BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

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

DOCKET NO. RT-00000H-97-0137

DOCKET NO. T-00000D-00-0672

JOINT APPLICATION FOR
SUBPOENA DUces TUCEM

Pursuant to A.A.C. R14-3-109, Qwest Corporation and Qwest Communications Company LLC hereby jointly apply for the issuance of a subpoena duces tecum, requiring the production of certain documents, directed to (1) AT&T Inc., AT&T Corp., and their affiliates, subsidiaries and predecessors (collectively, “AT&T”), (2) Sprint Communications Company, LP and its affiliates, subsidiaries and predecessors (collectively, “Sprint”), and (3) MCI Communications Services, Inc. dba Verizon Business Services (“MCI”).

1. On September 29, 2009, a Procedural Order (the “Procedural Order”) was issued in these consolidated dockets regarding access charges and the Arizona Universal Service Fund (“AUSF”). As a result of the Procedural Order, a hearing has been scheduled for March 16, 2010. The deadline to file direct testimony is December 1, 2009.
2. The Procedural Order states, “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.” Procedural Order p. 4. The
Procedural Order then identifies twelve issues. Issue 2 is, “To what target level should
access rates be reduced?” Issue 4 is “Should carriers be permitted to contract for access
rates that differ from their tariffed rates?”

3. The request to include in this investigative docket contracts for switched
access services that CLECs have entered into with interexchange carriers (“IXCs”) was
raised by Qwest’s affiliate Qwest Communications Company LLC by its motion filed on
July 27, 2009. Following the Procedural Order ruling that such contracts shall be the
subject of the investigation, Qwest Communications Company LLC issued Data Requests
to eighteen CLECs, asking them each to produce agreements that they may have entered
into with IXCs for switched access services at rates different than they had on file with the
Commission. A copy of Data Request issued to AT&T is attached hereto as Exhibit 1.
All the Data Requests were identical in form, and were issued on October 8, 2009.

4. Only two CLECs have unqualifiedly responded that they have not entered
such agreements. Only one of the CLECs produced an agreement in response to the Data
Requests. The rest have either failed to respond, or have objected that the Data Request is
“beyond the scope of this proceeding,” or objected on “relevance and materiality
grounds.” Despite the objection and refusal to produce the actual agreements, several of
the objecting CLECs admit that such agreements were entered into.

5. The information sought by Qwest is relevant and material to the issues being
addressed by the Commission in this proceeding. Qwest has attempted in good faith to
conduct discovery that will enable it to submit meaningful testimony in this docket, but it
appears that discovery upon the CLECs will require a significant amount of motion
litigation that will prevent Qwest from preparing its testimony in a timely manner. These
same IXCs have already produced agreements in other jurisdictions, so compliance with
the subpoena will not be burdensome. Further, securing responsive documents by
subpoena directed to the IXCs rather than the CLECs will likely result in a more complete
inventory of relevant documents, with greater economy, than going to each of the many
CLECs doing business in Arizona.

6. A true copy of Qwest’s proposed form of each subpoena duces tecum
applied for is attached hereto as Exhibit 2. Original subpoenas have been delivered to the
Executive Director concurrently herewith for execution and issuance in accordance with
the Commission’s Rules of Practice and Procedure.

DATED this 16th day of November, 2009.

QWEST CORPORATION
QWEST COMMUNICATIONS COMPANY, LLC

By

Norman G. Curtright
20 E. Thomas Road, 16th Floor
Phoenix, Arizona 85012
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Fax: (602) 235-3107

Their Attorney

FENNEMORE CRAIG, P.C.

