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ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission  
**DOCKETED**

DATE: OCTOBER 7, 2003

OCT 07 2003

DOCKET NO: RT-00000J-03-0218

DOCKETED BY

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Teena Wolfe. The recommendation has been filed in the form of an Opinion and Order on:

RULE R14-2-1107  
(RULEMAKING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

OCTOBER 16, 2003

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 21, 2003 and OCTOBER 22, 2003

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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This document is available in alternative formats by contacting Yvonne McFarlin, ADA Coordinator, voice phone number 602-542-3931, E-mail [YMcFarlin@cc.state.az.us](mailto:YMcFarlin@cc.state.az.us)

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

IN THE MATTER OF PROPOSED AMENDMENTS  
TO ARTICLE 11, COMPETITIVE  
TELECOMMUNICATIONS SERVICES, R14-2-1107,  
APPLICATION TO DISCONTINUE OR ABANDON  
LOCAL EXCHANGE SERVICE AREA.

DOCKET NO. RT-00000J-03-0218

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

DATE OF HEARING: August 19, 2003  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Teena Wolfe  
APPEARANCES: Gary Horton, Legal Division, on behalf of the Utilities  
Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On May 16, 2003, the Arizona Corporation Commission ("Commission") issued Decision No. 65923, ordering publication of a Notice of Proposed Rulemaking in the Arizona Administrative Register and the scheduling of a public comment hearing regarding the proposed rulemaking to amend A.A.C. R14-2-1107 ("Rule 1107"). The proposed amendment to Rule 1107 would subject providers of resold or facilities-based interexchange service to the same notice requirements as local exchange service providers under Rule 1107 when they intend to discontinue service or abandon all or a portion of their service area.

After the issuance of Decision No. 65923, by Procedural Order issued on May 30, 2003, a public comment hearing on the proposed rule amendment was scheduled for August 19, 2003. The Procedural Order stated that comments on the proposed rule amendment would be taken through the date of the public comment hearing, and established a schedule for the filing of formal written comments and responses prior to the public comment hearing.

A Notice of Proposed Rulemaking regarding the proposed amendment to Rule 1107 was filed with the Secretary of State, and was published in the Arizona Administrative Register on July 3, 2003.

1 No written comments on the proposed amendment to Rule 1107 have been filed in this  
2 docket.

3 A public comment hearing was held as scheduled on August 19, 2003. The Commission's  
4 Utilities Division Staff ("Staff") entered an appearance through counsel. No persons appeared at the  
5 hearing to provide public comment. Counsel for Staff stated that Staff had received no comments,  
6 oral or written, on the proposed amendment to Rule 1107.

7 The text of the proposed amended Rule 1107 is attached to and incorporated in this Decision  
8 as Appendix A. Also attached to and incorporated in this Decision are Appendix B, which is a  
9 Summary of Comments and Response; and Appendix C, which is an Economic, Small Business, and  
10 Consumer Impact Statement. Although the Commission received no comments on the proposed  
11 amendment to Rule 1107, the Summary of Comments and Response in Appendix B was prepared in  
12 accordance with A.R.S. § 41-1001(14)(b)(iii), and is to be included in the Preamble to be published  
13 with the Notice of Final Rulemaking.

14 \* \* \* \* \*

15 Having considered the entire record herein and being fully advised in the premises, the  
16 Commission finds, concludes, and orders that:

17 **FINDINGS OF FACT**

- 18 1. On April 8, 2003, Staff filed a memorandum to open this rulemaking docket.
- 19 2. On May 1, 2003, Staff docketed a Proposed Order recommending that the  
20 Commission adopt the proposed amendment to Rule 1107, and that the Commission forward the  
21 proposed amended Rule 1107 to the Secretary of State to accomplish publication of a Notice of  
22 Proposed Rulemaking in the Arizona Administrative Register.
- 23 3. On May 5, 2003, Staff docketed a Notice of Filing of Amended Exhibit A, which  
24 includes Staff's proposed language for the amendment to Rule 1107.
- 25 4. On May 16, 2003, the Commission issued Decision No. 65923, which ordered  
26 publication in the Arizona Administrative Register of a Notice of Proposed Rulemaking and the  
27 scheduling of a public comment hearing regarding adoption of the proposed amendment to Rule  
28 1107, which was attached as Exhibit A to the Decision.



1 4. Enactment of amended A.A.C. R14-2-1107 as set forth in Appendix A is in the public  
2 interest.

3 5. The Summary of Comments and Response set forth in Appendix B and the Economic,  
4 Small Business and Consumer Impact Statement set forth in Appendix C should be adopted.

5 **ORDER**

6 IT IS THEREFORE ORDERED that proposed amended A.A.C. R14-2-1107 as set forth in  
7 Appendix A is hereby adopted.

8 IT IS FURTHER ORDERED that the Summary of Comments and Response as set forth in  
9 Appendix B and the Economic, Small Business, and Consumer Impact Statement, as set forth in  
10 Appendix C, are hereby adopted.

