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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE)
INVESTIGATION INTO THE BILLING) DOCKET NO.
PRACTICES OF TELECOMMUNICATION) T-00000D-04-0582
PROVIDERS IN ARIZONA.)

-----)
IN THE MATTER OF DISSEMINATION) DOCKET NO.
OF INDIVIDUAL CUSTOMER) RT-00000J-02-0066
PROPRIETARY NETWORK INFORMATION) PUBLIC COMMENT
BY TELECOMMUNICATIONS CARRIERS.) SPECIAL OPEN MEETING
-----)

At: Prescott, Arizona

Date: November 5, 2004

Filed: **NOV 22 2004**

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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1 BE IT REMEMBERED that the above-entitled
2 and numbered matter came on regularly to be heard
3 before the Arizona Corporation Commission, at the
4 Yavapai County Board of Supervisors Administration
5 Building, 1015 Fair Street, Prescott, Arizona,
6 commencing at 5:13 p.m. on the 5th day of November,
7 2004.

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9 BEFORE: KRISTIN K. MAYES, Commissioner

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KATHRYN A. BLACKWELDER, RPR
Certified Court Reporter
CCR No. 50666

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1 COM. MAYES: Thank you to everyone who showed
2 up on a slightly blustery November night in my home
3 town, Prescott, Arizona. It's good to be back in
4 Prescott on this -- the Friday after my first election,
5 so I'm looking forward to the meeting and then going
6 out to dinner with my mom afterwards.

7 We are here to hear Docket Number
8 T-00000D-04-0582, investigation into the billing
9 practices of telecommunications providers in Arizona.
10 We are also going to talk about Docket
11 RT-00000J-02-0066, dissemination of individual customer
12 proprietary network information by telecommunications
13 carriers. We'll go into sort of a quick discussion of
14 those issues and then my own personal reflections on
15 them.

16 Let me just first apologize for us not having
17 more Commissioners here. Various things happened to
18 prevent my colleagues from coming. But if you're here
19 to speak or you have anything to say, it is important
20 that you do so. We have a court reporter present and
21 we have speaker slips in the back that you can fill out
22 and maybe sort of let us know which issue you'd like to
23 talk about. And I promise you that the other
24 Commissioners will be carefully reviewing the
25 transcript from this meeting, as also the transcript

1 from the meeting that occurred earlier today in
2 Flagstaff.

3 We actually started this process at the
4 behest of Commissioner Mundell, who came up with the
5 idea. We are holding public meetings, public comment
6 sessions to gather information and thoughts in, it
7 looks like, five different cities -- no, more than
8 that, many more than that -- Mesa, Phoenix, Sun City,
9 Flagstaff, Prescott, Kingman, Lake Havasu, Yuma, Sierra
10 Vista, Bisbee, Wilcox, and Benson, which I think
11 demonstrates how important and how serious we take this
12 issue.

13 In terms of the issues themselves, the first
14 issue is one that I'm particularly concerned about,
15 which is essentially the, quote, truth in billing
16 issue, which, you know, has seen, I think, a rise in
17 the number of telecommunications companies who are
18 essentially placing sneaky new surcharges and fees on
19 people's bills as revenue generators, as cash cows, and
20 in some cases doing so by disguising them as regulatory
21 fees when they're not regulatory fees at all.

22 Another issue that has come up that I'm
23 really concerned about is the decision by Qwest
24 recently to add a \$2.99 fee to their Qwest long
25 distance choice plan, which they did a mere six months

1 after the Corporation Commission approved them for long
2 distance and after they enticed many, many customers
3 onto their long distance plan by saying that they would
4 charge no monthly fees. And then, lo and behold, just
5 a few months later they started charging this \$2.99
6 fee.

7 Broken down, it's \$2 -- it's a \$2 monthly
8 recurring charge and a, quote, 99 cent interstate
9 services fee charge. The monthly recurring charge is
10 not mandated by any government agency, certainly not by
11 the ACC, it's just something that Qwest decided to do.
12 The 99 cent fee -- interstate services fee is also
13 something that Qwest decided to do.

