BY THE COMMISSION:

Docket No. T-00000D-00-0672, the “Access Charge Docket,” was opened to examine the cost of access for various companies operating in Arizona. 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 was intended to address access charges for all other Arizona telephone companies that provide access services.

Docket No. RT-00000H-97-0137, the “Arizona Universal Service Fund Docket” was set up to review and revise the Arizona Universal Service Fund (“AUSF”) rules in Article 12 of the Arizona Corporation Commission (“Commission”) Rules.

Changes being discussed at the Federal Communications Commission (“FCC”) indicate that at the federal level access charges and universal service are being linked to some degree, at least for high-cost rural areas. Thus, upon the Motion of the Commission’s Utilities Division (“Staff”), the Access Charge and AUSF Dockets were consolidated by Procedural Order dated September 19, 2007.
By Procedural Orders dated February 12, 2008, April 23, 2008, and August 20, 2008, the parties were ordered to file a matrix or list of issues and procedural recommendations in order to establish procedures and a schedule.

On October 7, 2008, Cox Arizona Telecom, LLC ("Cox"); AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T"); Integra Telecom, Inc. ("Integra"); McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"); the Arizona Local Exchange Carriers Association ("ALECA"); the Residential Utility Consumer Office ("RUCO"); Verizon California, Verizon, Business Services, Verizon Long Distance, and Verizon Wireless (collectively "Verizon"); tw telecom of Arizona LLC ("tw telecom"); XO Communications Services, Inc. ("XO"); and Arizona Payphone Associations ("APA") filed issue statements. While there was some overlap in their recommendations, there was no clear consensus on how to proceed.

During a Procedural Conference on October 10, 2008, Staff and the interested parties agreed that further action in these dockets could, and should, wait to determine any impact of an expected order addressing intercarrier compensation from the FCC in early November, 2008. Thereafter, by Procedural Order dated December 19, 2008, a Procedural Conference was scheduled for January 28, 2009, with the intent to determine the best process to address the issues. The parties were directed to file any comments on Staff's proposed form of Protective Order and any proposed procedural recommendations by January 23, 2009.

At the January 29, 2009 Procedural Conference,¹ there was no consensus on how to proceed, with AT&T advocating a schedule for an evidentiary hearing and a process that would include all carriers;² the CLECs recommending a suspension of activities until the FCC issues direction and that CLEC access charges not be examined at this time; and the incumbent carriers (excluding Qwest) advocating workshops. Staff recommended a series of at least two workshops. Staff believed that the Commission should continue with these dockets as it had already waited in vain for years for the FCC to act; however, Staff believed that it was premature to schedule evidentiary hearings, as critical policy matters needed to be determined first.

¹ The original date of the proceeding was continued to accommodate a scheduling conflict.
² AT&T also proposed date requests designed to obtain carrier-specific information on access charges.
By Procedural Order dated February 3, 2009, a workshop process was adopted, and the parties were directed to file recommendations on whether Qwest’s access charges should be made part of the inquiry. Our Procedural Order dated March 17, 2009, determined that Qwest should participate in the process, but requested Staff’s recommendation concerning whether changes to Qwest’s access charges should be considered as part of these dockets, or part of Qwest’s pending renewal of its Price Cap Plan (Docket No. T-01051B-03-0454). On April 8, 2009, Staff filed a Memorandum recommending that Qwest’s access charges be addressed in the pending Price Cap Plan docket.

During the summer of 2009, the parties participated in two workshops, one focusing on Access Charges and the other on AUSF. At the conclusion of the workshops, Staff requested the parties to submit procedural recommendations by August 10, 2009. On July 27, 2009, Qwest Communications Company, LLC (“QCC”) filed a Request that the investigation include contracts that CLECs have entered into with selected IXCs to provide intrastate switched access rates that are below the tariff rates those CLECs have filed with the Commission. On August 5, 2009, AT&T filed a Request for Procedural Conference, which request was joined in by Integra, RUCO and ALECA. On August 7, 2009, Qwest filed a Response to AT&T; and on August 14, 2009, AT&T filed a Reply.

On August 10, 2009, AT&T, Cox and Integra filed Procedural Recommendations pursuant to Staff’s request.

By Procedural Order dated August 13, 2009, a Procedural Conference convened on September 16, 2009, to discuss how to proceed with these dockets, and including QCC’s Request. Also on September 16, 2009, RUCO filed Supplemental Comments clarifying its recommendations made earlier during the Procedural Conference.

