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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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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 Reply
Testimony of Douglas Garrett on behalf of Cox Arizona Telcom LLC.

RESPECTFULLY SUBMITTED this 5th day of February 2010.

COX ARIZONA TELCOM, LLC.

By 

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Arizona Corporation Commission

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3 February 2010 with:

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Docket No. RT-00000H-97-0137

IN THE MATTER OF THE INVESTIGATION OF
THE COST OF TELECOMMUNICATIONS
ACCESS

Docket No. T-00000D-00-0672

**REPLY TESTIMONY
OF
DOUGLAS GARRETT
ON BEHALF OF
COX ARIZONA TELCOM, L.L.C.**

FEBRUARY 5, 2010

1 **Q. Are you the same Douglas Garrett who submitted direct testimony in this matter on**
2 **behalf of Cox Arizona Telcom, LLC (“Cox”)?**

3 A. Yes.
4

5 **Q. What is the purpose of your testimony?**

6 A. I have read the testimony filed by the parties in this case and wish to respond to issues that
7 have been not been fully addressed and issues raised by Commission Staff in their direct
8 testimony.
9

10 **I. SUMMARY OF TESTIMONY.**

11
12 **Q. Mr. Garrett, would you summarize your testimony?**

13 A. Cox has been active in these dockets since their inception and has focused its comments on
14 the need for Arizona to await federal action related to access and intercarrier compensation
15 reform. Now more than ever, it appears that federal reform is on the horizon and taking
16 state action on these complex issues does not appear to be the best utilization of the parties’
17 time and the Commission’s limited resources. That said, if the Commission continues to
18 proceed with Arizona-specific access reform in advance of a new national framework, it is
19 critical to consider all consequences of that reform to ensure a fair and timely transition to
20 the Commission’s stated goals. For example, Cox believes that any state plan needs to
21 allow for variations in CLEC access rate structure from ILEC access structure and to allow
22 reasonable variations in CLEC rates from ILEC rates.
23

24 In addition to the reform issues, while Cox agrees with Staff’s position on permitting off-
25 tariff pricing related to switched access service and does not oppose Staff’s
26 recommendation that future switched access service agreements with IXCs or other
27 providers should be filed at the Commission,, Cox would request that when such

1 agreements are filed, the parties should be permitted to redact certain information that
2 should remain confidential.

3
4 **Q. Does Staff's direct testimony capture all of the issues raised by parties regarding**
5 **intrastate switched access reform?**

6 A. No. Although Staff acknowledges that the Federal Communications Commission ("FCC")
7 has an open docket to address intercarrier compensation on a comprehensive basis, Staff
8 has not identified any urgent need for the Commission to take action at this time. As Cox
9 has discussed throughout these proceedings, intrastate access reform is but one component
10 of an overall plan that the FCC will be addressing. The risk of intrastate access reform at
11 the state level is that it may not parallel the expected reform of the federal framework,
12 requiring the Commission and the parties to commit additional resources in the near future
13 to evaluate and establish a new record to make the necessary modifications to decisions
14 made here. Forging ahead prior to FCC reform will result in significant and potentially
15 unnecessary time and cost to the parties.

16
17 However, if the Commission decides to proceed ahead with this docket, there are several
18 key issues that should be either addressed or clarified. Commission Staff did address
19 numerous issues related to reducing their intrastate switched access rates down to Qwest's
20 current intrastate rate, but did not address some other key issues that are important to
21 CLECs such as Cox.

22
23 **Q. What key issues were missing from Staff's January 8, 2010 Direct Testimony?**

24 A. The vast majority of Staff's testimony focused on the rural ILECs. Staff's discussion of
25 CLEC intrastate access rates was fairly terse. As a result, there was little if any discussion
26 of: (i) a potential transition period for CLECs (even though this issue was raised by parties
27 in the initial round of testimony), (ii) mechanisms and procedures for CLECs to recoup lost

1 revenues, (iii) potential opportunities and procedures for CLECs to have intrastate access
2 rates above the incumbent LEC rate.

