IN THE MATTER OF THE REVIEW AND POSSIBLE REVISION OF ARIZONA UNIVERSAL SERVICE FUND RULES, ARTICLE 12 OF THE ARIZONA ADMINISTRATIVE CODE

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

QWEST CORPORATION’S MOTION TO STRIKE AT&T’S PROCEDURAL COMMENTS RELATING TO QWEST CORPORATION DOCKET NO. T-01051B-03-0454 AND QWEST CORPORATION’S INTRASTATE SWITCHED ACCESS RATES

Qwest Corporation ("Qwest") moves that the Arizona Corporation Commission ("Commission") issue an order striking from the record in this docket the Procedural Comments filed by AT&T Communications of the Mountain States, Inc. and TCG Phoenix ("AT&T"), relating to Qwest Corporation Docket No. T-01051B-03-0454 and Qwest Corporation’s intrastate switched access rates. The grounds for the motion are that such comments are outside the scope of the phase of the Access Charges Docket (Docket No. T-00000D-00-0672) that is now before the Commission, and, as recognized by the Procedural Order requesting comments, the issue of Qwest’s access charges has been resolved.
At the urging of AT&T, the Commission split the Access Charges Docket (00-0672) into two phases. Procedural Order, November 17, 2003). Phase I was ordered to consider access charges in combination with the review of Qwest’s Price Cap Plan. Phase II was supposed to consider access charges for all other telephone carriers that provide access services. Phase I was completed by the Commission, by its order approving the settlement agreement between Qwest and the Commission Staff, RU CO, the federal executive agencies, and four telecommunications carriers who compete directly with Qwest in Arizona. The matter was noticed for public hearing, public hearings were held, and the Commission ordered changes to the settlement. As stated by the Procedural Order entered in these dockets dated December 19, 2008:

Phase I of the Access Charge Docket, addressed Qwest Corporation’s (“Qwest”) access charges, and was consolidated with, and resolved, in conjunction with Qwest’s rate cap review. Phase II of the Access Charge Docket is intended to address access charges for all other telephone companies that provide access services. (Emphasis added).

AT&T knows that Phase II is reserved exclusively for all companies other than Qwest. AT&T has stated, “Based on the language of the Procedural Order, [fn omitted] it appears that the regulatory policies regarding the intrastate access charges for both incumbent local exchange carriers (“ILECS”) and competitive local exchange carriers (“CLECs”) will be addressed in this docket with the exception of Qwest Corporation.” Comments of AT&T, 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; T-00000D-00-0672, August 14, 2007 (emphasis added).

AT&T inappropriately captioned its comments filed on January 23, 2009, to include Qwest’s Price Cap Plan, Docket No. T-01051B-03-0454. For the reasons stated above, AT&T’s pleading should be struck from the record. This phase of the proceeding is for all carriers other than Qwest. AT&T’s citation to the consolidation of Qwest’s Price Cap Plan docket with the
Access Charges docket overlooks the fact that the Access Charges docket was bifurcated and Phase I of the docket involving Qwest has been resolved.

AT&T’s filing and comments are not only procedurally out of place—they are unsupportable. Despite the fact that AT&T argued for bifurcation of the Access Charges docket into two phases, one phase specifically examining Qwest’s access charges (Phase I) and another for all other LECs (Phase II), AT&T voluntarily withdrew from the Phase I proceeding, long before it was concluded, by motion which was granted by the Commission. Notice of Intervention, Docket No. T-00000D-00-0672, November 10, 2004. Because AT&T quit the case, it should not be heard to complain that the Phase I access reductions were not adequate.

