

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION



0000104980

Received

2 COMMISSIONERS

3 KRISTIN K. MAYES - Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

2009 NOV 13 P 12:41

AZ ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

NOV 13 2009

DOCKETED BY

7 IN THE MATTER OF THE REVIEW AND
8 POSSIBLE REVISION OF ARIZONA
9 UNIVERSAL SERVICE FUND RULES, ARTICLE
10 12 OF THE ARIZONA ADMINISTRATIVE CODE.

DOCKET NO. RT-00000H-97-0137

10 IN THE MATTER OF THE INVESTIGATION OF
11 THE COST OF TELECOMMUNICATIONS
12 ACCESS.

DOCKET NO. T-00000D-00-0672

PROCEDURAL ORDER

13 **BY THE COMMISSION:**

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

19 Docket No. RT-00000H-97-0137, the "Arizona Universal Service Fund Docket" was set up to
20 review and revise the Arizona Universal Service Fund ("AUSF") rules in Article 12 of the Arizona
21 Corporation Commission ("Commission") Rules.

22 By Procedural Order dated September 29, 2009, a schedule for filing testimony was
23 established and a hearing was set to commence March 16, 2010.

24 On November 6, 2009, Qwest and Qwest Communications Company, LLC filed a Joint
25 Application for Subpoena Duces Tecum, that would require the production of certain documents
26 from AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T"),
27 Sprint Communications Company, LP and its affiliates, subsidiaries and predecessors, and MCI
28 Communications Service, Inc. dba Verizon Business Services. Qwest is seeking copies of contracts

1 between AT&T and any Competitive Local Exchange Carrier ("CLEC") relating to going-forward
2 rates, terms or conditions for the provision by the CLEC of intrastate switched access services to
3 AT&T.

4 The Subpoena Duces Tecum was issued November 10, 2009.

5 On November 12, 2009, AT&T filed a Motion to Quash Subpoena Duces Tecum. AT&T
6 argues the Subpoena is improper, unreasonable and oppressive under Commission Rules and contrary
7 to Commission discovery practices and also that the Subpoena seeks information and documents
8 which are beyond and inconsistent with the scope of the proceeding.

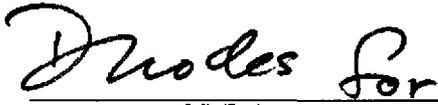
9 The scope of the proceeding has been determined to include whether carriers should be
10 permitted to contract for access rates that differ from tariffed rates. Qwest's request appears to have
11 been made after entities either failed to respond to, or objected to, a Data Request for the same
12 documents. The contracts that Qwest seeks are reasonably calculated to lead to the discovery of
13 admissible evidence, and they should be **produced subject to the Protective Order** issued in this
14 Docket.

15 IT IS THEREFORE ORDERED that **AT&T's Motion to Quash the Subpoena is denied.**

16 IT IS FURTHER ORDERED that **the November 10, 2009 Subpoena is modified** pursuant to
17 Rule 45(c)(3)(A) to require the production of the requested documents no later than 5:00 P.M. on
18 **November 18, 2009.**

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

21 DATED this 13th day of November, 2009.

22
23
24 
25 JANE L. RODDA
26 ADMINISTRATIVE LAW JUDGE
27
28

1 Copies of the foregoing mailed
2 this 13th day of November, 2009 to:

3 Dan Pozefsky
4 Chief Counsel
5 RESIDENTIAL UTILITY
6 CONSUMER OFFICE
7 1110 West Washington Street, Suite 220
8 Phoenix, Arizona 85007
9 dpozefsky@azruco.gov*

10 Norm Curtright
11 Corporate Counsel
12 QWEST CORPORATION
13 20 East Thomas Road, 16th Floor
14 Phoenix, Arizona 85012
15 norm.curtright@qwest.com

16 Patrick J. Black
17 Fennemore Craig, PC
18 3003 N. Central Ave., #2600
19 Phoenix, Arizona 85012
20 Attorneys for Qwest Corporation and
21 Qwest Communications Company, LLC

22 Reed Peterson
23 QWEST CORPORATION
24 20 East Thomas Road, 16th Floor
25 Phoenix, Arizona 85012

26 Michael W. Patten
27 ROSHKA DEWULF & PATTEN, PLC
28 One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
mpatten@rdp-law.com*