3
4 **Q. Should there be a transition period for any required reduction in CLEC intrastate**
5 **access rates?**

6 A. Yes. Although Staff's direct testimony did recommend a CLEC cap at the incumbent
7 LEC's access rates, which will lead to reductions in CLEC access rates, Staff did not
8 address any transition plan for such reductions. If such a recommendation is adopted, Cox
9 and other CLECs should have the ability to transition their intrastate access rates to the
10 capped rate over a period of time as the FCC permitted when it capped CLEC interstate
11 access rates, and as other states have permitted when deciding to cap intrastate access rates.
12 In addition, although Staff believes that these proceedings should include ALECA
13 members and CLECs, Staff does not provide any reasons why rural carriers should not be
14 addressed first with CLECs being addressed at a later time. Since rural carrier access rates
15 affect Arizona USF funding (particularly under Staff's proposals) and CLEC rates do not, it
16 would seem logical to address the rural provider access rates first.

17
18 **Q. Is a transitional period to reduce intrastate access rates a good idea?**

19 A. Yes. Having a sufficient period of time in which the access rate reduction would take place
20 would enable Cox and other CLECs to put in place business plans in order to offset such
21 reductions. The transitional period should be over an appropriate period of time (i.e. two
22 to three years) for carriers to modify their business plans, to allow existing contracts to run
23 their course and to provide CLECs time to seek out other services by which they could
24 adjust other rates to result in a "revenue neutral" manner. CLECs such as Cox need to
25 have the ability to recover any lost access revenue through increases from other services
26 during the specific transition period. Such a transitional plan is essential to any reduction
27

1 of intrastate access charge reform, and is consistent with the approach taken by the FCC
2 and other states that have taken action in this area
3

4 **Q. Should any access charge reform include mechanisms and procedures to facilitate**
5 **recovery of lost access revenues from other sources?**

6 A. Yes. It may be easy to say that CLECs can increase revenues elsewhere, but there are
7 existing hurdles that preclude or inhibit increasing revenues. Those barriers should be
8 addressed in any comprehensive access reform. This is particularly important for CLECs
9 because they will not have access to high cost support under the AUSF, even with the
10 potential modifications to the AUSF recommended by Staff.

11
12 **Q. Can Cox freely raise other rates to offset any required intrastate access reductions?**

13 A, No, at least not as rates are currently administered under the Commission's rules. Cox's
14 rates in its tariffs are essentially "capped" at this time because there are maximum rates
15 established in the tariffs. In submitting its initial tariffs, Cox did not include a maximum
16 rate that was two or three times higher than its initial offered rate - unlike many other
17 CLECs. Therefore, although Cox *in theory* has the flexibility to raise rates up to the
18 allowable maximum rates without future Commission action, Cox is already charging the
19 maximum rate for many of Cox's services. It has been Cox's experience that raising
20 maximum rates in its tariff is often a slow and difficult process. This process suggests the
21 need for both a transition period and for some allowance for increasing maximum rates in a
22 timely manner.

23
24 If Cox's intrastate access rates are to be reduced, Cox needs the ability and authority to
25 timely raise maximum rates to compensate it for the loss of access revenue. A provision in
26 any type of access reform must permit carriers like Cox to increase the maximum rates
27

1 currently in its approved tariff should any mandated reduction in intrastate access be
2 approved, at least to levels necessary to recover the lost revenues.