11 IT IS FURTHER ORDERED that the Commission's Utilities Division shall submit adopted  
12 amended Rule A.A.C. R14-2-1107 as set forth in Appendix A; the Summary of Comments and  
13 Response, as set forth in Appendix B; and the Economic, Small Business, and Consumer Impact  
14 Statement, as set forth in Appendix C; to the Office of the Attorney General for endorsement.

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1 IT IS FURTHER ORDERED that the Commission's Utilities Division is authorized to make  
2 non-substantive changes in the adopted amended Rule A.A.C. R14-2-1107 in response to comments  
3 received from the Attorney General's office during the approval process under A.R.S. § 41-1044  
4 unless, after notification of those changes, the Commission requires otherwise.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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9 CHAIRMAN COMMISSIONER COMMISSIONER

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12 COMMISSIONER COMMISSIONER

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14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
15 Secretary of the Arizona Corporation Commission, have  
16 hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this \_\_\_\_ day of \_\_\_\_\_, 2003.

19 \_\_\_\_\_  
20 BRIAN C. McNEIL  
21 EXECUTIVE SECRETARY

22 DISSENT \_\_\_\_\_

23 DISSENT \_\_\_\_\_

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1 SERVICE LIST FOR:

PROPOSED AMENDMENTS TO ARTICLE 11,  
COMPETITIVE TELECOMMUNICATIONS  
SERVICES, R14-2-1107, APPLICATION TO  
DISCONTINUE OR ABANDON LOCAL  
EXCHANGE SERVICE AREA.

4 DOCKET NO.:

RT-00000J-03-0218

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Appendix A

**ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES**

**R14-2-1107. Application to Discontinue or Abandon Local Exchange or Interexchange Services Area**

A. Any telecommunications company providing competitive local exchange or interexchange service as a reseller or facilities-based provider that intends to discontinue service or to abandon all or a portion of its service area shall file an application for authorization with the Commission setting forth the following:

1. Any reasons for the proposed discontinuance of service or abandonment of service area;
2. Verification that all affected customers have been notified of the proposed discontinuance or abandonment, and that all affected customers will have access to an alternative local exchange service provider or interexchange service provider;
3. Where applicable, a plan for the refund of deposits collected pursuant to subsection R14-2-503(B);
4. A list of all alternative utilities providing the same or similar service within the affected geographic area.

B. When the Application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. No later than 20 days after the Application is filed, the telecommunications company shall publish legal notice of the Application in all counties affected by the Application. The legal notice shall describe with particularity the substance of the Application. Interested persons shall have 30 days from the publication of legal notice to file objections to the Application, to request a hearing, and to submit a motion to intervene in the proceeding.

C. Once proper notice is effected and if no objection is filed, the Commission may grant the application without a hearing.

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Appendix B

SUMMARY OF THE COMMENTS MADE REGARDING THE RULE AND THE AGENCY  
RESPONSE TO THEM

**ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES**

**R14-2-1107. Application to Discontinue or Abandon Local Exchange or Interexchange Services**

The Commission received no comments, on either technical or legal issues, on the proposed amendment to this rule following its publication.

Appendix CECONOMIC, SMALL BUSINESS AND  
CONSUMER IMPACT STATEMENT**A. Economic, small business and consumer impact summary.****1. Proposed rulemaking.**

The proposed amendment to existing Rule R14-2-1107 will subject providers of interexchange telecommunications services to the same requirement as local exchange service providers when a provider intends to discontinue service or abandon all or a portion of its service area, which is to file an application with the Commission. R14-2-1107 currently applies only to local exchange service providers.

**2. Brief summary of the economic impact statement.**

The proposed amendment to the rule will affect providers of interexchange telecommunications services and consumers of interexchange telecommunications services.

Costs of the proposed rule amendment will include the costs related to expanding the tasks involved in reviewing applications to discontinue local exchange service or abandon local service area to include review of applications to discontinue interexchange telecommunications service or abandon interexchange service area. Costs may include, in addition to review of interexchange provider applications, the costs of processing requests for waiver of the rule and the costs of any additional compliance and enforcement proceedings that may arise.

The primary benefit of the proposed rule amendment is the assurance that customers of interexchange telecommunications services will be afforded notice of any intended discontinuance of service and an opportunity to choose an alternative provider prior to service discontinuance.

The proposed rule amendment is deemed to be the least intrusive and least costly alternative method of achieving the purpose of the proposed amendment.

**3. Name and address of agency employees to contact regarding this statement.**

Adam Lebrecht and Gary H. Horton, Esq. at the Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007.

**B. Economic, small business and consumer impact statement.****1. Identification of the proposed rulemaking.**

The proposed amendment to the existing rule will subject providers of interexchange telecommunications services to the same requirement as local exchange service

1 providers when a provider intends to discontinue service or to abandon all or a portion  
2 of its service area, which is to file an application with the Commission. R14-2-1107  
currently applies only to local exchange service providers.