By

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3003 N. Central Ave., #2600
Phoenix, AZ 85012
Telephone: (602) 916-5400
Fax: (602) 916-5600

Attorney for Qwest Corporation and Qwest
Communications Company, LLC
ORIGINAL and fifteen (15) copies of the foregoing were filed this 6th day of November, 2009 with:

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

COPY of the foregoing hand-delivered this 6th day of November, 2009, to:

Jane L. Rodda
Administrative Law Judge
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

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

Steve Olea, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Armando Fimbres
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

COPY of the foregoing mailed this 6th day of November, 2009, to:

Ms. Joan S. Burke
Osborn Maledon, PA
2929 North Central Avenue, Suite 2100
Phoenix, AZ 85012
Lyndall Nipps
Vice President, Regulatory
Time Warner Telecom
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Palm Springs, CA 92262

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South Central Region Verizon, Inc.
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Arizona Payphone Association
c/o Mr. Gary Joseph
Sharenet Communications
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Phoenix, AZ 85043

Mr. Dennis D. Ahlers
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Mr. Michael Hallam
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Executive Director - Regulatory
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Phoenix, AZ  85027

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Verizon Wireless
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President, Local 7019
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P.O. Box 11010
Reno, NV 89520

Michael Grant
Gallagher & Kennedy, P.A.
2575 E. Camelback Road
Phoenix, AZ 85016-9225

By:  

2253823.2/67817.000
Exhibit 1
October 8, 2009

VIA U.S. OR ELECTRONIC MAIL

Michael M. Grant
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, AZ 85016

Re: Qwest Communications Company, LLC’s Second Set of Data Requests to AT&T In the Matter of the Investigation of the Cost of Telecommunications Access, Docket No. T-00000D-00-0672, and In the Matter of the Review of Arizona Universal Service Fund Rules Docket Nos. RT-00000H-97-0137,

Dear Mr. Grant,

Enclosed is Qwest Communications Company, LLC’s Second Set of Data Requests to AT&T in the above matter.

These data requests are continuing in nature, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or document that comes to your attention after you have provided your initial responses.

Qwest Communications Company, LLC personnel have signed Protective Order Exhibits A and B, and Confidential Information and Highly Confidential Information should be designated in accordance with the Protective Order.

Qwest Communications Company, LLC requests that the answers be provided in ten (10) business days.

Please contact me if you have any questions.

Sincerely,

Norman G. Curtright

Enclosures
For purposes of this set of data requests, “IXC” shall mean interexchange carriers, and “switched access” shall mean intrastate switched access provided by a local exchange carrier. “Contract” shall mean an agreement (including terms and conditions of a settlement which change switched access rates prospectively), written or unwritten, but shall not mean transactions governed only by tariffs or rate schedules filed with the Arizona Corporation Commission.

These data requests are made to your company in its capacity as a competitive local exchange carrier.

1-1. Identify each IXC with which your company has been party to a contract between January 1, 2002, and the present, which provides for a switched access rate different from the rate or rates that your company has filed as tariffs or rate schedules with the Arizona Corporation Commission.

1-2. Provide a copy of every written contract entered into or effective at any time between January 1, 2002, and present, which provides for a switched access rate different from the rate or rates that your company has filed as tariffs or rate schedules with the Arizona Corporation Commission.

1-3. With regard to any unwritten contract or contracts with an IXC for switched access rates that are different from the rate or rates that you company has filed as tariffs or rate schedules with the Arizona Corporation Commission, state the rate that you charge.

1-4. For each contract that is identified under data requests 1 through 3 above, state the difference between the contract switched access rate or rates, terms or conditions and the switched access rate or rates, terms or conditions that you company has filed as tariffs or rate schedules with the Arizona Corporation Commission.

1-5. For each contract that is identified under the data requests 1 through 3 above, explain all reasons why you provided the IXC a different rate, terms or conditions for the contract switched access from the rate, terms or conditions contained in the tariffs or price schedules your company has filed with the Arizona Corporation Commission.
1-6. Does / did the rate or rates set forth in a contract identified under data requests 1 through 3 above apply only to a set, minimum or maximum number of intrastate switched access minutes of use, or does / did the rate(s) apply to as many switched access minutes as the IXC would use while the agreement was effective? Please explain any such limitations / requirements, and produce any documents establishing the limitations / requirements.

1-7. Did you produce or rely on a cost study to establish the intrastate switched access rate set forth in a contract identified under data requests 1 through 3 above? If so, produce a copy of the cost study, as well as all workpapers and documents pertaining to the cost study.

1-8. Identify every IXC that has asked you to enter into a contract for a switched access rate, between January 1, 2002, and the present, which did not culminate in a contract.