3
4 **Q. Should CLECS be forced to match the ILECS intrastate rate in all instances?**

5 A. No. Cox disagrees that all CLECs be absolutely required to reduce intrastate access rates
6 down to Qwest's or other incumbent LECs current intrastate access rate. While Staff
7 recommends generally that CLECs rates be capped at the incumbent LECs intrastate rate,
8 Staff did not address in any detail a streamlined process by which CLECs could obtain
9 intrastate access rates that vary in structure and that could be set at a reasonable level above
10 the ILEC's rate. As I discussed in my direct testimony, the California Public Utilities
11 Commission adopted a CLEC rate cap at the ILEC rate + 10%, with a transition plan of
12 more than one year to reach that rate (see CPUC D07-12-020, adopted December 10,
13 2007). Although Staff offers up the potential for a carrier to file information demonstrating
14 that it experiences higher costs of providing switch access services than the ILEC's in hope
15 of getting a higher rate, that option would be a resource intensive and lengthy option that is
16 not practical for many CLECs. However, setting a cap with flexibility to establish rates
17 modestly above the ILEC would recognize the differences in CLEC networks and costs,
18 while avoiding the costly and likely contentious examination of individual CLEC costs.
19 Allowing modes of rate variation will also reduce the effect of switched access reform on
20 retail rates paid by Arizona consumers.

21
22 As mentioned in my previous testimony, CLECs such as Cox have made substantial
23 investments in Arizona to provide sustainable facilities-based competition that has brought
24 tremendous benefits to Arizona consumers in both choice and quality of services, and
25 reduced rates due to vigorous competition. Access revenues are very much an important
26 part of CLEC business plans and caution needs to be exercised to ensure that a viable
27 CLEC market continues.

1 **Q. Should CLEC intrastate access rates be included in this phase of access reform?**

2 A. No. In fact, attempting to include CLECs within this access rate reform proceeding at this
3 time only complicates matters and would delay even further the real need for reductions in
4 access rates of rural carriers. Rural carriers are under the most pressure from intrastate
5 access revenue losses and should be addressed first within these proceedings. Once their
6 issues and concerns, which differ from the CLECs, have been appropriately addressed, then
7 the CLECs' rates could come under review. Many of the rural carriers who are party to
8 these proceedings are looking at recovering some lost access revenue from the AUSF.
9 These issues must be analyzed by Staff to ensure that carriers are not over burdening the
10 AUSF and that surcharges remain fair and affordable for Arizona telephone subscribers.
11 The appropriate way to address these complex issues is to look at the rural ILECs first by
12 reviewing their rate structures to ensure that rate re-balancing results in relief for the rural
13 carriers on access revenue, but does not un-duly enlarge the AUSF to the point where
14 surcharges paid by non-rural telephone subscribers becomes an unfair burden. Indeed, the
15 reform issues for rural ILECs, including the interplay with the AUSF, was the focus of the
16 Staff testimony.

17
18 Lumping in all carriers at the same time is less efficient due to differing issues and needs of
19 the respective carriers' business. Cox suggests that if the Commission proceeds with this
20 docket without waiting for federal guidance, that rural ILECS be addressed first, followed
21 by the larger ILECs and then CLECs in later stages of this proceeding.

22
23 **Q. Does Cox agree with Staff's position related to CLECS being able to contract for
24 access rates that differ from their tariffed rates?**

25 A. While Cox does not oppose Staff's recommendation that future switched access service
26 agreements with IXCs or other providers should be filed at the Commission, additional
27 clarity surrounding the confidentiality of certain sensitive information in any agreements is

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needed. As Cox stated in its direct testimony, Cox's Arizona access tariff (Section 6.1) already contains a clause that allows such agreements, subject to no unreasonable discrimination for similarly situated customers. However, filing such agreements should permit the redaction of customer information and the actual dollar amounts of the contract, as well as any specific service addresses and any non-jurisdictional services that may be included in the agreement. The essential terms of such agreements can be filed publicly to ensure no discrimination among similarly situated customers, thus allowing a similarly situated provider to learn of the existence of agreements. The Commission could also specifically require that the terms of any such agreements for Arizona off-tariff rates be made available to IXCs upon request and after execution of appropriate non-disclosure agreements.

Q. Does that conclude your testimony, Mr. Garrett?

A. Yes, it does.