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MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea  
Director  
Utilities Division

DATE: June 25, 2010

RE: IN THE MATTER OF THE APPLICATION OF MCC TELEPHONY OF THE WEST, LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR RESOLD LONG DISTANCE AND LOCAL EXCHANGE AND FACILITIES-BASED LONG DISTANCE AND LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES (DOCKET NO. T-20718A-09-0580)

Attached is the Staff Report for the above Application requesting approval for a Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Facilities-Based Long Distance Telecommunications Services
- Resold Long Distance Telecommunications Services
- Facilities-Based Local Exchange Telecommunications Services
- Resold Local Exchange Telecommunications Services
- Private Line Telecommunications Services

Staff is recommending approval of the Application with conditions.

SMO:LLM:red

Originator: Lori Morrison

Attachment: Original and Thirteen copies

Arizona Corporation Commission

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DOCKET NO. T-20718A-09-0580

Ms Joan S. Burke  
Law Office of Joan S. Burke  
1650 North First Avenue  
Phoenix, Arizona 85003

STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

MCC TELEPHONY OF THE WEST, LLC

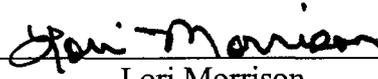
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IN THE MATTER OF THE APPLICATION OF MCC TELEPHONY OF THE WEST, LLC  
FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR  
RESOLD LONG DISTANCE AND LOCAL EXCHANGE AND FACILITIES-BASED LONG  
DISTANCE AND LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

JUNE 25, 2010

## STAFF ACKNOWLEDGMENT

The Staff Report for MCC Telephony of the West, LLC (Docket No. T-20718A-09-0580), was the responsibility of the Utilities Division Staff listed below. Lori Morrison was responsible for the review and analysis of MCC Telephony of the West, LLC's Application for a Certificate of Convenience and Necessity to provide Resold Long Distance and Local Exchange and Facilities-Based Long Distance and Local Exchange and Private Line Telecommunications Services within the State of Arizona, in addition to the petition for a determination that its proposed services should be classified as competitive.

A handwritten signature in black ink, appearing to read "Lori Morrison", is written over a horizontal line.

Lori Morrison  
Utilities Consultant

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**ATTACHMENT**

MCC's Supplemental Response to STF 1.2 .....	Attachment 1
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## 1. INTRODUCTION

On December 24, 2009, MCC Telephony of the West, LLC (“MCC” or “Applicant” or “Company”) filed an Application for a Certificate of Convenience and Necessity (“CC&N”) to provide resold and facilities-based long distance and resold and facilities-based local exchange telecommunications services within the State of Arizona. The Applicant also petitioned the Arizona Corporation Commission (“Commission”) for a determination that its proposed services should be classified as competitive. Included in the application, the Applicant submitted a proposed tariff for the services it is requesting the authority to provide.

On May 19, 2010, the Applicant filed an amended application indicating it was seeking a CC&N to provide resold and facilities-based long distance, resold and facilities-based local exchange and private line telecommunications services within the State of Arizona. The Applicant also provided to Staff revised tariff pages containing revisions and corrections made at the request of Staff.

Staff’s review of this Application addresses the overall fitness of the Applicant to receive a CC&N. Staff’s analysis also considers whether the Applicant’s services should be classified as competitive and if the Applicant’s initial rates are just and reasonable.

## 2. TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

MCC Telephony of the West, LLC is a member-managed, foreign limited liability company organized under the laws of the jurisdiction of Delaware. It is a wholly-owned subsidiary of the MCC Telephony, LLC, and a Delaware limited liability company, which in turn is a wholly owned subsidiary of Mediacom Communications Corporation (“Mediacom”), a publicly held Delaware corporation. Corporate headquarters is based out of Middleton, New York.

Mediacom is a communications parent company that provides voice, cable and broadband services through its operating subsidiaries to residential and business customers in the Ajo, Apache Junction and Nogales areas. Mediacom utilizes Voice over Internet Protocol (“VoIP”) technology to provide voice services in conjunction with Sprint Communications Company L.P. (“Sprint”), which is the back-office service provider. Sprint currently provides access to the Public Switched Telephone Network (“PSTN”) and telephone numbers. Sprint was granted CC&Ns to provide IntraLATA toll services in Decision No. 59584 and local exchange services in Decision No. 60236. As Mediacom’s contract with Sprint to perform these duties will soon expire, MCC will take over Sprint’s duties. Mediacom has been providing voice services for more than three (3) years in its cable service territory.

