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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

NOTICE OF FILING

Cox Arizona Telcom, L.L.C. hereby gives notice that it files the attached Direct Testimony of Douglas Garrett on behalf of Cox Arizona Telcom LLC.

RESPECTFULLY SUBMITTED this 1st day of December 2009.

COX ARIZONA TELCOM, LLC.

By _____

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Arizona Corporation Commission
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DIRECT TESTIMONY

OF

DOUGLAS GARRETT

ON BEHALF OF

COX ARIZONA TELCOM, L.L.C.

DECEMBER 1, 2009

Testimony of Douglas Garrett

Q. WHAT IS YOUR NAME AND WHAT IS YOUR BUSINESS ADDRESS?

A. My name is Douglas Garrett, 2200 Powell Street, Suite 1035, Emeryville, CA 94608.

Q. BY WHO ARE YOU EMPLOYED AND IN WHAT POSITION?

A. I am employed by Cox Communications, Inc. as Vice President of Regulatory Affairs for the Western Region of Cox's telephony operations. I am responsible for regulatory issues that affect Cox Arizona Telcom, LLC ("Cox") and Cox telephone service in five other Western states.

Q. WHAT IS YOUR BACKGROUND AND EXPERIENCE?

A. I have been employed in my current capacity by Cox since 2001. Prior to that I was employed by NorthPoint Communications as Vice President Service Provisioning and Vice President Local Exchange Carrier Relations. My responsibilities included managing all operational and customer service issues related to the company's broadband provisioning. I was also responsible for managing interconnection agreements with incumbent telephone companies, including the provisioning of central office collocation and unbundled network element. Previous to North Point, I served as Vice President, State Regulatory Affairs for ICG Communications, a facilities-based CLEC based in Denver, Colorado. From 1973 to 1998, I was employed by Pacific Bell and SBC Communications in a variety of capacities, including network operations, marketing, and financial management. I was Executive Director, Local Interconnection for Pacific Bell at

the time the company negotiated and implemented its first round of interconnection agreements under the Telecommunications Act of 1996. I have a Bachelor's degree in Management from St. Mary's College of California.

Q. MR. GARRETT, WOULD YOU SUMMARIZE YOUR TESTIMONY?

A. Cox has consistently advocated for Arizona to await federal action related to access and intercarrier compensation reform. The FCC has been wrestling with Intercarrier Compensation issues and based on the recent action taken by the FCC as part of the National Broadband Plan, these issues are important to finally address comprehensively as part of the FCC's report to Congress in February 2010[1]. Moving forward with state action at this time is still premature for either ILECs or CLECs since it will exhaust limited resources coming up with a specific state plan that ultimately will need to be reconciled with the federal regime.

However, should the Commission decide to move forward with access reform at this time, and decide that CLEC rates are to be included in that plan, Cox believes that any such plan should allow for variations in rate structure from ILEC access rates, allow reasonable variations in rates for each carrier, and most importantly, allow for a appropriate period to transition to new rates. Specifically, the Commission should (i) allow CLECs to adopt access rates that are higher than the ILEC's rates and (ii) provide CLECs a sufficient amount of time to reduce access charges and modify their business plans, assuming intrastate access charges are to be reduced. .

[1] Public Notice, DA 09-2419, *Comment sought on the role of the Universal Service Fund and intercarrier compensation in the National Broadband Plan*, Nov. 13, 2009.

CLECs such as Cox have made substantial investments in Arizona to provide sustainable facilities-based competition that has brought tremendous benefits to Arizona consumers in both choice and quality of services, and reduced rates due to vigorous competition. Access revenues are an important part of CLEC business plans, and the Commission should be careful not to cut one of the legs out from under the surviving CLECs based on the requests of IXCs whose rates the Commission effectively no longer controls.

The Commission needs to ask itself: Will a reduction in access charges have a beneficial impact on Arizona consumers? There has already been a shift in consumer behavior to other forms of communication such as wireless and/or VoIP technology. Access lines and minutes of use are on a steady downward track. Access charges historically have been used to maintain the cost of the carriers' network. Because of the migration toward other communication methods, there are now fewer customers to cover the cost of the network. Consumers will ultimately pay higher rates in order to maintain their networks – even without any access charge reductions. Reducing access charges will only exacerbate the dilemma of maintaining a competitive network. Although reductions in access revenue for price cap ILECs and CLECs can be mitigated by a combination of increases in FCC-authorized Subscriber Line Charge ("SLC") and other end user rates, consumers will end up paying more while IXCs reap the benefits of the access charge reductions.

