Commission
20 for approval to add that fee onto people's bills. It just
21 turned up one day. In fact, I found out about it because
22 a reporter came to me and said, "I got this in the mail.
23 Did you know about that?"

24 And the commission didn't know about it, and
25 quickly thereafter we started getting complaints from

1 people that they were seeing this \$2.99 charge pop on
2 their bill, and they had no idea. And they had come into
3 the Qwest long distance plan on the promise that there
4 would be no monthly recurring fee.

5 So we've got to really press these companies to
6 come in for approval.

7 MR. HAWKINS: Just as a follow-up. The
8 reason I ask the question was, is if I were to heed the
9 advice of the Commission and read my bill and know my bill
10 and shop for better if I can find it and know what all the
11 charges are, once I did that work, I wouldn't want to do
12 that every month. I would presume I would be okay. But
13 then it doesn't sound like there is any built-in guaranty
14 that, especially on the wireless side and possibly on the
15 hard line side, that you might encounter an occasional
16 add-on as vis-a-vis Qwest.

17 CHAIRMAN SPITZER: And that again is why,
18 in the legislature last session, we ran into arguments
19 that, well, this is competitive and you should not
20 regulate. And the people of Mohave County will have the
21 opportunity to go to your members of the Senate and House
22 and explain why you think there should be, in my judgment,
23 a very modest regulation that simply says to the
24 companies: The deal you make with the consumers is the
25 deal.

1 The \$2.99 issue with Qwest was changing the
2 contract after it had been consummated. And you're right.
3 You shouldn't have to check your bill every month to make
4 sure that something new doesn't pop up.

5 And under wireless, it's absolutely anarchy.
6 The companies have no regulation whatsoever, and we don't
7 want to regulate the prices. We just think that if you
8 sign up for a service, you should get the service that you
9 signed up for. And when Commissioner Mayes was talking
10 about cramming, cramming is unauthorized charges.

11 We had people who have come to our meetings and
12 said, I bought a cell phone at the kiosk, and I wanted
13 this and this. And when the first bill came, it had this
14 and this and this and this -- two additional services,
15 call forwarding and call waiting -- that I didn't want,
16 and they were added to my bill."

17 And the people that sell the services are on a
18 commission basis. There is an unfortunate incentive, and
19 these are small amounts of money. It's not like buying a
20 house or buying a car where, you know -- You shouldn't
21 have to hire a lawyer to get a fair and honest utility
22 bill.

23 Slamming is when -- and we had a lot of this in
24 the advent of deregulation because a long distance account
25 is a very valuable thing. It's several hundred bucks a

1 year. And so companies would -- And there have been
2 proven allegations of corruption where people's phones are
3 switched.

4 Commissioner Mayes would be switched, from one
5 company to another without her consent because some
6 commissioned individual in a boiler room was in fact
7 forging signatures. We've established that. So that's
8 the slamming and cramming.

9 The complexity of the bill is unfortunate.
10 We're not always praiseworthy of Qwest. But Qwest has
11 simplified its bill, and other companies need to do the
12 same thing.

13 And then the final issue is this unauthorized
14 charge. We've heard about the \$2.99, a so-called
15 regulatory surcharge that the companies say, "Well, that's
16 the cost of preparing our system for number portability or
17 the cost of preparing our system to comply with 911" is to
18 me completely bogus because it's just...

19 It's like a guy in a hardware store when you're
20 buying a hammer and saying, "This is a regularly surcharge
21 because Mohave County makes us take care of our property."
22 It's just unfortunate.

23 COM. MAYES: And I'll just add to that.
24 Some people might say to the Commission, look, you know,
25 you're making a big deal about a \$2.99 charge. That's

1 really -- you know. Maybe that's really not very much.

2 But the fact of the matter is that people are
3 under incredible pressure in their lives in terms of
4 rising energy costs, rising gasoline costs, rising natural
5 gas costs, rising electricity costs. And when you add it
6 all up, another \$2.99 every month can make a difference,
7 and it hurts.

8 And so, you know, we take these issues
9 seriously. We take the law seriously. And when a company
10 appears to be trying to push the envelope with the law,
11 we've got to confront that.

12 CHAIRMAN SPITZER: Is there further
13 discussion?

14 MR. HAWKINS: I'd like to address the other
15 half of the equation just briefly.

16 CHAIRMAN SPITZER: Please.

17 MR. HAWKINS: I don't mean to dominate or
18 dictate the discussion, but I'd like to get some
19 information of substance to readers and listeners since
20 we're here tonight.