14 I asked our Staff to look at that issue.
15 Our Staff has done a number of what are called data
16 requests, which, in normal court parlance, is simply an
17 interrogatory. I also have been -- have called on
18 Qwest to, you know, explain its decision. I also asked
19 them to waive the \$10 change fee that they were going
20 to charge people should people want to get away from
21 this \$2.99 fee and change to a new provider. Qwest
22 decided that, yes, maybe it was okay to waive that fee,
23 but only for a certain number of their customers in a
24 certain window. I think it was something like
25 July 15th through September. I think they ought to

1 waive the fee for anybody who signed up for Qwest
2 long distance from the beginning of their service.

3 I also think that Qwest should consider
4 suspending the \$2.99 fee until the Arizona Corporation
5 Commission comes to a determination about whether or
6 not it was lawful for them to apply that fee. And I
7 say that today, I have not actually formally announced
8 it, but maybe I am formally announcing it now, and I
9 will be sending a letter to Qwest asking them to do
10 that, because I think it's only appropriate and fair to
11 the consumers of Arizona.

12 I also had a meeting with a gentleman named
13 Steve Davis who's an Executive Vice President from
14 Qwest who came down from Denver to talk about this
15 issue and the whole truth in billing issue in general.
16 I asked him whether or not he thought he had broken
17 Arizona law, he denied that he had. I asked him
18 whether or not he thought it might have been a good
19 idea to come talk to the Corporation Commission about
20 adding this \$2.99 fee, and he said, "Well, yes, shame
21 on us." Well, yes, shame on Qwest, and not just for
22 not contacting the Corporation Commission, but also for
23 not allowing the people of Arizona the opportunity to
24 object to that fee.

25 So we will see where that goes, and

1 let me just quickly explain some of the things that
2 could happen in terms of the \$2.99 fee. There could
3 be what's called an order to show cause, which is what
4 our Staff might issue to Qwest, which would mandate
5 that they come into the Commission and prove whether
6 or not they violated state law. The Commissioners
7 could also vote to do an order to show cause, which
8 has not happened yet. Either way, the order to
9 show cause would require Qwest to come in and
10 demonstrate that they didn't violate what is called
11 Rule A.A.C. R14-2-1110. So those are a number of
12 the things that I've been concerned about and that
13 we are going to be following up on.

14 In terms of the -- The other part of today's
15 discussion, if anybody would like to discuss it, is the
16 CPNI rules, which were recently promulgated and voted
17 on by the Arizona Corporation Commission -- or,
18 actually, we voted on a rulemaking. CPNI essentially
19 is information that is gathered up by telephone
20 companies, it's your information, information on who
21 you call, when you call, the types of phone calls you
22 make, that then those companies want to turn around and
23 sell for profit. A lot of people obviously and
24 understandably are concerned about that and don't want
25 that to occur.

1 As approved and currently drafted under our
2 rules -- or, this proposed rule, phone companies would
3 be barred from sharing information with third parties
4 and affiliates that provide services unrelated to
5 telecommunications unless the customer, you, has given
6 permission for his or her data to be shared. This is
7 called opt in. And I think it's a reasonable process
8 to give consumers an opportunity to say whether or not
9 they want this information to be used by companies.
10 Again, more specially -- Again, this was another Qwest
11 invention, and I think it started back in the summer of
12 2001. And obviously the Corporation Commission, I
13 think the Attorney General's Office took quick action
14 to challenge it.

15 CPNI is information about the quantity,
16 technical configuration, type, destination, and amount
17 of use of a telecommunications service subscribed to by
18 any customer of a telecommunications carrier, and it is
19 made available to the carrier by the customer solely by
20 virtue of the carrier-customer relationship, and it is
21 information contained in the bills pertaining to a
22 telephone exchange service or telephone toll service
23 received by a customer of a carrier.

24 And so those are a number of issues that
25 we can talk about today. I look forward to hearing

1 what you have to say. And I guess what we could go
2 ahead and do now is see if we have any slips. Do we
3 have any slips at all? No. No one wants to talk on
4 this issue?

