BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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.

Docket No. RT-00000H-97-0137

Docket No. T-00000D-00-0672

NOTICE OF FILING

Sprint Communications Company, L.P., Sprint Spectrum, L.P. and Nextel West Corp, hereby provides notice of filing the Rejoinder Testimony of James A. Appleby in the above-referenced matter.

Dated this 5th day of March, 2010.

RIDENOUR, HIENTON & LEWIS, P.L.L.C.

By

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

REJOINDER TESTIMONY

OF

JAMES A. APPLEBY

ON BEHALF OF

SPRINT COMMUNICATIONS COMPANY, L.P.,

SPRINT SPECTRUM, L.P. AND NEXTEL WEST CORP

March 5, 2010
Q. Please state your name and business address.

A. My name is James A. Appleby. My business address is 6450 Sprint Parkway Overland Park, Kansas 66251.

Q. Are you the James A. Appleby that submitted Direct and Reply Testimony in this proceeding?

A. Yes I am.

Purpose and Summary of Testimony

Q. What is the purpose of your Rejoinder Testimony?

A. The purpose of my Rejoinder Testimony is to respond to several statements provided in the Reply Testimonies of Wilfred Shand on behalf of the Arizona Corporation Commission Staff (“Staff”), Douglas Duncan Meredith on behalf of the Arizona Local Exchange Carrier Association (“ALECA”), Lisa Hensley Eckert on behalf of Qwest Communications Company L.L.C. (“Qwest”), Douglas Denney on behalf of the Joint CLECs and Douglas Garrett on behalf of Cox Arizona Telcom LLC.

Q. Please summarize your testimony.

A. Sprint has not changed any of its policy positions articulated in my previous two testimonies. We still believe reform of switched access charges is essential to the development of a fully competitive market. Consumers will benefit if the Commission authorizes another step in the transition. All LECs, incumbent and
competitive, should have their intrastate switched access rates and rate structure set equal to their equivalent interstate rates and structure. Failing to reform or even delaying reform for one LEC, such as Qwest, or group of LECs, such as CLECs, harms Arizona consumers. Postponing the decision to reform the access rates of one LEC or a group of LECs to another proceeding creates duplicative processes and utilizes more of the Commission’s limited resources than is necessary. The economic and public policy reasons to control LEC switched access rates at a certain level applies equally to all carriers in the Arizona markets. A uniform policy applicable to all LECs should be the outcome of this proceeding.

**All LECs Access Charges Should be Reformed in this Proceeding**

Q. Ms. Eckert suggests Qwest’s public policy on access reform is refined from when it advocated that intrastate rates mirror interstate levels. She points to rate arbitrage as the reason mirroring the largest LEC rate is better than mirroring interstate rate levels.  

1. Will benchmarking the largest LEC rate fix rate arbitrage?

A. No. Rate arbitrage opportunities are created when switched access rates are significantly above the actual cost of performing the switched access function. This margin in the monopoly access charge permits the LEC to share a portion of the collected access revenues with a third-party business that promises to drive traffic to the LEC. As long as there are significant margins in the access charges of a particular

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1 Reply Testimony of Lisa Hensley Eckert on behalf of Qwest – page 2 line 21 to page 3 line 2
LEC, the LEC has an opportunity to engage in traffic pumping. If the largest LECs rates are set at reasonable levels that contain limited margins, yes, rate arbitrage like traffic pumping is controlled. But that is not the current situation with Qwest’s intrastate rate in Arizona.

Q. If LECs rates are benchmarked to Qwest’s existing rate level, do you believe the rates would no longer contain enough margin to eliminate rate arbitrage opportunities?

A. No. Qwest’s rate benchmark would permit all LECs in AZ, including Qwest, to continue to charge rates that far exceed the cost of access service.² The FCC’s economic cost standard for local traffic exchange is TELRIC. TELRIC includes not only the incremental cost of traffic exchange but also an allocation of common costs and a return on investment. The Qwest TLERIC based rate for switching and transport functions in Arizona is $.00234.³ Qwest’s intrastate rate is more than nine times as high as this generous cost standard. Clearly, CLECs benchmarked to the Qwest rate or even Qwest itself can still engage in traffic pumping with the margins that will remain within the intrastate switched access rates in Arizona.