21 CHAIRMAN SPITZER: Please.

22 MR. HAWKINS: Unfortunately, the public
23 didn't turn out.

24 On the proprietary information in reading the
25 material that you advanced to the press so that we could

1 preview these meetings, these hearings, I learned that
2 there are proposed rules, this Opt In, Opt Out. And it's
3 kind of like, in my estimation, a do-not-call registry
4 that we can do with telemarketing. This is a little
5 different.

6 Could you explain so that we can report to our
7 minions what's taking place with that and what the concept
8 is?

9 CHAIRMAN SPITZER: Well, the genesis of
10 this -- and we briefly touched on it -- was a court
11 opinion that came out of Colorado, and it dealt with rules
12 that the FCC had proposed on the issues of Customer
13 Proprietary Network Information.

14 And it's important to define that term. That
15 information is the phone numbers that you dial from the
16 privacy of your own home, the length of those calls, and
17 the identity of the phone numbers as well as the phone
18 calls that come in.

19 MR. HAWKINS: The geography as well?

20 CHAIRMAN SPITZER: Yes, exactly.

21 And the example I gave you is, I call my mom
22 Sunday nights, and so people know that I have -- you know,
23 that I regularly make phone calls to Philadelphia. So
24 that information is valuable.

25 So you'll start getting e-mails or solicitations

1 regarding: travel, if you call Domino's Pizza as opposed
2 to Pizza Hut, there is what internet provider you use, if
3 you have dial up, just -- what churches you call, what car
4 dealers, what dry cleaners.

5 Because of technology, this information can be
6 harnessed and made available to people to market. And
7 we're an information society, and this information is very
8 valuable. This information is very valuable.

9 And the FCC proposed these rules. As it
10 happened, it was Qwest that challenged them. And Qwest
11 sued, and they hired a lawyer named Lawrence Tribe, who is
12 on the liberal side of the spectrum, a Harvard fellow.

13 And the Tenth Circuit, in my view,
14 improvidently, by a very narrow two-to-one vote -- and it
15 was never reviewed by the Supreme Court -- struck down the
16 Opt In rules of the FCC as saying that they violated the
17 commercial free speech rights of the phone carriers, and
18 it gave a very short shrift to the constitutional right to
19 privacy.

20 Qwest sent out a little blurb in its billing --
21 I think it was Christmas time of '01. Maybe it was '02,
22 Christmas of '02 -- saying we intend to market your CPNI,
23 and consumers in Arizona went bananas.

24 We had as well-attended hearings as we ever had
25 in January of '03 and in February of '03, and the people

1 were outraged about their privacy rights being violated.

2 We proposed rules. We started a rule-making process.

3 During the interim, there was another court
4 decision; and it's important because I would like to have
5 a pure Opt In, and I think my colleagues -- I sense my
6 colleagues would like a pure Opt In, in other words, if
7 you want to be part of this.

8 And the pitch is, we can give you a lot of good
9 things: "Marc Spitzer, wouldn't you like to know that
10 there is a ninety-nine-dollar flight to Philly that leaves
11 Friday and comes back Monday? If you call Domino's,
12 wouldn't you like to know when Domino's has, you know,
13 specials, or they ran too many pizzas in the oven and
14 they -- you know. Drive down and you'll get two double
15 anchovies for a buck. Wouldn't you like to know that?"

16 Some people might. Some people might not. I
17 think it should be the consumers to choose, not the phone
18 companies that choose whether people retain their privacy
19 rights.

20 Unfortunately, there was a bad decision in
21 Washington state. Washington has a privacy provision in
22 its constitution very similar to Arizona's. They proposed
23 another variant of Opt In. The federal court ruled
24 against the state of Washington, which is in the Ninth
25 Circuit Court of Appeals, which is the circuit in which

1 Arizona is located for judicial review purposes.

2 So this happened in the middle of the
3 proceeding. There are still various options, and I'm not
4 going to prejudge how we're going to vote when this case
5 ultimately is decided and the Commission rules.

6 But we're trying to give consumers as much
7 protection as possible and still have rules that will
8 withhold scrutiny, because the phone companies see
9 zillions of dollars. Their losing money, they claim, on
10 the land line business and they would like to make money.

11 And that's why Qwest filed a lawsuit in 1999.
12 They want to make money selling your personal information
13 to marketing companies. And if they're willing to hire
14 Larry Tribe and litigate the case all the way up to the
15 Tenth Circuit and they're willing to sue in Washington
16 state, they're perfectly happy to sue the state of Arizona
17 if they feel they have a case.