5 MR. RICHARDS: No one is going to talk?

6 COM. MAYES: No one is going to talk. Do you
7 want to talk?

8 MR. RICHARDS: I would like to say a few
9 words.

10 COM. MAYES: Would you come forward, sir?
11 And, if you could, for the benefit of the court
12 reporter --

13 MR. RICHARDS: I have partly filled out a
14 slip here, and I'll complete that.

15 COM. MAYES: Okay. Just tell us your name.

16 MR. RICHARDS: My name is Bill Richards, and
17 I live at 1833 Thumb Butte Road in Prescott, and the
18 ZIP code is 86305. And I'll give you -- Do I turn

19 this in to you? I'm going to try to write out my
20 comments, and I'll speak on them briefly.

21 I came down this evening simply as an
22 observer. I had not planned to speak. This is the
23 first time I've ever appeared before the Corporation
24 Commission, but I thought since it was a local meeting
25 that it was a good opportunity to come and make some

1 contact and acquaint myself a little better with the
2 function of the Commission.

3 In regard to the \$2.99 fee that Qwest has
4 recently charged -- I haven't followed this closely,
5 but I did note that it's upcoming, and my source of
6 information is primarily the newspaper. And we had
7 just recently taken Qwest long distance, and I was
8 shocked and dismayed that this \$2.99 was now being
9 added to the bill. We can afford the \$2.99, that's not
10 an issue, but it seems blatantly unfair.

11 Secondly, I'd simply like to speak in support
12 of local meetings like this where the Commission comes
13 out. And even though there's only one of the
14 Commissioners here tonight, I'm glad that at least the
15 effort is being made on the part of the Commission to
16 meet at the local level.

17 Thirdly, and this is a very general
18 statement, I would like to comment how important the
19 function of the Corporation Commission is in respect to
20 representing the interests of the consumers. We have
21 huge companies in telecommunications, in electricity,
22 and in many other areas with huge legal staffs who are
23 arrayed against, for the most part, the lonely
24 consumer, and it's really not fair. And the only real
25 hope that the lone consumer has is that the Corporation

1 Commission will represent the lone consumer on their
2 behalf.

3 So that's essentially the comments that I
4 would like to make. I'd be happy to respond to
5 questions, if there are any.

6 COM. MAYES: Well, thank you, Bill. And
7 maybe -- If we just maybe have a dialogue here, let me
8 respond to each of your comments, which I totally agree
9 with on every point.

10 You mentioned that the \$2.99, while maybe not
11 being unaffordable, is unfair. I agree. Although, for
12 some people it's a harder hit than others.

13 MR. RICHARDS: That's very true.

14 COM. MAYES: So maybe you and I can afford
15 it, but maybe somebody else can't.

16 MR. RICHARDS: Right.

17 COM. MAYES: But it's interesting, this issue
18 of the unfairness and the lack of warning and the fact
19 that they did it just six months after promising no
20 monthly fees.

21 MR. RICHARDS: I'm a little bit unaware of
22 some of the background of this increase, so what you're
23 telling me I partly know and partly don't. But it is,
24 I think, blatantly unfair.

25 COM. MAYES: Yeah. And I've told you, I

1 think, most of the background, I could get into it a
2 little bit more.

3 But, you know, it's interesting. It
4 kind of reminds me of my first big case on the
5 Corporation Commission, which actually occurred
6 up here, and that was the Unasource Natural Gas rate
7 increase.

8 MR. RICHARDS: I recall reading something
9 about that in the paper. I did not come to those
10 hearings. But I was extremely pleased that you had
11 convened the hearings up here, and I think it got
12 Unasource's attention and was very helpful in perhaps
13 not achieving great rate reductions, but achieving some
14 rate reductions, particularly, I think, of the
15 surcharge. And that's an example of the beneficial
16 effects of this kind of a hearing.

17 COM. MAYES: Exactly. And that's my point.

18 And the similarities that I see between the
19 Unasource case and this one are this. In the Unasource
20 case they raised rates a great deal, actually in a way
21 that hurt a lot of people.