Apart from the procedural violations, AT&T’s urging to revisit Qwest’s access charges addresses the wrong problem with access charges. Qwest’s intrastate switched access rates are the lowest in Arizona. Qwest has reduced its Arizona switched access charges time and time again. The following illustrates the amounts of access charge reductions Qwest has undertaken in relation to other carriers since the Commission opened it investigation into the cost of telecommunications access:

<table>
<thead>
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<th>Date</th>
<th>Amount</th>
<th>Order No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-1-01</td>
<td>$5.0 M</td>
<td>63487</td>
</tr>
<tr>
<td>4-1-02</td>
<td>$5.0 M</td>
<td>63487</td>
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<td>4-1-03</td>
<td>$5.0 M</td>
<td>63487</td>
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<tr>
<td>4-1-06</td>
<td>$12.0 M</td>
<td>68604</td>
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<tr>
<td>Total</td>
<td>$27.0 M</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>ILECs and CLECs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
</tr>
<tr>
<td>-----</td>
</tr>
<tr>
<td>There have been no known or quantifiable access reductions for any ILEC or CLEC in Arizona during this time frame.¹</td>
</tr>
</tbody>
</table>

¹ Cox filed a tariff to restructure its access rates on 11/21/05. However, the amount of reduction in intrastate access charges, if any, could not be verified from Cox’s filing.
None of the other ILECs in the state have reduced their access charge tariff rates, even though they are substantially higher than Qwest’s.

The rates charged by Cox present a stark example of why the LECs other than Qwest should be examined. The local switching element of Cox’s terminating switched access rate is $0.034 per minute, more than double Qwest’s rate of $0.016 per minute. Cox is the largest competitive local exchange carrier in the state, and has eclipsed Qwest’s market share in residential and small business services in the Phoenix metropolitan area.

It makes little sense to revisit the oft-before visited level of Qwest’s switched access rates when those rates are already the lowest, and Qwest is not a monopoly provider. Indeed, Qwest’s rate has been described in the Phase II Access Charges Docket as the “target” for reductions other carriers should make. As Verizon states in the Phase II proceeding, “As a starting point for access reform in Arizona, all carriers rates should be reduced to Qwest’s current intrastate levels . . .” See Initial Comments of Verizon, Docket Nos. RT-00000H-97-0137 and T-00000D-00-0672, October 7, 2008, page.2. AT&T’s suggestion that the Commission turn once again to scrutiny of Qwest’s access charges before any reform of the other carriers’ rates, is out-of-turn and unfair. Phase II of the Access Charges docket must be completed next, as the Commission contemplated when it bifurcated the docket.

Last, Qwest submits that AT&T has not demonstrated the urgency of its cause. As Qwest has stated in a similar filing made in its Price Cap Plan Renewal, Qwest believes that the Commission may not yet be fully informed of the complete history of AT&T’s actions with regard to switched access. Qwest Corporation Reply to the Response of AT&T Communications, In the Matter of Qwest Corporation’s Filing of Renewed Price Regulation Plan, Docket No. T-01051B-03-0454. AT&T has entered into private agreements with some CLECs for substantially discounted switched access rates. Beginning in 2004, the Minnesota Public Utilities Commission conducted a series of investigations focused on the fact that approximately 27 CLECs had entered into off-tariff, unfiled agreements in connection with their
provision of intrastate switched access services to selected IXCs, primarily AT&T. See
Minnesota PUC Dockets C-04-235, C-05-1282 and C-06-498. In the course of those
proceedings, a handful of the private agreements were made public. Those agreements are not
limited to the CLECs’ provisioning of switched access in Minnesota, but are national in scope.
Qwest has reason to believe that similar agreements were entered between many CLECs in
Arizona and AT&T. Qwest believes, based on AT&T’s own public comments in the Minnesota
pleadings, that AT&T’s practice was widespread and not limited to the 27 CLECs identified in
the Minnesota proceedings. In fact, AT&T explained, “[i]n the past four years or so, AT&T has
taken into hundreds of agreements based on the same form with CLEC providers of switched
access throughout the United States.” See AT&T Comments, Motion to Dismiss and Motion for
Summary Judgment, Docket C-04-235 (MN PUC, Aug. 19, 2004)(underline added). In addition,
based on correspondence received from Cox in March 2008, Qwest believes that AT&T and Cox
have entered into one or more agreements that provide “discounts on Intrastate switched access
services based on volume purchases of special access services.” Qwest submits that these
private agreements between CLECs and AT&T discriminate against carriers that are charged the
tariffed rate. It is ironic that AT&T now comes back to the Commission to seek regulatory
resolutions after it has entered anti-competitive agreements such as those described above with a
number of CLECs.

