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COMMISSIONERS

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BOB STUMP
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PAUL NEWMAN
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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

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**REPLY COMMENTS OF AT&T
IN RESPONSE TO MARCH 20, 2012 PROCEDURAL ORDER**

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. DISCUSSION.....	2
A. The Commission Should Adopt Originating Access Reform (Question Numbers 1, 2 and 8)	2
B. The FCC has Authorized Carriers to Enter into Voluntary Access Contracts (Question Number 4)	4
C. The Commission Should Not Address ALECA’s Proposals on the Arizona Universal Service Fund Until It Addresses the Related Question of Originating Access Reform (Question Numbers 5 and 6)	5
D. Regarding Lifeline, the Commission Should Participate in the National Accountability Database (Question Number 7).....	5
III. CONCLUSION	6

1 **I. INTRODUCTION**

2 The Commission has asked the parties to comment on the implications that the FCC's
3 November 18, 2011 *CAF Order*¹ has for this state's own long-running access investigation. In
4 opening comments, all parties have recognized the FCC's mandatory timeline for terminating
5 access rate reductions and everyone agrees the first step begins July 1, 2012. All parties also
6 understand this Commission's "critical role" in supervising the implementation of those
7 nationwide reforms for intrastate traffic.² Further, the parties agree that overseeing the July 2012
8 reductions on the terminating access side should be this Commission's first priority. However,
9 AT&T has only recently learned that Staff does not plan to review the underlying supporting
10 data to determine if the access reductions ordered by the FCC have been appropriately calculated
11 by carriers in their revised intrastate tariff filings. This may lead to more complaints being filed
12 with the Commission if carriers have failed to calculate accurately the FCC-ordered terminating
13 access reductions.

14 To the extent any carrier-specific disputes arise with respect to the FCC-ordered
15 terminating access reductions and the intrastate tariffs, the parties will address those disputes on
16 a case-by-case basis. The fundamental question to resolve in this docket is whether this docket
17 should remain open or whether years of work should simply be wasted.

18 Some parties suggest the latter—that the Commission should simply close this docket and
19 do nothing but implement the FCC's reforms on the terminating access side. But, the FCC's
20 reforms deal with only half the problem that the Commission opened this docket to address; only
21 half the problem identified by this full record; and only half the harm that the outdated access

22 _____
23 ¹ *In re Connect America Fund: A National Broadband Plan For Our Future*, 54 Communications Reg. (P&F) 637,
2011 WL 5844975 (FCC rel. Nov. 18, 2011) ("*CAF Order*").

24 ² *CAF Order*, ¶ 813.

1 regime has been wreaking on consumers. The problems on the originating access side have not
2 gone away and there is a full evidentiary record showing that reform is needed for all switched
3 access services, not just terminating switched access service.

4 As AT&T showed in its opening comments, the FCC has not prohibited, and indeed has
5 expressly permitted, states to implement reforms on the originating side. As a “bonus,” by
6 establishing federal mechanisms financially to support local exchange carriers in dealing with
7 revenue reductions on the terminating side, the FCC has made it much easier for this
8 Commission to implement and rebalance AT&T’s modest, but meaningful, parity proposal on
9 the originating access side. As detailed below, the Commission should not let this opportunity
10 pass and it certainly should not drop it without looking at the benefits it can bring to Arizona
11 consumers.

12 **II. DISCUSSION**

13 **A. The Commission Should Adopt Originating Access Reform (Question** 14 **Numbers 1, 2 and 8).**

15 This Commission first stated the need for access reform more than a decade ago and this
16 phase has been underway for five years. The parties have assembled an evidentiary record which
17 overwhelmingly confirms the need for both originating and terminating access reform and the
18 benefits such reform will bring.

19 It is simply untenable to argue the FCC’s *CAF Order* is a reason to drop all that work,
20 close this proceeding and lay aside the open question of originating access reform. The *CAF*
21 *Order* certainly does not disturb the overwhelming evidence that originating access reductions
22 are both necessary and beneficial to consumers. To the contrary, the FCC held that originating
23 access rates should not only be reduced, but eliminated. The FCC found the entire intercarrier

1 compensation system, including originating access charges, is “unfair for consumers,”
2 “outdated,” “riddled with inefficiencies and opportunities for wasteful arbitrage” and “eroding
3 rapidly.”³ With respect to originating access in particular, the FCC found “that originating
4 charges should ultimately be subject to the bill-and-keep framework” and that the legal
5 framework of the FCC’s order “is inconsistent with permanent retention of originating access
6 charges.”⁴

7 None of these determinations supports any delay in proceeding with the reforms to
8 originating access that are supported by this record. There is no basis for the suggestion that
9 originating access reform—particularly the modest step that AT&T proposes of bringing
10 intrastate originating access rates to parity with the corresponding interstate rates—might
11 conflict with federal reforms that have not yet even been adopted. Far from discouraging state
12 reforms on the originating access side, the FCC’s *CAF Order* expressly authorizes states to carry
13 out such reforms: “[t]o the extent that states have established rate reduction transitions for rate
14 elements not reduced in this Order, nothing in this Order impacts such transitions.”⁵ Further, the
15 FCC made clear its order does not “prevent states from reducing rates on a faster transition
16 provided that states provide any additional recovery support that may be needed.”⁶ Obviously,
17 originating access services are among the “rate elements not reduced in this [*CAF*] Order.”