22 MR. RICHARDS: True.

23 COM. MAYES: But the similarity between this
24 case and that one is that it was a surprise. It came
25 as a surprise to people. And that seems to be what's

1 unfair. It's one thing to raise rates on people, it's
2 another thing to blindsides them, to broadside them, and
3 to keep them from having an opportunity to say how they
4 feel about it. And in the case of Unasource, that's
5 exactly what they did and that's why I was so upset
6 about that.

7 In this case, again, it's exactly what Qwest
8 did. Do you know how I found out?

9 MR. RICHARDS: On your phone bill?

10 COM. MAYES: No. It wasn't on my phone
11 bill, because I take AT&T. I found out because a
12 newspaper reporter down in Phoenix sent me his bill and
13 asked me to respond. That's unacceptable. I was
14 finding out at the same time the customers were finding
15 out. And we have rules at the Commission that require
16 companies, when they raise rates, to come into the
17 Commission and to get our approval. And Qwest never
18 did that, and it seems to me that that raises all kinds
19 of questions about whether or not they violated the
20 law. So I guess I totally agree with you about the
21 unfairness of it.

22 Let me talk about your comment about the
23 public meetings. Again, you're completely right. And
24 before I ever was appointed to the Commission,
25 Commissioner Mundell actually made it a point to

1 require the Commission, when he was Chairman, to do
2 meetings all over the state in Prescott, Kingman,
3 Flagstaff, Lake Havasu, Sierra Vista. And I'll tell
4 you, every time we come to one of these meetings, even
5 when it's just one person or it's the 300 people that
6 we had at the Unasource hearings at the Elk Theater,
7 which I will never forget -- I will never forget that
8 night. As long as I live, I will never forget that
9 night.

10 MR. RICHARDS: These often stay in your
11 memory for a long time.

12 COM. MAYES: Yes. Absolutely. But whether
13 you have one person or 300 people, it's important
14 because you always learn something new, and that's what
15 this is all about.

16 You said you think it's important to help
17 consumers and to basically be a buffer against the
18 companies and their big lawyers and their lobbyists.

19 Let me tell you a quick story.

20 About six months ago, maybe not that long,
21 I was in a hearing on a case involving Qwest and we
22 were fining Qwest \$22 million for anti-competitive
23 behavior against small what's called CLEX, Competitive
24 Local Exchange Carriers. And I looked out into the
25 audience, and do you know how many real people were

1 there?

2 MR. RICHARDS: Now, that was ordinary
3 citizens as opposed to someone who had an ax to grind?

4 COM. MAYES: Exactly. Well --

5 MR. RICHARDS: I'm afraid to hear your
6 answer, but go ahead.

7 COM. MAYES: Zero people and seven Qwest
8 lawyers and three Qwest lobbyists. And the point is
9 that you need Commissioners who come at this with a
10 proconsumer viewpoint and Commissioners who are
11 watchful and mindful of the fact that most people are
12 busy in their lives and don't have time to come down
13 and defend their interests. And so we have the duty to
14 defend the interests of consumers every day at the
15 Commission, and I actually think you have a Commission
16 right now that does that. So I agree with all of those
17 points.

18 MR. RICHARDS: I've been generally favorably
19 impressed with the Commission's activities as they
20 regard defending consumer rights. And I would be
21 inclined to agree with you, I think this Commission is
22 probably better that way than some prior Commissions.

23 In that same vein, all the issues you deal
24 with, electrical regulations, telecommunications
25 regulations, the rate structures and the accounting,

1 are incredibly complex. And the ordinary consumer,
2 even if they are presented with a report that really
3 tells them everything they need to know, most consumers
4 are not in a knowledgeable position to evaluate and
5 understand that report, much less issue subpoenas and
6 dig out information that's hidden from the public. So
7 the function of the Commission is incredibly important
8 to the functioning of good government in defending,
9 when necessary, the ordinary consumer.

10 COM. MAYES: Yeah. Well, and I often refer
11 to the Corporation Commission as the most powerful
12 branch of State government that nobody knows about, and
13 I think that's unfortunate. But it's my goal in the
14 next two years to try and get us out there, to try and
15 get a higher profile for the Commission, and to make
16 sure the people know that they can come to us with
17 their problems, with their concerns, and that they have
18 a Commission that is oriented towards consumers.