1-9. Identify (by name, job title and address) all employees or agents who participated in negotiating the contracts with the IXCs identified under data requests 1 through 3 above.

1-10. State the provisions of Arizona statutes and Arizona Corporation Commission rules that authorize you to provide switched access at rates that are different from the rate or rates that are filed as tariffs or rate schedules with the Arizona Corporation Commission. If you do not state any such provisions, state your rationale regarding why providing switched access at rates that are different from the rate or rates that are filed as tariffs or rate schedules with the Arizona Corporation Commission is not unlawful.

1-11. State the provisions of Arizona statutes and Arizona Corporation Commission rules that authorize you to charge different switched access rates to different IXCs. If you do not state any such provisions, state your rationale regarding why providing switched access at rates that different to different IXCs is not unlawful.

1-12. In the past seven years, has your company received any publication or other form of advice (not protected by attorney-client privilege) regarding the lawfulness or propriety of off-tariff agreements for switched access services? If so, please produce a copy of all documents bearing that advice. What actions, if any, did you take based on this advice?

1-13. For each contract that is identified under data requests 1 through 3 above, state whether you provided notice to the Arizona Corporation Commission (including but not limited to the Utilities Division Staff) of your having entered into the contract. Provide a copy of each such notice.

1-14. For each contract that is identified under data requests 1 through 3 above, state whether you provided notice to any other IXC of your having entered into the contract. Provide a copy of each such notice.
Exhibit 2
BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman

GARY PIERCE
Commissioner

PAUL NEWMAN
Commissioner

SANDRA D. KENNEDY
Commissioner

BOB STUMP
Commissioner

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

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
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Commissioner

BOB STUMP
Commissioner

DOCKET NO. RT-00000H-97-0137
DOCKET NO. T-00000D-00-0672

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.

SUBPOENA DUCES TECUM

TO: AT&T Inc., AT&T Corp., and their affiliates, subsidiaries and predecessors

WE COMMAND YOU THAT ALL AND SINGULAR BUSINESS AND
EXCUSES BEING LAID ASIDE, YOU PRODUCE THE DOCUMENTS IDENTIFIED
AND DESCRIBED BELOW AT THE OFFICES OF FENNEMORE CRAIG, P.C.,
3003 N. CENTRAL AVENUE, SUITE 2600, PHOENIX, ARIZONA 85012 NO LATER
THAN 5:00 P.M. ON NOVEMBER 16TH, 2009.

For purposes of this subpoena ducès tecum, "IXC" shall mean interexchange
carriers, and "switched access" shall mean intrastate switched access provided by a local
exchange carrier. "Contract" shall mean an agreement (including terms and conditions of
a settlement which change switched access rates prospectively), written or unwritten, but
shall not mean transactions governed only by tariffs or rate schedules filed with the Arizona Corporation Commission ("Commission").

1. Produce copies of each and every Contract, whether or not still in effect, entered into since 2002 between AT&T Inc., AT&T Corp., or any affiliate, subsidiary or predecessor-in-interest of those entities (collectively "AT&T") and any competitive local exchange carrier ("CLEC") relating to going-forward rates, terms or conditions (as of the date of the agreement) for the provision (by the CLEC) of intrastate switched access services to AT&T. These agreements include, but are not necessarily limited to, settlement agreements and so-called "switched access service agreements."

2. For each agreement identified in response to this Subpoena, produce documents identifying the date on which the agreement was terminated. To clarify, Qwest seeks the date AT&T stopped receiving the rates, terms and conditions under the agreement, not the date on which the original term of the agreement may have expired.

3. For each agreement identified in response to this Subpoena, produce documents identifying whether, to AT&T's knowledge, the agreement was filed with the Commission (by either AT&T or the CLEC) as an off-tariff, individual-case-basis agreement.

ISSUANCE OF THIS SUBPOENA HAS BEEN REQUESTED BY QWEST.