18 I don't think we should promulgate rules that we
19 know aren't going to hold up. That's not fair -- That's
20 not good government, and that's not fair to the people.
21 So we want to promulgate rules that will survive.

22 It's really complicated. And we've got a
23 wonderful -- two lawyers, actually, working on these rules
24 that will give the consumers as much protection as
25 possible, get as close to an Opt In as we can without

1 violating what at least two courts have already said are
2 the commercial speech rights of the phone company.

3 Commissioner Mayes.

4 COM. MAYES: I don't have too much to add
5 to that. I would just agree with the Chairman, and I
6 think there is a general concern among consumers right now
7 that the phone companies shouldn't be allowed to profit
8 from our personal information.

9 And, you know, I think Americans have been very
10 patient and very understanding in the aftermath of
11 September 11th, of the Patriot Act, and other types of,
12 you know -- other types of privacy incursions.

13 But when it comes to private companies profiting
14 from personal information and intruding on privacy, I
15 think that's where people draw the line. And that's where
16 this Commission is going to draw the line. That's just
17 wrong, and we've got to do what we can to prevent it. So
18 that's where we are on that front.

19 And I would say again, going back to the issue
20 of Truth in Billing and the Qwest \$2.99 fee, the month
21 after -- to give you a sense of how closely people pay
22 attention to this stuff. The month after that happened,
23 after the \$2.99 fee started appearing on people's bills,
24 we saw a doubling in the number of complaints that were
25 lodged at the Commission.

1 We tracked the number of complaints. And from
2 August to September, that number doubled. And from
3 September to October, I believe the number of complaints
4 remained just as high. So people are clearly concerned
5 about these things.

6 CHAIRMAN SPITZER: And if I could add one
7 more thing. We are accused of overregulating by the
8 companies. They would just as soon the Commission
9 disappear. In the matter of privacy, it was not the
10 commission that raised this issue.

11 The FCC had rules, and normally the FCC rules
12 are more liberal. And the companies like -- would rather
13 have the FCC regulate them than the states, plus they
14 argue they would rather live under one set of rules than
15 50.

16 I have some sympathy with that. We represent
17 five million people that live in Arizona. We don't
18 represent the phone companies. We represent the people of
19 this state.

20 The FCC proposed the Opt In rule. It was not
21 this Commission that raised the issue. It was Qwest that
22 sued the FCC and reversed the rule and created this open
23 door. It was Horizon that sued in Washington state
24 against the Washington Commission on its rules.

25 So it is the phone companies that are using very

1 skillful lawyers, which is their right under our
2 constitution to bring forward issues. I think the people
3 of Arizona and the people of Kingman need to know, you
4 know, we've got privacy complaints and calls from this
5 county when that issue occurred.

6 We feel that we're responding to the needs of
7 the people, and it was the companies -- but for the
8 companies, we wouldn't -- It's a fight that we didn't
9 start, but we intend to finish. I'll do it that way.

10 Is there anything further? Is there anyone --
11 Do we have a new entrant to the hall that wishes to be
12 heard?

13 MR. HAWKINS: When, Marc, do you see the
14 rule making culminate with the Commission so we have some
15 kind of -- Any prognosis?

16 CHAIRMAN SPITZER: I've kind of been
17 pushing for this because I would like to get it done
18 before the end of the year. So that's my hope, that we
19 would be able to take a vote on the rules by
20 December 31st.

21 COM. MAYES: Well, I certainly wouldn't
22 have a problem with that, so you have two on board with
23 the idea.

24 CHAIRMAN SPITZER: Good.

25 COM. MAYES: And I think in terms of Truth

1 in Billing, we're probably a little bit further out on
2 that process. We're still in the middle of gathering
3 evidence and testimony from the public.

4 That process will probably go on, what, Marc,
5 another two, three months, another two months or so? And
6 then we will at that point decide what steps to take
7 further as a Commission at least in terms formal action.

8 I would just add, if I could take the liberty of
9 asking the people of Mohave County to tell us what they
10 feel about this issue. To offer comment to the
11 Commission, they can send comments by e-mail or by snail
12 mail to 1200 West Washington Avenue, Phoenix, 85077.

13 They can e-mail myself or Commissioner Spitzer
14 at kmayes@cc.state.az.us or mspitzer@.cc.state.az.us. So
15 we really are looking to hear what -- to hear people's
16 concerns on these issues.