Attorneys for Cox Arizona Telecom, LLC
Attorneys for McLeodUSA

19 Craig A. Marks
20 CRAIG A. MARKS, PLC
21 10645 North Tatum Blvd., Suite 200-676
22 Phoenix, Arizona 85028
23 Craig.Marks@azbar.org
24 Attorney for ALECA

25 Michael M. Grant
26 GALLAGHER & KENNEDY, P.A.
27 2575 East Camelback Road
28 Phoenix, Arizona 85016
mmg@gknet.com*

Attorneys for AT&T

Isabelle Salgado
AT&T NEVADA
P.O. Box 11010
645 East Plumb Lane, B132
Reno, Nevada 89520
dfoley@att.com *
gcl831@att.com*

Joan S. Burke
OSBORN MALEDON, PA
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012
jburke@omlaw.com*

Attorneys for Time Warner Telecom
Attorneys for XO Communications

Lyndall Nipps
Vice President, Regulatory
TIME WARNER TELECOM
845 Camino Sur
Palm Springs, California 92262
Lyndall.Nipps@twtelecom.com*

Thomas Campbell
Michael Hallam
LEWIS AND ROCA LLP
40 North Central Avenue, Suite 1900
Phoenix, Arizona 85004
tcampbell@lrlaw.com*

mhallam@lrlaw.com*

Attorneys for Verizon

Dennis D. Ahers
Associate General Counsel
INTEGRA TELECOM, INC.
730 Second Avenue, Suite 900
Minneapolis, Minnesota 55402
ddahlers@eschelon.com

Rex Knowles
Executive Director - Regulatory
XO COMMUNICATIONS
111 East Broadway, Ste. 1000
Salt Lake City, Utah 84111
rex.knowles@so.com*

Charles H. Carrathers, III
General Counsel, South Central Region
VERIZON, INC.
600 Hidden Ridge
HQE03H52
Irving, Texas 75015
chuck.carrathers@verizon.com*

1 Thomas W. Bade
 President
 2 ARIZONA DIALTONE, INC.
 6115 South Kyrene Road, #103
 3 Tempe, Arizona 85283
TomBade@arizonadialtone.com*
 4
 Brad VanLeur
 President
 5 ORBITCOM, INC.
 1701 North Louise Avenue
 6 Sioux Falls, South Dakota 57107
bvanleur@svtv.com
 7
 Gary Joseph
 8 Arizona Payphone Association
 SHARENET COMMUNICATIONS
 9 4633 West Polk Street
 Phoenix, Arizona 85043
garyj@nationalbrands.com*
 10
 Karen E. Nally
 11 LAW OFFICE OF KAREN E. NALLY, PLLC
 3420 East Shea Blvd., Suite 200
 12 Phoenix, Arizona 85028
knallylaw@cox.net
 13 Attorney for Arizona Payphone Association
 14
 Nathan Glazier
 Regional Manager
 15 ALLTEL COMMUNICATIONS, INC.
 4805 East Thistle Landing Drive
 16 Phoenix, Arizona 85044
nathan.glazier@alltel.com*
 17
 Mark A. DiNumzio
 COX ARIZONA TELCOM, LLC
 18 1550 West Deer Valley Road
 MS DV3-16, Bldg. C
 19 Phoenix, Arizona 85027
mark.dinumzio@cox.com*
 20
 21
 22
 23
 24
 25
 26
 27
 28

William A. Haas
 Deputy General Counsel
 MCLEODUSA TELECOMMUNICATIONS
 SERVICES, INC.
 6400 C Street SW
 Cedar Rapids, Iowa 52406
bill.haas@mcleodusa.com*

Paul Castaneda
 President, Local 7019
 COMMUNICATION WORKERS OF AMERICA
 2501 West Dunlap, Suite 103
 Phoenix, Arizona 85029

Greg L. Rogers
 LEVEL 3 COMMUNICATIONS, LLC
 1025 El Dorado Blvd.
 Broomfield, Colorado 80021

Janice Alward, Chief Counsel
 Legal Division
 ARIZONA CORPORATION COMMISSION
 1200 West Washington Street
 Phoenix, Arizona 85007

Steve Olea, Director
 Utilities Division
 ARIZONA CORPORATION COMMISSION
 1200 West Washington Street
 Phoenix, Arizona 85004

By: 
 Debra Broyles
 Secretary to Jane Rodda

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