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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
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PAUL NEWMAN
BRENDA BURNS

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

PROCEDURAL ORDER

BY THE COMMISSION:

The Arizona Corporation Commission ("Commission") opened these dockets to consider the cost of telecommunications access services in Arizona and possible access charge reform, and whether the rules governing the Arizona Universal Service Fund ("AUSF") should be revised. After much discussion among the parties attempting to reach consensus and/or narrow the issues, the Commission held a hearing in March, 2010.

On October 27, 2011, the Federal Communications Commission ("FCC") adopted its long-awaited Order addressing the federal Universal Service Fund ("USF") and Intercarrier Compensation ("ICC").¹ The FCC's *CAF Order* was issued after the hearing and briefing in this matter were completed, but prior to a Commission Decision.

The *CAF Order* addresses many, if not all, of the issues raised in these dockets. Among many other things, and as it relates to these dockets, the *CAF Order* requires local exchange carriers to reduce their intrastate switched access rate elements to parity with their interstate rates by July 1,

¹ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT No. 10-208, Report and Order and Further Notice of Proposed Rulemaking ("*CAF Order*") FCC 11-13, (rel. November 18, 2011).

1 2013,² with the ultimate goal of reaching bill-and-keep for price cap carriers in six years, and for rate
2 of return carriers in nine years. The FCC's Order concludes that a uniform, national framework for
3 the transition of ICC to bill-and-keep, with an accompanying federal recovery mechanism, is the best
4 way to achieve the goal of broadband deployment, facilitating conversion to IP networks and
5 providing certainty and predictability to carriers and investors.³ The Order provides that states will
6 have a role in overseeing the tariffing of intrastate reductions during the transition period as well as
7 interconnection negotiation and arbitration pursuant to sections 251 and 252 of the
8 Telecommunications Act of the 1996, and will have responsibility for determining the network
9 "edge" for purposes of bill and keep.⁴

10 Pursuant to Procedural Orders dated November 25, 2011, and December 14, 2011, a
11 Procedural Conference was convened on February 6, 2012, for the purpose of hearing from the
12 parties on the future relevance of these dockets in light of the *CAF Order*.

13 While they disagreed slightly on the timing, the Commission's Utilities Division ("Staff") and
14 AT&T Communications of the Mountain States, Inc. and TCG Phoenix ("AT&T") recommended
15 that the Commission elicit written comments from the parties about the impact of the *CAF Order* on
16 these dockets.⁵ Staff was particularly interested in the impact of the FCC's Order on rate of return
17 carriers.⁶ All other parties participating in the February 6, 2012, Procedural Conference
18 recommended either closing these dockets, or holding them in abeyance, because they claim that the
19 FCC's Order settles the issues, or that until the result of the appeals known, the Commission's
20 options are limited.⁷

21 The *CAF Order* is currently on appeal, but as of the February 2012, Procedural Conference,
22 the FCC's Order had not been stayed. At that time, the FCC was still accepting comments from
23 interested parties on some of the findings and requirements in the Order. The *CAF Order* is a long
24

25 ² *Id.* at ¶ 801.

26 ³ *Id.* at ¶ 790.

27 ⁴ *Id.* See also ¶ 803 (states will oversee changes to intrastate access tariffs to ensure that modifications to intrastate tariffs are consistent with the FCC's Order, and will, for example, help guard against carriers improperly moving costs between or among different rate elements to reap a windfall from reform).

28 ⁵ Transcript of February 6, 2012, Procedural Conference ("Tr.") at 9-10.

⁶ Tr. at 20.

⁷ CenturyLink, the Jt. CLECs, ALECA, Verizon, Sprint, Time Warner and XO, and RUCO. See Tr. at 12-3, 16-19.

1 and far-reaching Order, and its effect on the industry and state jurisdiction over intrastate rates is
2 further complicated by legal challenges. This Commission has joined in the appeal of the *CAF*
3 *Order*.⁸

4 In this proceeding, we sought testimony and recommendations on the following issues:⁹

- 5 1. What carriers should be covered by access reform?
- 6 2. To what target level should access rates be reduced?
- 7 3. What procedures should the Commission implement to achieve the desired
8 reduction in access rates?
- 9 4. Should carriers be permitted to contract for access rates that differ from their
10 tariffed rates?
- 11 5. What revenue sources should be made available to carriers to compensate for
12 the loss of access revenues?
- 13 6. How much of access cost recovery, if any, should be shifted to end users?
14 What showing should be required for such a shift? What should be the role of
15 “benchmark” rates and how should benchmarks be set?
- 16 7. Procedurally what will be required of a carrier if it seeks a “revenue neutral”
17 increase in local rates?
- 18 8. Assuming that AUSF funds will also be used as a compensating revenue
19 source, what specific revisions (including specific recommended amendment
20 language) to the existing rules are needed to allow use of AUSF funds for that
21 purpose?
- 22 9. Which carriers should be eligible for AUSF support?
- 23 10. What should be supported by AUSF? Access replacement only? High cost
24 loops? Line extensions? Centralized administration and automatic enrollment
25 for Lifeline and Link-up?
- 26
- 27

28 ⁸ Tr. at 18.