17 CHAIRMAN SPITZER: Is there anything
18 further?

19 Did our visitor -- late visitor arrive, Brad?

20 MR. MORTON: No, I'm afraid not.

21 CHAIRMAN SPITZER: Okay. Well, just in
22 case, maybe we'll take a ten-minute recess.

23 COM. MAYES: Okay.

24 CHAIRMAN SPITZER: Okay. Let's recess for
25 ten minutes.

1 (A recess ensued.)

2 CHAIRMAN SPITZER: Let's go back on the
3 record with Public Comment.

4 I believe, Norman, that I have one of your
5 letters in my -- that I like so much that I'm going to --
6 I don't know what I'm going to do with it, elaborate on
7 it, keep it by my bed.

8 MR. SWARTZ: Pardon?

9 CHAIRMAN SPITZER: I may keep it by my bed.

10 MR. SWARTZ: I'm sorry. My hearing aid.
11 Let me get it full volume. I didn't hear what you said.

12 CHAIRMAN SPITZER: I read your letter, and
13 I enjoyed it. I may keep it by my bed

14 MR. SWARTZ: Oh, thank you.

15 CHAIRMAN SPITZER: Can you hear Mr. Swartz?

16 THE COURT REPORTER: Yes.

17 CHAIRMAN SPITZER: Okay. Mr. Swartz, you
18 are recognized. And if you could state your name.

19 MR. SWARTZ: Norman Swartz -- Norman Dale
20 Swartz, middle name.

21 This is so informal. When I was five years old,
22 my mother said, "Your name is Norman Dale Swartz. Do you
23 want us to call you Norman or Dale?"

24 And I thought it over and I thought, well,
25 Norman sounds too much like Norma, a girl's name, so I

1 chose Dale. But I didn't yet know about Dale Evans.

2 All I have to say tonight is just a little bit
3 of history.

4 Shall I stand up so people can hear?

5 CHAIRMAN SPITZER: Sure. You could use
6 that microphone if you want.

7 MR. SWARTZ: Okay. It gives me the sense
8 of being heard because of my own hearing impairment.

9 As you know from one of my letters, they say the
10 only reason or -- a reason history repeats itself is
11 because people fail to read the minutes of the last
12 meeting. So I have just a little interesting history of
13 the telephone and some anecdotes here since that's the
14 subject tonight.

15 Apparently citizens of Kingman are happy with
16 the phone service the way it is. I passed a couple coming
17 up here and said, "Do you want to come up to hear me
18 speak?"

19 They said, "When is it going to be?"

20 And I said, "Oh, probably in an hour or so,"
21 thinking it was like at the last meeting. And I said,
22 "Well, you can call me and I'll tell you if I've spoken
23 yet."

24 They said, "We don't have a phone."

25 And I said, "Well, you can come and complain the

1 phone service is too expensive."

2 Anyway, the telephone was -- I'm going to give a
3 little background: How does a 13-year-old boy, myself,
4 become an avowed enemy of the Public Utilities Commission
5 in California? I'm going to cover that interesting story.
6 I have an interest in the phone company from way back.

7 In 1844 Samuel Morse invented the telegraph. In
8 1861, there was a balloon dispatch to President Abraham
9 Lincoln in which it was by telegraph, and the dispatch
10 basically greeted the president and thanked him and said
11 he was indebted to president Lincoln for the opportunity
12 to demonstrate the science of aeronautics in the military
13 service of the country.

14 So that was just kind of an interesting sideline
15 there. 1871 a Japanese man -- No, an Italian-American
16 man -- the name sounded Japanese -- an Italian-American
17 man named Antonio M-e-u-c-c-i invented the telephone in
18 1871. And I'm not clear on why he didn't get the patent
19 instead of Alexander Graham Bell.

20 But I hear Alexander Graham Bell's patent was
21 contested some 200 times in court before he finally got
22 it. I got this joke: You know who really invented the
23 telephone was Alexander Grand Bill; that's why we call it
24 phone bill today.

25 Okay, moving on. 1876, on the 100th anniversary

1 of our country, Alexander Graham Bell invented the
2 telephone. And within 20 years with the invention of the
3 telephone when he offered it for sale to the American
4 Telegraph Company for \$100,000, they turned down his offer
5 claiming that the telegraph was far superior to the
6 telephone. Boy, was that a mistake.

7 Okay. Then in 1906 Lee de Forest invented the
8 three-element radio tube allowing radio transmission of
9 voice to occur. Prior to that, it was just beep, beep,
10 dots, and dots of the telegraph.