In summary, AT&T’s request that Qwest’s switched access rates be reduced in this
proceeding is not properly before the Commission, and would not constitute sound public policy
for the reasons stated above. The Commission should strike AT&T Comments regarding
Qwest’s rates, and Qwest’s Price Cap Plan docket.
RESPECTFULLY SUBMITTED this 28th day of January, 2009.

QWEST CORPORATION

By: Norman G. Curtright
20 East Thomas Road, 16th Floor
Phoenix, Arizona 85012
Telephone: (602) 630-2187
Fax: (602) 235-3107
Email: norm.curttright@qwest.com
Attorney for Qwest Corporation
Original and 15 copies of the foregoing were filed this 28th day of January, 2009 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

COPY of the foregoing mailed this 28th day of January, 2009 to:

Jane L. Rodda
Administrative Law Judge
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007
jrodda@cc.state.az.us

Janice M. Alward, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Michael W. Patten
Roshka Heyman & DeWulf, PLC
400 E. Van Buren Street, Suite 800
Phoenix, AZ 85004
mpatten@rhd-law.com

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

Ernest G. Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007
ernestjohnson@cc.state.az.us

Maureen A. Scott, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007
mscott@cc.state.az.us

Thomas Campbell
Michael Hallam
Lewis and Roca LLP
40 North Central Avenue
Phoenix, AZ 85004
Attorneys for Verizon
tcampbell@lrlaw.com
mhallam@lrlaw.com

Scott Wakefield, Chief Counsel
Residential Utility Consumer Office (RUCO)
1110 West Washington Street, Suite 220
Phoenix, AZ 85007
sakefield@azruco.gov
Jeffrey Crockett  
Bradley S. Carroll  
Snell & Wilmer, LLP  
One Arizona Center  
Phoenix, AZ 85004  
Attorneys for ALECA  
jcrocket@swlaw.com  
bcarroll@swlaw.com

Michael M. Grant  
Gallagher & Kennedy  
2575 East Camelback Road  
Phoenix, AZ 85016  
Attorneys for AT&T  
mng@gknet.com

Dan Foley  
Gregory Castle  
AT&T Nevada  
645 E. Plumb Lane, B132  
P.O. Box 11010  
Reno, NV 89520  
Dan.foley@att.com  
Gc1831@att.com

Charles H. Carrathers, III  
General Counsel South Central Region  
Verizon, Inc.  
HQE03H52  
600 Hidden Ridge  
Irving, TX 75015-2092  
Chuck.carrathers@verizon.com

Arizona Dialtone, Inc.  
Thomas W. Bade, president  
717 W. Oakland Street  
Chandler, AZ 85226  
tombade@arizonadialtone.com

Joan S. Burke  
Osborn Maledon, PA  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012  
Attorneys for Time Warner Telecom  
jburke@omlaw.com

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

Lyndall Nipps  
Vice President, Regulatory  
Time Warner Telecom  
845 Camino Sur  
Palm Springs, CA 92262  
Lyndall.nipps@twtelecom.com

Karen E. Nally  
Moyes Sellers & Sims, Ltd.  
1850 N. Central Avenue, Suite 1100  
Phoenix, AZ 85004  
kenally@lawns.com

Dennis D. Ahlers  
Associate General Counsel  
Eschelon Telecom, Inc.  
6160 Golden Hills Drive  
Golden Valley, MN 55416-1020  
ddaughters@eschelon.com

Nathan Glazier  
Regional Manager  
Alltel Communications, Inc.  
4805 E. Thistle Landing Drive  
Phoenix, AZ 85044  
Nathan.glazier@alltel.com

Dennis D. Ahlers  
Associate General Counsel  
Integra Telecom, Inc.  
6160 Golden Hills Drive  
Golden Valley, MN 55416
Chris Rossie
President, Local 7019
Communication Workers of America
11070 N. 24th Avenue
Phoenix, AZ 95029

[Signature]

ddahlers@eschelon.com