² Verizon concurs the Qwest intrastate access rates in Arizona are well above economic cost. — Reply Testimony of Don Price on behalf of Verizon — page 49 line 13-16
³ A SURVEY OF UNBUNDLED NETWORK ELEMENT PRICES IN THE UNITED STATES Billy Jack Gregg Director Consumer Advocate Division Public Service Commission of West Virginia (Updated March 2006)
Q. Is it more likely the Qwest public policy position has been "refined" to protect
Qwest's high margin switched access rates and the competitive advantage those
rates provide?

A. Yes. As explained above, reform as advocated by Qwest will not solve the rate
arbitrage problem. Rates set at Qwest's inflated rate level will simply permit Qwest
and other CLECs to continue to inflate the retail service offerings of competing
carriers at the expense of Arizona consumers.

Q. Just like Qwest, isn't the CLECs also advocating reform not altering their rates
this time around?

A. Yes. Mr. Denney\(^4\) and Mr. Garrett\(^5\) wish to avoid reform in this proceeding. They
both point to the smaller ILECs as the carriers in need of reform. But the record in
this proceeding is clear, all LECs, ILEC or CLEC, large or small, charge too much for
switched access in Arizona. The consumers are best served if the Commission
uniformly applies one standard to LEC access rates. All LECs should mirror their
interstate rate level as a long overdue, necessary step in the right direction toward
cost-based rates. No carrier or group of carriers should be excluded from the
application of this uniform policy at the conclusion of the proceeding.

Existing Cost Allocation Rules Do Not Match Broadband Investment and Expense
with Broadband Revenues

\(^4\) Reply Testimony of Douglas Denney on behalf of Joint CLECs – page 4 line 8-9
\(^5\) Reply Testimony of Douglas Garrett on behalf of Cox Arizona Telkom LLC. – page 7 line 1-7
Q. Are Mr. Meredith\(^6\) and Mr. Shand\(^7\) correct that the FCC's elaborate cost allocation rules ensure the proper allocation of costs between regulated and non-regulated services?

A. No. The existing rules that instruct ILECs on how much investment and corresponding expenses to apportion, both categorically and jurisdictionally, are based on factors which have been frozen since 2000. These factors were frozen long before the substantial changes in ILEC investment to deliver broadband services to the market.

Q. Is there a mismatch of broadband revenues and the expenses associated with providing broadband services?

A. Yes. Broadband was originally allocated to the interstate jurisdiction as a regulated special access service. Later the FCC deregulated the ILECs' provision of broadband service. All of the revenues associated with ILEC broadband are assigned to interstate, but only a small portion of the investment and expenses for broadband services are also assigned to the interstate jurisdiction. ILECs intrastate revenue requirements are overstated because 100% of the broadband costs have not been directly allocated to the interstate jurisdiction.

Q. Have the ILECs acknowledged this revenue and cost mismatch?

A. Yes. The largest ILECs have been critical of the current cost allocation process and claim a mismatch in revenues and costs in services such as DSL.\(^8\)

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\(^6\) Reply Testimony of Douglas Duncan Meredith on behalf of ALECA – page 11 line 3-11
\(^7\) Reply Testimony of Wilfred Shand on behalf of Arizona Corporation Commission Staff – page 2 line 14-24
Q. Rather than trying to fix the cost allocations, what do you recommend the Commission do instead?

A. Sprint recommends the Commission allow the ILECs to collect their network costs from the whole suite of retail services the ILECs provide over their local network while accommodating the public policy goal of ensuring the price of basic local service for residential customers remains affordable. Sprint has suggested an affordability standard within its Reply Testimony. The other equally important public policy goal is to ensure that the charges carriers impose on each other for the exchange of all traffic is limited to the incremental cost of performing the traffic termination function. But until all traffic, interstate, intrastate and local, can be exchanged at the incremental cost level, setting intrastate and interstate access rates at the interstate rate level is a necessary step that will encourage balanced competition in Arizona.

Q. Does this conclude your Rejoinder Testimony?

A. Yes it does.

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8 Reply Comments of Verizon Communications Inc. in WC Docket No. 05-25, RM-10593 pages 8-9 filed 7-29-05; Comments of BellSouth Corporation in WC Docket No. 05-25, RM-10593 page 11
9 Reply Testimony of James A. Appleby on behalf of Sprint – page 12 line 8-20