11 The first actual radio transmission was in New
12 Jersey in the 1915 era, and it was about 40 miles the
13 first transmitter to experiment. And offshore telegraph
14 operators on ships were astonished to hear voice coming
15 through their earphones, instead of the usual beep, beep,
16 people talking.

17 And by 1916 it was established, the relative
18 ship-to-shore transmission of voice instead of telegraph.
19 These dates are approximate. I just got them from the
20 library in the last hour. I thought I'd fill in a little
21 history here. It was kind of interesting.

22 The telephone was actually invented -- Bell's
23 patent for the telephone in 1876 came three years before
24 the electric light bulb. So, you see, sound came before
25 light. I ask people: "Which came first; light or sound?"

1 And they usually say, "Light, because God said,
2 'Let there be light' and there was light."

3 And I say, "Yeah, but how did he say it? That's
4 sound, so sound came before light."

5 Okay. I'm just trying to take this a decade at
6 a time. In the mid 1900s, 1915 era, transcontinental
7 radio was becoming set up, and a Mormon man visiting in my
8 father's home once told me the story of the first radio
9 transmission from San Francisco to Salt Lake.

10 The mayor of Salt Lake City was there to hear
11 this, you know, communication via transmission through the
12 air from the mayor of San Francisco, and the technicians
13 were having trouble getting the equipment working.

14 And the mayor and the public officials were
15 shuffling their feet and getting restless. 15 and 20
16 minutes had passed. Finally, one of the technicians grabs
17 a microphone, turns up a radio so there's background
18 static, and with their microphone said, "Greetings from
19 the mayor of San Francisco on this historic occasion,"
20 blah, blah, blah.

21 And so everybody claps and goes away happy
22 thinking they really heard from the mayor of San
23 Francisco.

24 Okay. Then we come up to the '20s. The only
25 thing I have note that happened in the '20s was the crash

1 of '29, which lead to the bankers depression in the '30s.
2 Everybody calls it the Great Depression or the Depression.
3 I think we should give credit where credit is due. It's
4 the Banker's Depression because it was caused in part by
5 bankers refusing to loan money to save people's farms, but
6 there was plenty of money ten years later for weapons of
7 war for World War II, after they grabbed up all the farms
8 and everything for themselves.

9 Also, in the '30s, Armstrong invented FM radio.
10 You have probably noticed FM radio is silent between
11 stations and it doesn't have the static like AM radio.
12 And cell phones are basically FM radio.

13 If you notice if they're out of range, they say,
14 "You're breaking up." You don't get static like between
15 stations and have to contend with hiss. That's because of
16 the marvelous advantage of FM radio, which Armstrong
17 invented in the '30s.

18 Then in the '40s was when George Orwell wrote
19 1984, which were of things to be coming to this country 55
20 years equivalent now to the year 2040. What that has to
21 do with telephone, I'll get to here in a moment.

22 In the 1950's yours truly declares public
23 utility his enemy. What happened was I was going to be a
24 chemist. I was already into chemistry creating effects.
25 And the only large effect I could think of creating was

1 explosions, which weren't practical unless one wanted to
2 go into warfare or paramilitary.

3 Then I moved on to the sounds and its effects on
4 the powered telephones in 1953 and discovered I could
5 communicate at a distance. So I loaned one of the phones
6 to a neighbor girl next-door and talked to her from her
7 bedroom. We talked at night looking across the property
8 line.

9 And then to expand my communications to across
10 the street, I climbed up a telephone pole one time; and it
11 lasted about a month until the phone man knocks on the
12 door and says, "Your wires got to come down."

13 And, well, I understood that. I mean, they put
14 the phone poles there for that purpose, for them to make
15 money. But then the phone man tells me, he says, "You
16 can't even run a phone line across the property line for a
17 private communication, that's the realm of the Public
18 Utilities Commission. They regulate that stuff."

19 That's when I got infuriated. No public utility
20 was going to tell me I couldn't run a phone line across to
21 the neighbor. I could bury it underground so nobody could
22 see it if I had to. So that kind of upset me against Ma
23 Bell and the Public Utilities Commission for some years.

24 Then in the 1960's, I heard Lee de Forest, Jr.
25 speak about his father in San Francisco for making the

1 claim that he could transmit forces through the air
2 without wires, which is a result of his radio tube
3 invention. So that was something -- some more
4 anti-progress stuff happening then. That was in the '60s.

