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

REPLY BRIEF
OF
COX ARIZONA TELCOM, L.L.C.

September 14, 2010
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Introduction

As anticipated based on the hearing testimony, the positions of the parties in this docket range from “A”: doing nothing in light of the FCC’s ongoing activity on intercarrier compensation and universal service in connection with the National Broadband Plan (“NBP”) to “Z”: implementing an immediate flash cut that resets intrastate switched access rates to interstate switched access rate levels. What is apparent from the extensive briefing is that there is really no compelling reason to take any action in Arizona on access charge reform at this time. Clearly, the FCC is moving forward on the issues. Any action in Arizona must ultimately be consistent with federal action. Moreover, the potential benefits to customers of Arizona-specific reform are unclear at best; however, the proposals to mitigate the revenue impact on affected carriers will result in increased costs to end user customers (either through increased rates or increased AUSF surcharges). Finally, the necessary procedures to ensure due process, to enact necessary rules and to provide sufficient lead time for carriers to implement any reform necessarily pushes the effective date of intrastate access reform well into the future.

Cox Arizona Telcom (“Cox”) stands on its position as stated in its Opening Brief: Wait for the FCC to complete its ongoing NBP process to ensure that any reform in Arizona is both necessary and consistent with the federal reform. If the Arizona Corporation Commission believes it must enact Arizona-specific reform now, then it must incorporate certain safeguards in its reform to allow an appropriate transition to new intrastate switched access rates. Cox’s position is reasonable and comports with other parties’ positions. For example, RU~O agrees that there is no pressing need for reform at this time.1 ALECA acknowledges that it might be best to wait for the FCC.2 Qwest acknowledges the need for a sufficient transition period.3 Commission Staff supports a revenue neutral approach to access charge reform, including providing carriers an

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1 RU~O’s Closing Brief at 5.
2 ALECA Initial Brief at 9.
3 See Qwest Initial Brief at 2-3.
opportunity to recoup lost revenues through increasing other rates.\(^4\)

Cox will not repeat its entire position in detail here. However, there are a few key points that need to be made. The Commission has limited resources and should endeavor to use those resources in efficient ways that also minimize disruption on the competitive telecommunications markets in Arizona.

I. **Allow the FCC to act on the NBP.**

No party truly disputes that the FCC has set forth a timeline for moving forward with the NBP, including unified reform of intercarrier compensation ("ICC"). Nor do they dispute that the FCC is moving forward on the NBP. At most, parties raise concerns about how long the FCC proposes to take to complete the reform. However, ICC reform will have substantial impacts on access charges. Moving ahead of the FCC may result in inconsistent Arizona reform that will be preempted or simply meaningless. Without a truly compelling need for Arizona-specific reform, it makes little sense for the Commission to expend resources on rulemakings and other proceedings that will provide little, if any, public benefits.

Waiting for the FCC to act also makes sense because the NBP also intends to reform USF programs. The other side of the access charge/ICC issue is the forward-looking method of funding the federal USF programs, including changes in the types of networks the FCC proposes to fund in the future (i.e. Broadband Networks and the Connect America Fund). If Arizona proceeds to shift revenue collected in access charges to the AUSF to continue to fund basic switched local exchange service, it risks missing the purpose and extent of the FCC’s planned reforms. In other words, Arizona may end up funding the legacy voice-only network that the FCC is requiring to shift to a broadband network to remain eligible for federal USF support. That discrepancy places carriers in a difficult situation regarding what network design it should be moving towards.

\(^4\) See Staff’s Initial Post-Hearing Brief at 15-16.
II. If the ACC must act now, act in a way to best ensure consistency with the ongoing FCC activity.

If, despite the potential drawbacks, Arizona wants to forge ahead with intrastate access charge reform now, it should heed the FCC's original approach to capping CLEC interstate access charges: reduce them over at least a three year period to ILEC levels. This glide path would be more consistent with the NBP, which will take approximately 10 years to complete the transition to zero or near-zero ICC levels for all traffic. This transition, once necessary due process is met, will allow carriers to modify business plans, satisfy contractual and other legal obligations and avoid undue disruption of their business operations that are providing healthy competition in Arizona.

III. Provide streamlined procedures for revenue-neutral rate shifts.

Assuming the Commission acts now and assuming RUCO's concerns about revenue-neutral rate shifts are appropriately addressed, carriers who wish to make revenue-neutral shifts to other intrastate tariffed services should be permitted to do so with a simple filing that would certify that the changes are revenue neutral. Staff's "fair value" determination for CLECs and non-rate of return ("ROR") ILECs should be limited to a determination that the proposed rate increases would not place an undue burden (or "rate shock") on any segment of the affected customers of the LEC. ROR ILECs should continue to operate within that regulatory framework, with the attendant rate case and cost showing obligations. CLECs who propose to increase the current maximum rate levels in their tariffs should be permitted to do so to provide those CLECs with the flexibility to make the requested revenue shifts.

IV. Carefully assess any increased AUSF subsidies.

Any increased AUSF funding to offset lost access charge revenues should be permitted only after reasonable evaluation of proposals to increase applicant retail rate levels to either benchmark average rates or some incremental stepped levels above current retail rates, particularly

5 RUCO Closing Brief at 7-9.
if those are below averages charged by Qwest. If current rates for some potential AUSF participants are so artificially low that raising retail rates in the short run would be unreasonable for their customers to bear, those carriers should at least impute appropriate benchmark rate levels into calculations of any required subsidy to create the proper incentives for their rates to rise over time to those of other local exchange carriers in Arizona. Otherwise, all Arizona consumers will effectively be subsidizing below-market rates in rural areas. Staff’s proposed process for AUSF subsidies take a step in the right direction but should include this element in the analysis as well.

**Conclusion**

Cox continues to believe it is both premature and unnecessary for the Commission to expend further resources on intrastate access charge reform in light of the ongoing FCC activity regarding intercarrier compensation and universal service.

RESPECTFULLY SUBMITTED this 14th day of September 2010.

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