⁹ September 29, 2009, Procedural Order.

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

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

4 The *CAF Order* appears to address many of these questions, and arguably moots the need for
5 this Commission to address many of them. The *CAF Order* affects all telecommunications carriers--
6 price cap carriers, such as CenturyLink, rate of return carriers such as the members of ALECA, the
7 Competitive LECs ("CLECs"), and wireless carriers. The Order establishes a timeline for carriers to
8 bring their interstate and intrastate terminating access rates to parity, and then to transition to bill-
9 and-keep.¹⁰ The *CAF Order* provides for some replacement revenue for lost access revenues from a
10 new customer charge and from the new federal CAF fund that is replacing the existing federal USF
11 program.¹¹ The *CAF Order* discusses the role of tariffs and seems to allow negotiated agreements that
12 differ from default rates.¹²

13 While it addresses potential revenue sources at the federal level to replace lost access
14 revenues, the question of the role of state USF funding for high cost loop support or as a means to
15 replace lost access revenues is left open. The FCC's Order does not address the procedures for
16 Arizona carriers seeking rate rebalancing, and does not address the centralized administration and
17 automatic enrollment for Lifeline and Link-up.

18 Thus, even if the FCC's mandate to reduce, and eventually eliminate, intrastate access charges
19 survives challenge, it appears that there may still be issues raised in this proceeding that need to be
20 resolved by the Commission. Given the breadth of the *CAF Order*, the parties to this docket should
21 provide information regarding the impact on their operations as it relates to access charge and AUSF
22 reforms in Arizona. Consequently, comments and recommendations from the parties are requested
23 on the following:

- 24 1. In light of the *CAF Order*, is there a need for the Commission to determine
25 what carriers should be covered by access reform, or a target level for
26 intrastate access charges? Does the *CAF Order* address all access charge rate

27 ¹⁰ *CAF Order* at ¶¶ 798-808.

28 ¹¹ *CAF Order* at ¶¶ 36-37.

¹² *CAF Order* at ¶ 812.

1 elements that have been addressed in these dockets? If not, should the
2 Commission take action with respect to these rate elements? Does it make
3 sense for the Commission to act on access charge reform while the *CAF Order*
4 is on appeal, or while the FCC continues to consider comments on the Order?

- 5 2. Do any parties wish to modify or augment their recommendations concerning
6 access charge reform in light of the FCC's actions?
- 7 3. Given the *CAF Order*, does the Commission need to establish procedures to
8 implement intrastate access reform? And if yes, what procedures are
9 recommended?
- 10 4. Given the *CAF Order*, does there remain a need to address the question of
11 whether carriers should be permitted to contract for access rates that differ
12 from their tariffed rates? If there is still a need, is the current record sufficient
13 to resolve the issue?
- 14 5. Does the *CAF Order* impact the AUSF? Should the Commission proceed with
15 revisions to the AUSF rules? Why or why not? How should the AUSF be
16 revised? Is the current record sufficient to support any revised recommended
17 reforms?
- 18 6. In light of the intervening events, do the interested parties have modifications
19 to any of their earlier recommendations about the AUSF not already
20 addressed? Procedurally, how should the Commission consider any revised
21 recommendations?
- 22 7. Is there any reason why the Commission should not act now concerning
23 centralized administration and automatic enrollment of Lifeline and Link-up?
- 24 8. In light of the *CAF Order's* reference to the role of states in the
25 implementation of the reforms addressed in that Order, should the Commission
26 take further action in these dockets? If yes, what?
- 27
28

9. Are current rate case procedures adequate, or should the Commission establish procedures for rate of return carriers that are not able to absorb lost access charge revenues?

10. Should the Commission seek carrier-specific information about the anticipated impact of the FCC's *CAF Order* on carrier revenues? If yes, from all carriers, or, e.g., only from rate of return carriers?

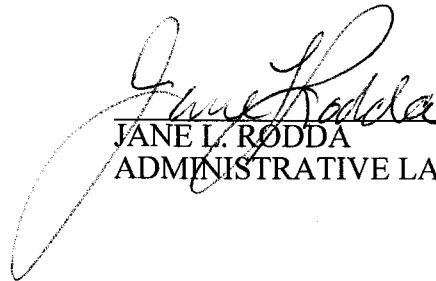
11. Are there any other issues that can or should be addressed in these dockets? If yes, how should they be addressed procedurally?

IT IS THEREFORE ORDERED that interested parties shall file any **Initial Comments** concerning the impact of the *CAF Order* on these dockets by **May 15, 2012**.

IT IS FURTHER ORDERED that interested parties shall file any **Reply Comments** no later than **June 15, 2012**.

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

DATED this 20th day of March, 2012.


JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed this 20th day of March, 2011 to:

Dan Pozefsky, Chief Counsel
Residential Utility Consumer Office
1110 West Washington, Suite 220
Phoenix, AZ 85007
dpozefsky@azruco.gov *

Norm Curtright
Qwest Corporation
20 East Thomas Road, 16th Floor
Phoenix, Arizona 85012

Reed Peterson
Qwest Corporation
20 East Thomas Road
16th floor
Phoenix, Arizona 85012

Michael W. Patten
Roshka DeWulf & Patten, PLC
One Arizona Center
Phoenix, AZ 85004
mpatten@rdp-law.com *
Attorneys for Cox Arizona Telecom, LLC
Attorneys for McLeodUSA

Craig A. Marks
Craig A. Marks, PLC
10645 N. Tatum Blvd.
Suite 200-676
Phoenix, AZ 85028
Craig.Marks@azbar.org
Attorney for ALECA

1 Michael M. Grant
2 Gallager & Kennedy
2575 East Camelback Road
Phoenix, AZ 85016
3 mmg@gknet.com *
Attorneys for AT&T

4 Isabelle Salgado
5 AT&T Nevada
645 E. Plumb Lane, B132
6 PO Box 11010
7 Reno, NV 89520
8 dan.foley@att.com *
9 gc1831@att.com *

10 Joan S. Burke
11 Law Office of Joan S. Burke
1650 N. First Avenue
Phoenix, AZ 85003
12 joan@jsburkelaw.com *
Attorney for Time Warner Telecom
Attorney for XO Communications

13 Lyndall Nipps
14 Vice President, Regulatory
Time Warner Telcom
845 Camino Sur
Palm Springs, CA 92262
15 Lyndall.Nipps@twtelecom.com *

16 Dennis D. Ahlers
17 Associate General Counsel
Eschelon Telecom, Inc.
730 Second Avenue, Suite 900
Minneapolis, MN 55402
18 ddahlers@eschelon.com

19 Dennis D. Ahlers
20 Associate General Counsel
Integra Telecom, Inc.
730 Second Avenue, Suite 900
Minneapolis, MN 55402
21 ddahlers@eschelon.com

22 Thomas Campbell
23 Michael Hallam
Lewis and Roca LLP
40 North Central
Phoenix, Arizona 85004
24 tcampbell@lrlaw.com *
25 mhallam@lrlaw.com *
Attorneys for Verizon

Rex Knowles
Executive Director – Regulatory
XO Communications
Suite 1000
111 E. Boradway
Salt Lake City, UT 84111
Rex.knowles@xo.com *

Charles H. Carrathers, III
General Counsel, South Central Region
Verizon, inc.
HQE03H52
600 Hidden Ridge
Irving, Texas 75015-2092
chuck.carrathers@verizon.com *

Arizona Dialtone, Inc.
Thomas W. Bade, President
6115 S. Kyrene Rd. #103
Chandler, Arizona 85283
Tombade@arizonadialtone.com *

OrbitCom, Inc.
Brad VanLeur, President
1701 N. Louise Ave.
Sioux Falls, SD 57107
bvanleur@svtv.com

Arizona Payphone Association
c/o Gary Joseph
Sharnet Communications
4633 West Polk Street
Phoenix, Arizona 85043
garyj@nationalbrands.com *

Nathan Glazier
Regional Manager
Alltel Communciations, inc.
4805 E. Thistle Landing Dr.
Phoenix, Arizona 85044
Nathan.glazier@alltel.com *

Mark A. DiNunzio
Cox Arizona Telcom, LLC
1550 Wesst Deer Valley Road
MS DV3-16, Bldg C
Phoenix, AZ 85027
mark.dinunzio@cox.com *

William A. Haas
Deputy General Counsel
McLeodUSA Telecommunciations Services, Inc.
6400 C. Street SW
Cedar Rapids, Iowa 52406
Bill.Haas@mcleodusa.com *

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23
24
25
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Paul Castaneda
President, Local 7019
Communication Workers of America
2501 West Dunlap, Suite 103
Phoenix, Arizona 85021
pcastaneda@cwa7019.org

Greg L. Rogers
Senior Corporate Counsel
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, Colorado 80021
Greg.rogers@level3.com

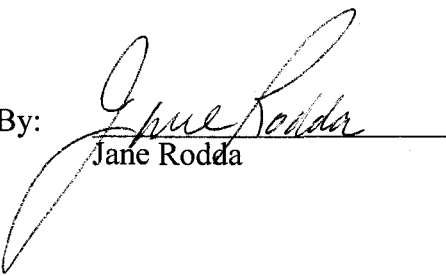
Stephen H. Kukta
Director and Counsel
Sprint Nextel
201 Mission Street, Suite 1500
San Francisco, CA 94105
Stephen.h.kukta@aprint.com

Frontier Communications
Charlie Born
Manager, Government and External Affairs
PO Box 340
Elk Grove, CA 95759
Charlie.Born@ftr.com

Frontier Communications
Phyllis A. Whitten
Associate General Counsel
PO Box 340
Elk Grove, CA 95739
Phyllis.Whitten@ftr.com

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

Mr. Steve Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

By: 
Jane Rodda