Finally, there is no effective mechanism to ensure that IXCs will pass any access charge reductions on to consumers. Without such a guarantee, access charge reform is rendered meaningless.

Q. SHOULD THE COMMISSION PROCEED WITH ACCESS CHARGE REFORM NOW?

A. Cox has advocated that the Commission wait and delay any intrastate access charge reform until the FCC conducts its review and reform of access charges. The FCC clearly has Intercarrier Compensation on its agenda for 2010 and action within this docket is expected to take place under the new FCC. There is no urgency to proceed with this docket ahead of a new national framework. By conducting a state specific docket, the Commission risks adopting a plan that does not parallel the federal scheme, resulting with the expense of time and resources by the parties that will ultimately have to go back and modify any adopted state plan to mirror the federal framework. This does not appear to be the best use of scarce resources of the participants, including Commission staff, at this time. Additionally, Cox does not believe it is good public policy to implement access reform at the state level in isolation without a national federal reform framework. One of the most pressing problems in intercarrier compensation is the active arbitrage by some carriers between interstate access, intrastate access and reciprocal compensation. Only by rationalizing rates under a national framework can this arbitrage be curtailed over time. Changing rates in one jurisdiction will likely have no effect on the rates Arizona consumers pay, and will only serve to encourage the arbitrageurs to shift strategy to account for any lower rates available. The Commission should also carefully weigh the consequences, both for Arizona consumers and for telephone competition in the state of adjusting access rates down for all carriers, yet allowing only some class(es) of carrier to recover "lost" revenue from the Arizona Universal Service Fund. Such an approach will inevitably distort competition, and risks considerably higher USF surcharges paid by Arizona consumers in return for little or no reduction in long distance charges

by IXCs.

Q. WHY IS IT BETTER TO AWAIT A NATIONAL FRAMEWORK ON ACCESS REFORM?

A. Any reductions in intrastate access rates are best addressed utilizing a national framework for such reductions. The only viable way to address access reform is on a national scale by "re-drawing" the framework and provide sustainable new ways of both establishing what services and customers still need support, and how to rationalize the system of charges and payments so that it is both fair and affordable. The direction the FCC sets for interstate access charges, intercarrier compensation, subscriber line charges and forward-looking federal USF support will swamp any state specific attempts to reform the system piecemeal. This type of reform cannot be successful on a state-by-state basis, especially with the development of new forms of competition (e.g.VoIP) and the growing breakdown of traditional jurisdictional lines that used to neatly determine the jurisdiction of a call using telephone numbers. The now widespread practice of assigning telephone numbers to consumers from their choice of area codes, rather than the available codes where they live or work is but one example of why state-specific reform is bound to be frustrated outside of a national restructuring of intercarrier compensation and universal service support.

In addition, absent overall federal reform, the problem of arbitrage between carriers is an ever present problem that will persist. Many carriers have made decisions based on a business model that includes arbitrage in order to reduce the amount paid to other carriers, or to stimulate the amounts they receive from other providers. As more and more local exchange carriers' costs go un-recovered or payments to others from "access stimulation" grow, arbitrage of different rates

remains a big problem. Having a national framework plan established by the FCC will reduce and over time potentially eliminate this business practice.

Q. DOES COX HAVE A POSITION AT THIS TIME ON THE SPECIFIC QUESTIONS RAISED IN THE PROCEDURAL ORDER OF SEPTEMBER 29, 2009 IN THIS DOCKET?

A. Yes. Although Cox has described above the reasons that the ACC should wait for the FCC to initiate comprehensive reforms, that does not preclude it providing suggestions or views on some of the questions raised in the Procedural Order. Cox may provide additional testimony in response to particular positions or proposals set forth in the opening testimony of other parties or Staff and RUCO.

Q. 1. What carriers should be covered by access reform?

A. In order to be effective, any plan that addresses access reform should cover all carriers eventually. Based on the statements of other providers, Cox believes that, should the ACC undertake reforms before a new national framework is adopted, the Commission should address rural ILECs first and then address large ILECs and CLECs in a later stage of this proceeding. Rural carriers state they are under the most pressure from loss of current intrastate access revenues, and thus addressing this segment first would prioritize the timing of those concerns over other carriers and be a more beneficial use of Commission resources. Rural providers have different issues and concerns than CLECs and mixing the two may delay appropriate reform for rural access charges. Any rulemaking could provide shorter timelines for rural carriers than for CLECs.