18 The suggestion that there is some uncertainty as to what the FCC will eventually do on
19 originating access is also baseless. On the issues that matter, the *CAF Order* is crystal clear. All
20 originating access rates, interstate and intrastate alike, ultimately will be moving to a bill-and-

22 ³ See *CAF Order* ¶ 9.

23 ⁴ *Id.* ¶ 817.

23 ⁵ *Id.* ¶ 816 n.1542.

23 ⁶ *Id.*

1 keep regime. Obviously, the FCC will develop a glide path to get originating rates down from
2 the current interstate levels—it has to, because the interstate rates will stay at current levels no
3 matter what states do or fail to do with intrastate rates. All that AT&T requests here is that the
4 Commission bring intrastate originating rates to parity with the corresponding interstate rates.
5 By implementing parity, this Commission will synchronize intrastate and interstate rates, putting
6 Arizona intrastate rates at the same starting gate the FCC will use for interstate rates (just like
7 many states have already done), rather than leaving Arizona rates behind.

8 Equally baseless is the contention that everybody is too busy to help Arizona consumers.
9 Perhaps it might make sense to “wait and see” if this proceeding were just beginning, but here
10 the heavy lifting is done. This Commission has already assembled a robust evidentiary record
11 which supports reform. Moreover, AT&T’s proposal is manifestly simple to implement,
12 notwithstanding the parties’ professed concerns about workloads. All AT&T suggests is that
13 Arizona LECs charge the same access rates on in-state calls that they already charge for out-of-
14 state calls. In addition, rebalancing the associated revenue reductions will be much easier now
15 that the FCC has taken care of a recovery mechanism for terminating access. The FCC has
16 moved the access ball to the goal line and the Commission should take a simple, but meaningful,
17 step into the end zone for full parity to give Arizona consumers the advantage of these federal
18 gains.

19 **B. The FCC has Authorized Carriers to Enter into Voluntary Access Contracts**
20 **(Question Number 4).**

21 There is no need for the Commission to address CenturyLink’s arguments about
22 negotiated agreements. The FCC’s order clearly states that its transition plan “sets a default
23 framework, leaving carriers free to enter into negotiated agreements that allow for different

1 terms.”⁷ CenturyLink itself acknowledges that the FCC “specifically allows companies to
2 contract access rates.”⁸ The fact that there is a long transition period before tariffs are eliminated
3 does not warrant this Commission’s intervention: Tariffed rates will be governed by the FCC’s
4 plan and will, therefore, go down throughout that transition, giving carriers on both sides an
5 obvious incentive (and bargaining chip) to negotiate mutually agreeable arrangements, along
6 with the time to work out the details.

7 **C. The Commission Should Not Address ALECA’s Proposals on the Arizona**
8 **Universal Service Fund Until It Addresses the Related Question of**
9 **Originating Access Reform (Question Numbers 5 and 6).**

9 After telling the Commission not to bother with originating access reforms that would
10 help Arizona consumers, ALECA has no trouble pushing its own agenda for AUSF rule changes.
11 ALECA’s positions are internally inconsistent. The FCC has already taken care of recovery
12 mechanisms for terminating access reforms, so there is no need to modify the state AUSF on that
13 account. Accordingly, the Commission should not address AUSF modifications except in
14 conjunction with originating access reforms, so that it can look at the AUSF in a more
15 comprehensive manner rather than implementing piecemeal proposals.

16 **D. Regarding Lifeline, the Commission Should Participate in the National**
17 **Accountability Database (Question Number 7).**

18 ALECA asks the Commission to consider centralized administration of Lifeline
19 programs, while CenturyLink tells the Commission to do nothing on the matter. AT&T
20 encourages the Commission to participate in the national accountability database and also
21

22
23 ⁷ *CAF Order*, ¶ 739.

⁸ CenturyLink Answer to Question Number 4.

1 supports a single process through which providers can check consumers' eligibility (as
2 determined by the states).

3 **III. CONCLUSION**

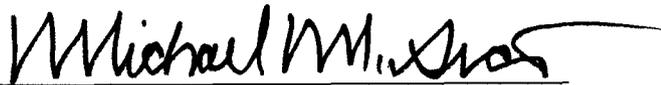
4 For the reasons set forth in AT&T's comments, the Administrative Law Judge should
5 issue a procedural order after the review and implementation of the terminating access reductions
6 are completed, soliciting comments from the parties on their proposals for originating access
7 reforms.

8 RESPECTFULLY SUBMITTED this 15th day of June, 2012.

9 GALLAGHER & KENNEDY, P.A.

10

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