3 **2. Persons who will be directly affected by, bear the costs of, or directly benefit**  
4 **from the proposed rulemaking.**

- 5 a. Consumers of interexchange telecommunications services in  
6 Arizona.
- 7 b. Interexchange telecommunications service providers in Arizona.

8 **3. Cost-benefit analysis.**

9 **a. Probable costs and benefits to the implementing agency and other agencies**  
10 **directly affected by the implementation and enforcement of the proposed rule**  
11 **amendment.**

12 Costs of the proposed rule amendment will include the costs related to  
13 expanding the tasks involved in reviewing interexchange provider applications  
14 to discontinue local exchange service or abandon service area to also include  
15 review of applications to discontinue interexchange telecommunications  
services or abandon service area. Costs may include, in addition to review of  
interexchange provider applications, the costs of processing requests for  
waiver of the rule and the costs of any additional compliance and enforcement  
proceedings that may arise.

16 The benefit of the proposed rule amendment is the assurance that consumers of  
17 interexchange telecommunications services will be afforded notice of proposed  
18 abandonment and an opportunity to choose an alternative provider prior to  
service discontinuance.

19 **b. Probable costs and benefits to a political subdivision of this state directly affected**  
20 **by the implementation and enforcement of the proposed rule amendment.**

21 Implementation of the proposed rule amendment should not result in any  
22 increased cost to any political subdivision. To the extent political subdivisions  
23 may be consumers of interexchange telecommunications services in Arizona,  
24 the political subdivision will benefit by notice of any intended discontinuance  
of service or abandonment and an opportunity to choose an alternative provider  
prior to service discontinuance.

1 **c. Probable costs and benefits to businesses directly affected by the proposed**  
 2 **rulemaking, including any anticipated affect on the revenues or payroll expenditure of**  
 3 **employers who are subject to the proposed rulemaking.**

4 Costs to providers of interexchange telecommunications services will include:

5 The costs associated with filing an Application to Discontinue or  
 6 Abandon Service;

7 The costs associated with notifying all affected customers of the  
 8 proposed discontinuance or abandonment; and

9 The costs associated with ensuring that all affected customers will have  
 10 access to an alternative interexchange service provider.

11 **4. Probable impacts on private and public employment in business, agencies, and**  
 12 **political subdivisions of this state directly affected by the proposed rule amendment.**

13 It is improbable that private or public employment would be affected by the proposed  
 14 rule amendment.

15 **5. Probable impact of the proposed rulemaking on small business.**

16 **a. Identification of the small businesses subject to the proposed rule**  
 17 **amendment.**

18 Businesses subject to the proposed rule amendment are small, intermediate,  
 19 and large interexchange telecommunications providers. However, few, if any,  
 20 of the interexchange services providers affected by the proposed rule  
 21 amendment are small businesses as defined under A.R.S. §41-1001.19.

22 **b. Administrative and other costs required for compliance with this**  
 23 **proposed rule amendment.**

24 Costs to the Commission of the proposed rule amendment will include the  
 25 costs related to expanding the tasks involved in reviewing applications to  
 26 discontinue local exchange service or abandon service area to also include  
 27 review of applications to discontinue interexchange telecommunications  
 28 services or abandon service area. Costs may include, in addition to review of  
 interexchange provider applications, the costs of processing requests for  
 waiver of the rule and the costs of any additional compliance and enforcement  
 proceedings that may arise.

Costs to providers of interexchange telecommunications services may include:  
 the costs associated with filing of an Application to Discontinue or Abandon  
 Service; the costs associated with notification to all affected customers of the  
 proposed discontinuance or abandonment; and the costs associated with

ensuring all affected customers will have access to an alternative interexchange service provider.

**c. A description of the methods that the agency may use to reduce the impact on small businesses.**

Few, if any, of the interexchange services providers affected by the proposed rule amendment are small businesses as defined under A.R.S. §41-1001.19. Impact is therefore reduced as much as possible.

To the extent small businesses are consumers of interexchange telecommunications services, such small businesses will benefit from adequate notice of the intention of their providers to discontinue service or abandon service area, and an opportunity to choose an alternative provider prior to service discontinuance.

**d. The probable cost and benefit to private persons and consumers who are directly affected by the proposed rule amendment.**

Consumers of interexchange telecommunications services should not experience any material increase in costs associated with the proposed rule amendment. Consumers will benefit by receiving adequate notice of the intention of their providers to discontinue the provision of service or abandon service area, and an opportunity to choose an alternative provider prior to service discontinuance.

**6. A statement of the probable effect on state revenues.**

The proposed rule amendment may result in an increase in state revenues if penalties are imposed on interexchange service providers for noncompliance with the rule amendment.

**7. A description of any less intrusive or less costly alternative method of achieving the purpose of the proposed rule amendment.**

There is no less intrusive or less costly alternative method of achieving the purpose of the proposed rule amendment.

**8. If for any reason adequate data is not reasonably available to comply with the requirements of subsection B of this section the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.**

Adequate data is not available to comply with the requirements of subsection B. Therefore, the probable impacts are explained in qualitative terms.