19 But you're absolutely right. It's just very
20 important that we always have consumers in mind when
21 we're making decisions. And you're right, those
22 reports are difficult, they're dense, you know. And
23 this is the one branch of State government where I
24 really think it's important that you have people who
25 have a lot of experience and a lot of education and who

1 spend a lot of time, you know, honing their skills.

2 On this Commission you have three lawyers --
3 or, attorneys -- I've been to law school, I'm not a
4 licensed attorney yet, but I will be soon hopefully --
5 and then you have two Ph.D.s. So it's a very
6 well-rounded Commission, I think.

7 MR. RICHARDS: I think that's very important.

8 Thank you very much for the opportunity to
9 speak and for coming out to hear what might be said.

10 COM. MAYES: Well, thank you for coming. I
11 appreciate it. Thanks, Bill, I appreciate it.

12 Do we have anybody else? Mom?

13 MS. MAYES: Well, I missed the first part of
14 what he was saying about his phone bill, but I have
15 questions about my phone bill too. I switched to
16 Quest --

17 COM. MAYES: Mom, if you want to talk you
18 have to come to the podium.

19 MS. MAYES: We'll talk over dinner.

20 COM. MAYES: Okay. We'll talk over dinner.

21 Well, if we don't have anybody else who wants
22 to talk -- Anyone else? Okay. Let me just make a few
23 final comments about this.

24 Again, this process is going to go on for a
25 little while. You still -- If you would like to make

1 comments into the record, please feel free to file them
2 with the Corporation Commission. You can send them to
3 1200 West Washington, Phoenix, Arizona 85007, you can
4 e-mail them to me at kmayes@cc.state.az.us, and we will
5 make sure that they are put in the appropriate docket
6 for this case.

7 Let me just wrap up by saying thank you for
8 coming. And, again, this is an issue that's very
9 important. I think it's only going to become a bigger
10 problem over the next several years because the fact of
11 the matter is we have a telecommunications industry
12 that is, you know, under a greater deal of pressure,
13 there's a lot of competition. Although, you know,
14 we've got some court decisions that I think are
15 threatening competition, but there's a lot of pressure
16 on the companies and they are finding new and inventive
17 ways to charge people to aid their bottom line, and
18 that's the problem.

19 In Arizona we expect our telephone companies
20 to be fair, to be honest, and not to try and sneak rate
21 increases past people, so we will continue to look at
22 this over the next several months and then we'll take
23 action. And the important thing about this comment
24 session today and the one in Flagstaff is that it
25 offers us a chance to formulate a record, and we will

1 use that record to take action. This is a judicial
2 process, essentially, and we use the record that we
3 develop in order to fulfill the mandates of due process
4 and make fair decisions.

5 As I said, I do believe that the \$2.99 charge
6 that Qwest has decided to levy comes about as close to
7 bait and switch as anything I've ever seen. They
8 enticed people into their long distance service under a
9 no monthly fees promise, and then they raised rates
10 without the Corporation Commission's approval. We need
11 to look at that closely.

12 Again, as I said, like in the Unasource case
13 that occurred in northern Arizona and essentially in
14 Prescott, it's the surprise factor that hurts the most,
15 the blind siding of people with new charges that hurts
16 the most, and the absence of an opportunity for people
17 to object when those charges are on the way.

18 And I would add, usually when a company
19 doesn't want to submit its new fees and surcharges and
20 rate increases to the Corporation Commission, it means
21 that they knew or they know they can't justify them.
22 So, again, we will be looking at this issue and we will
23 be vigilant of fees and surcharges that are becoming
24 every phone company's -- or, many phone companies'
25 sneaky way to raise revenue.

1 So, again, thank you very much for coming.
2 And without any other objections, I will adjourn this
3 meeting.

4 (The proceedings concluded at 5:40 p.m.)
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1 STATE OF ARIZONA)
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I, KATHRYN A. BLACKWELDER, Certified Court Reporter No. 50666 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 18th day of November, 2004.


KATHRYN A. BLACKWELDER
Certified Court Reporter
Certificate No. 50666