Q. 2. To what target level should access rates be reduced?

A. Cox believes that over a relatively long period, e.g. ten years, access rates – and all intercarrier compensation rates – should be unified and reduced to zero or "bill and keep." However, this will require coordinated national reform to achieve. For interim reform at an individual state level, Cox believes that CLECs require flexibility in the short run to ensure that business models can evolve and competition can continue. Cox will comment further based on any more specific proposals of other parties in the opening rounds of testimony.

Q. 3. What procedures should the Commission implement to achieve the desired reduction in access rates?

A. As described in my testimony above, assuming the Commission concludes there will be actual benefits to local consumers from state access charge reform at this time, the Commission should, under a new national framework, use measured reductions in access rates, timed with measured increases in end user rates to achieve most of the reductions desired. For some rural carriers, use of benchmarks for local service rates and transitional subsidy support may be necessary where adjusting recovery of all access revenues from end users will make local service rates unaffordable.

Q. 4. Should carriers be permitted to contract for access rates that differ from their tariffed rates?

A. Yes, if their tariff contemplates such arrangements. Cox's Arizona access tariff (Section 6.1) contains such a clause. As long as there is no discrimination between similarly situated access customers of a given carrier, this practice should be permitted.

Q. 5. What revenue sources should be made available to carriers to compensate for the loss of access revenues?

A. As described earlier in my testimony, price cap ILECs and CLECs should be able to recover lost access revenues through a combination of SLC increases and other end user rates, which the Commission should approve up to a "revenue neutral" level. Rural ILECs operating on rate-of-return regulation may need additional transitional USF support after availing themselves of SLC increases, rate increases and the application of benchmark national rate levels. This transitional support should sunset after no more than five years and be used only where the combination of other measures would otherwise push basic telephone service rates above affordable levels.

Q. 6. How much of access cost recovery, if any, should be shifted to end users? What showing should be required for such a shift? What should be the role of "benchmark" rates and how should benchmarks be set?

A. See the discussion in my earlier testimony and in the answer to question 5 above. The showing required for approval of increased rates should be limited to a demonstration of access revenues before any ordered rate reductions in the most recent three to six month period. Because of changes in consumer behavior that have resulted in accelerating wireline losses by LECs, use of older data would result in "overcompensating" for the reduced access charges.

Q 7. Procedurally what will be required of a carrier if it seeks a "revenue neutral" increase in local rates?

A. See my testimony in number 6 above.

Q. 8. Assuming that AUSF funds will also be used as a compensating revenue source, what specific revisions (including specific recommended amendment language) to the existing rules are needed to allow use of AUSF funds for that purpose?

A. Cox does not have any specific proposed revisions to the AUSF rules. As a matter of policy, however, AUSF funds should only be available to rate-of-return rural ILECs where increases to end user rates in total will push basic service rate levels above national benchmark levels and make service "unaffordable" and the AUSF rules should ensure that level of proof before a carrier is entitled to AUSF compensation. Cox may provide further comment in response to proposals set forth in the opening testimony of the other parties.

Q. 9. Which carriers should be eligible for AUSF support?

A. See my response to number 8 above. Price cap ILECs and CLECs should not need AUSF support if the Commission approves "revenue neutral" rates increases in combination with increased SLC charges.

Q. 10. What should be supported by AUSF? Access replacement only? High cost loops? Line extensions? Centralized administration and automatic enrollment for Lifeline and Link-up?

A. Cox does not take a position on what policy goals should be supported through AUSF subsidies. However, Cox may provide further comment in response to proposals set forth in the opening testimony of the other parties.

Q. 11. What should be the basis of AUSF contributions and what should be the structure of any AUSF surcharge(s)?

A. AUSF surcharges should be based on intrastate local lines with some mechanism for IXC contributions (given that IXCs may not have local lines in Arizona but derive benefits from using those lines), and should ultimately mirror the adopted national framework in the FCC's proceeding cited in the introduction to my testimony. Cox may provide further comment in response to proposals set forth in the opening testimony of the other parties.

Q. 12 Any other specific revisions to the AUSF rules.

A. Cox does not have any specific revisions at this time. However, any proposal or revisions would need to be done through a formal rulemaking process. All parties should have the opportunity to participate and comment on any draft revisions or proposals. Proposed rule revisions should allow for any interested party the opportunity to be engaged to voice their specific concerns since any newly adopted rules will have an impact to their business. Having an open rule making docket will ensure a fair and participatory process. Cox may provide further comment in response to proposals set forth in the opening testimony of the other parties.

Q. DOES THAT CONCLUDE YOUR TESTIMONY, MR. GARRETT?

A. Yes, it does.