________________________________________
Executive Director
BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

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

SUBPOENA DUCES TECUM

TO: MCI Communications Services, Inc. dba Verizon Business Services

WE COMMAND YOU THAT ALL AND SINGULAR BUSINESS AND EXCUSES BEING LAID ASIDE, YOU PRODUCE THE DOCUMENTS IDENTIFIED AND DESCRIBED BELOW AT THE OFFICES OF FENNEMORE CRAIG, P.C., 3003 N. CENTRAL AVENUE, SUITE 2600, PHOENIX, ARIZONA 85012 NO LATER THAN 5:00 P.M. ON NOVEMBER 16TH, 2009.

For purposes of this subpoena duces tecum, “IXC” shall mean interexchange carriers, and “switched access” shall mean intrastate switched access provided by a local exchange carrier. “Contract” shall mean an agreement (including terms and conditions of a settlement which change switched access rates prospectively), written or unwritten, but
shall not mean transactions governed only by tariffs or rate schedules filed with the Arizona Corporation Commission ("Commission").

1. Produce copies of each and every Contract, whether or not still in effect, entered into since 2002 between MCI Communications Services, Inc. dba Verizon Business Services or any affiliate, subsidiary or predecessor-in-interest of those entities (collectively "MCI") and any competitive local exchange carrier ("CLEC") relating to going-forward rates, terms or conditions (as of the date of the agreement) for the provision (by the CLEC) of intrastate switched access services to MCI. These agreements include, but are not necessarily limited to, settlement agreements and so-called "switched access service agreements."

2. For each agreement identified in response to this Subpoena, produce documents identifying the date on which the agreement was terminated. To clarify, Qwest seeks the date MCI stopped receiving the rates, terms and conditions under the agreement, not the date on which the original term of the agreement may have expired.

3. For each agreement identified in response to this Subpoena, produce documents identifying whether, to MCI's knowledge, the agreement was filed with the Commission (by either MCI or the CLEC) as an off-tariff, individual-case-basis agreement.

ISSUANCE OF THIS SUBPOENA HAS BEEN REQUESTED BY QWEST.


_____________________________________
Executive Director
BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

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-0000H-97-0137

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

DOCKET NO. T-00000D-00-0672

SUBPOENA DUCES TECUM

TO: Sprint Communications Company, LP and its affiliates, subsidiaries and predecessors

WE COMMAND YOU THAT ALL AND SINGULAR BUSINESS AND EXCUSES BEING LAID ASIDE, YOU PRODUCE THE DOCUMENTS IDENTIFIED AND DESCRIBED BELOW AT THE OFFICES OF FENNEMORE CRAIG, P.C., 3003 N. CENTRAL AVENUE, SUITE 2600, PHOENIX, ARIZONA 85012 NO LATER THAN 5:00 P.M. ON NOVEMBER 16TH, 2009.

For purposes of this subpoena duces tecum, “IXC” shall mean interexchange carriers, and “switched access” shall mean intrastate switched access provided by a local exchange carrier. “Contract” shall mean an agreement (including terms and conditions of
a settlement which change switched access rates prospectively), written or unwritten, but shall not mean transactions governed only by tariffs or rate schedules filed with the Arizona Corporation Commission ("Commission").

1. Produce copies of each and every Contract, whether or not still in effect, entered into since 2002 between Sprint Communications Company, LP or any affiliate, subsidiary or predecessor-in-interest of those entities (collectively "Sprint") and any competitive local exchange carrier ("CLEC") relating to going-forward rates, terms or conditions (as of the date of the agreement) for the provision (by the CLEC) of intrastate switched access services to Sprint. These agreements include, but are not necessarily limited to, settlement agreements and so-called "switched access service agreements."

2. For each agreement identified in response to this Subpoena, produce documents identifying the date on which the agreement was terminated. To clarify, Qwest seeks the date Sprint stopped receiving the rates, terms and conditions under the agreement, not the date on which the original term of the agreement may have expired.

3. For each agreement identified in response to this Subpoena, produce documents identifying whether, to Sprint’s knowledge, the agreement was filed with the Commission (by either Sprint or the CLEC) as an off-tariff, individual-case-basis agreement.

ISSUANCE OF THIS SUBPOENA HAS BEEN REQUESTED BY QWEST.


__________________________________
Executive Director