In the two years since the consolidated dockets were re-activated, the Commission has grappled with how best to proceed with its investigation into access charges and AUSF. There does not appear to be a dispute that access charges and AUSF should be reviewed to reflect the current realities in the communications industry, but after years of discussions among the parties, discovery and workshops, no consensus has emerged about how to proceed, much less on the substantive or policy questions. AT&T continues to advocate for evidentiary hearings to resolve the issues, and offered a suggested schedule for filing testimony and a list of issues that parties should, at a
minimum, address in pre-filed testimony. The CLECs continue to believe that the Commission should wait for FCC action to avoid potentially unnecessary proceedings and conflicting results. Some parties commented that holding hearings prior to having draft proposed rule revisions on which to comment, puts the cart before the horse. In addition, Qwest clarified that its request to address CLEC contracts with the IXCs was not intended to examine or seek restitution for past behavior, but to examine whether such contracts should be allowed as a matter of policy in the future. Some parties believed QCC should file a complaint if it believes the alleged contracts are contrary to law, and feared the proceeding would be improperly complicated if QCC or Qwest were allowed to raise the subject. Staff now supports AT&T’s recommendation for an evidentiary hearing, with a slight modification to the proposed schedule. As expressed in its Supplemental Comments, RUCO also supports submitting disputes to the Administrative Law Judge for resolution. AT&T, Staff and RUCO believe Qwest should be able to raise the policy question of contractual access rates in the proceeding.

The process appears at an impasse with a number of unresolved and important issues. The Commission and parties have attempted to reach consensus through discussion and workshops, but have not been able to find common ground to move forward with specific proposals. The recommendation to conduct an evidentiary hearing appears to be the best means to make progress with the Commission’s investigation in these matters. A hearing would allow the Commission to consider and make policy determinations that may give rise to a rulemaking process and/or carrier specific proceedings.

The hearing will cover, at a minimum, but not be limited to, the following issues, and parties may address additional matters that they believe are important to the Commission’s investigation:

1. What carriers should be covered by access reform?
2. To what target level should access rates be reduced?
3. What procedures should the Commission implement to achieve the desired reduction in access rates?

However, to the extent the Commission opts to proceed with hearings, Integra recommends keeping to a generic investigation, as it believes that carrier specific proceedings at this point would be unwieldy.
4. Should carriers be permitted to contract for access rates that differ from their tariffed rates?

5. What revenue sources should be made available to carriers to compensate for the loss of access revenues?

6. How much of access cost recovery, if any, should be shifted to end users? What showing should be required for such a shift? What should be the role of "benchmark" rates and how should benchmarks be set?

7. Procedurally what will be required of a carrier if it seeks a "revenue neutral" increase in local rates?

8. Assuming that AUSF funds will also be used as a compensating revenue source, what specific revisions (including specific recommended amendment language) to the existing rules are needed to allow use of AUSF funds for that purpose?

9. Which carriers should be eligible for AUSF support?

10. What should be supported by AUSF? Access replacement only? High cost loops? Line extensions? Centralized administration and automatic enrollment for Lifeline and Link-up?

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

12. Any other specific revisions to the AUSF rules.4

IT IS THEREFORE ORDERED that the hearing in this matter shall commence on March 16, 2010, at 10:00 am, or as soon thereafter as is practical, at the Commission’s Tucson office, Room 222, 400 West Congress, Tucson, Arizona.

IT IS FURTHER ORDERED that a telephonic pre-hearing conference for the purpose of scheduling witnesses and discussing other hearing procedures shall commence on March 9, 2010, at

4 The parties should review Staff’s list of issues filed on October 7, 2008 for a more detailed breakdown of possible issues.
10:00 a.m., or as soon thereafter as is practical, at the Commission’s Tucson offices, Room 218, 400 West Congress, Tucson, Arizona. The parties may appear telephonically by contacting the Hearing Division the week prior to the Pre-hearing Conference for instructions.

IT IS FURTHER ORDERED that the parties shall file written testimony and copies of exhibits to be used at the hearing as set forth below:

- Direct testimony (except Staff and RUCO) - December 1, 2009
- Staff and RUCO testimony - January 6, 2010
- Reply testimony – all parties - February 5, 2010
- Rejoinder Testimony – all parties - March 5, 2010

IT IS FURTHER ORDERED that unless and until further order, any adjustment to Qwest’s access charges shall be addressed in the pending Price Cap Plan docket.

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 29th day of September, 2009.

[Signature]
JANE L. KODDA
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed this 29th day of September, 2009 to:

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• Parties marked with an “*” have agreed to accept service electronically.