5 Then in the '70s, I was in Phoenix and got a
6 tour of the telephone building. Then, it was six or eight
7 stories tall, and I interviewed there for possible work.
8 And they were showing me on the top floor where the
9 antennas come in through a tube. And to my astonishment,
10 I saw three television screens there, black and white.

11 It turns out the phone could be mounted on the
12 roofs and mountains, and the lines could transmit to the
13 television stations across the country. That wasn't
14 commonly known. It was going on for 20 years before I
15 found out, and that was by seeing it there. That was in
16 the '70s.

17 In 1977, Anwar Sadat went to Egypt and went from
18 Egypt to Israel to set up his peace treaty, breaking 3,000
19 years of precedent. That was another thing I liked about
20 the phones is you could create effect at a distance.

21 Here this girl was a hundred feet away. I could
22 see her and create an effect at a distance. So similarly
23 were writing letters or any place the phone will reach,
24 you could creat effect at a distance and hopefully a good
25 one.

1 Then in the 1980s came deregulation in the phone
2 company. And 1984, the very year George Orwell described
3 things about big government watching you and everything --
4 I think what happened is, you know, this was burned into
5 people's minds.

6 1984 was like the symbol of big bad government,
7 and congress here was in the position of having the power
8 to do something about the world's largest monopoly, which
9 was the phone company.

10 And so it seems to me that their choosing to
11 deregulate it that year and break it up into smaller
12 companies was almost like an attempt to keep some of the
13 bad stuff from happening that was predicted in his book --
14 tentatively predicted in his fiction book.

15 Let's see. Oh, then it was the early 1980s that
16 a lady told me something about the phone company that I
17 had no idea before. I just called her about a car for
18 sale or something.

19 And in the first five minutes of conversation,
20 she was saying that if you like the service you get from
21 the phone company, you can ask the operator if she would
22 like for you to validate her to her supervisor. And if
23 she says yes, you speak to her supervisor and she may get
24 promoted.

25 I liked the operator. Her name was Jane. She

1 gave good service. She treated me like a human being
2 instead of like a machine. So she told me the supervisor
3 will write this up as a commendation for them and when
4 review time comes around, maybe they can get promoted.

5 The operators who get the most reviews for good
6 service are the ones that are going to be promoted. And
7 as a result of this type of positive reinforcement,
8 persons who are being promoted to a position of authority,
9 in turn, are going to hire more upbeat, cheerful
10 operators. And this can have a material effect on the
11 world's largest monopoly, which it was in the 1980s.

12 When I first heard that, I thought I've got to
13 meet this lady. And we were together for the remaining
14 ten years that she lived. She was my wife all through the
15 '80s. That was a good news story.

16 In the 1990s, the only thing that came up
17 relative to the telephone is, that was the decade of the
18 telephone psychic. That was big then.

19 I have, really, no complaint about the phone
20 service, specifically. I think it's a marvelous thing. I
21 got this little cell phone I carry around in my pouch. I
22 get calls anywhere. I love it. Pouch envy, I guess.

23 Okay. I just wanted to give a light note here
24 and a little history of interest and some background about
25 myself since I've been writing you so many letters.

1 CHAIRMAN SPITZER: And we appreciate your
2 letters.

3 COM. MAYES: Do you have a land line also?

4 MR. SWARTZ: The cell phone is my only
5 phone right now.

6 CHAIRMAN SPITZER: Interesting.

7 COM. MAYES: More and more people, I think,
8 are doing that, you know, not just in our society but also
9 in the more rural counties, I think.

10 CHAIRMAN SPITZER: My mom is a young 72,
11 but she doesn't like the cell phone. And we're trying
12 to -- Her boyfriend, he is in his 80's, and he's fine with
13 it.

14 So we really need you to work on my mom to help
15 her get a greater comfort with the cell phone.

16 Thank you.

17 MR. SWARTZ: Thank you.

18 There is one more letter coming. As soon as I
19 find the one reference letter that goes with it, I'll
20 stick it off in the mail to you.

21 CHAIRMAN SPITZER: Thank you, Norman.

22 MR. SWARTZ: Thank you.

23 CHAIRMAN SPITZER: Okay. There is no
24 further business. We stand adjourned.

25 (The public comment concluded at 7:07 p.m.)

1 STATE OF ARIZONA)
2) SS.
3 COUNTY OF MOHAVE)
4

5 I, BONNIE C. LINDSEY, Certified Court Reporter,
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7 that the foregoing printed pages constitute a full, true,
8 and accurate transcript of the proceedings had in the
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11 WITNESS my hand this 3rd day of December, 2004.
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