The Applicant intends to provide resold and facilities-based long distance and resold and facilities-based local exchange services to residential and business customers and high capacity<sup>1</sup>

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<sup>1</sup> The Applicant proposes to offer DS3 service and higher. DS3 is equivalent to 672 voice-grade lines and has a data rate of 44.736 Megabits/second.

private line services to large business customers, government entities and telecommunications carriers in Arizona. In response to Staff Data Request STF 1.5, the Applicant indicated that has no employees located in Arizona but Mediacom has personnel in Arizona whose services are available to the Applicant for any and all activities necessary to ensure proper provisioning and continual support of voice services. The Applicant shares centralized call center resources with other Mediacom telecommunications operating subsidiaries. There are four (4) call centers which address only customer telephone service issues and sixteen (16) call centers dedicated solely to customer billing issues. The call centers are located throughout the country and overseas and with their combined operating hours are able to provide customer service to end users twenty-four hours a day, seven days a week.

In its application, MCC indicated that it is currently providing services in California that are similar to those it proposes to provide in Arizona. In response to Staff Data Request STF 1.2, the Applicant provided a list of its affiliates which provide similar services in seventeen (17) other states and a pending application for an affiliate in one (1) State (see Attachment 1 for list of affiliates and states). In its application, MCC indicated that its five key employees possess a combination of over 40 years experience in the telecommunications industry.

Based on the above information, Staff believes MCC possesses the technical capabilities to provide the services it is requesting the authority to provide in Arizona.

### **3. FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES**

The Applicant provided updated audited financial statements of Mediacom Communications Corporation and subsidiaries, including MCC Telephony of the West, LLC for the twelve months ending December 31, 2007, and twelve months ending December 31, 2008. The audited consolidated financial statements ending December 31, 2007, list total assets of \$3,615,210,000; negative equity of \$253,089,000; and a net loss of \$95,129,000. The audited consolidated financial statements ending December 31, 2008, list total assets of \$3,718,989,000; negative equity of \$346,644,000; and a net loss of \$77,494,000. Summary audited financial statements were included in the application, as Attachment D.

In proposed Tariff No.1, Original Page 22, Section 2.12, the tariff states that MCC does not require customer deposits. Staff asked MCC in Staff Data Request STF 1.14 if it required advance payments from any of its customers. MCC responded that it may collect advance payments for its large business (enterprise) customers in cases where special construction is required to provide the requested service. In addition, at Original Page No. 61, Section 5.2.13, MCC may require a capital contribution towards construction costs for extension of Company facilities in order to provide service to medium and large businesses. While MCC does not collect deposits from its residential and small business customers, a prospective customer unable to demonstrate credit worthiness may be requested to provide a one-time advance payment of \$100, which will be applied to the first invoice and subsequent invoices insofar as necessary until fully applied. The Applicant does not offer prepaid calling card services. The Commission's current practice regarding the performance bond or irrevocable sight draft Letter of Credit

("ISDLC") requirements is \$10,000 for resold long distance (for those long distance service resellers who collect deposits, advances or prepayments), \$25,000 for resold local exchange, \$100,000 for facilities-based long distance, and \$100,000 for facilities-based local exchange services. Since the Applicant is requesting a CC&N for more than one kind of service, the amount of a performance bond or ISDLC for multiple services is an aggregate of the minimum bond or ISDLC amount for each type of telecommunications service requested by the Applicant. The amount of performance bond or ISDLC coverage needed for each service is as follows: \$100,000 for facilities-based long distance service; \$25,000 for resold local exchange service; and \$100,000 for facilities-based local exchange service. Based on the services the Applicant is requesting authority to provide, the minimum recommended performance bond or ISDLC should be \$225,000. The performance bond or ISDLC coverage needs to increase in increments equal to 50 percent of the total minimum performance bond or ISDLC amount when the total amount of the advances is within 10 percent of the total minimum performance bond or ISDLC amount. Thus, bond or ISDLC amount should be increased in increments of \$112,500 when the total amount of advances is within \$25,500 of the bond or ISDLC amount.

Staff recommends that the Applicant procure either a performance bond or an ISDLC equal to \$225,000. If the Applicant desires to discontinue service, it must file an Application with the Commission pursuant to A.A.C. R14-2-1107. Additionally, the Applicant must notify each of its customers and the Commission 60 days prior to filing an Application to discontinue service. Failure to meet this requirement should result in forfeiture of the Applicant's performance bond or ISDLC.

Staff recommends that proof of the above-mentioned performance bond or ISDLC be docketed within 90 days of the effective date of a Decision in this matter or 10 days before the first customer is served, whichever comes earlier. The original performance bond or ISDLC should be filed with the Commission's Business Office and 13 copies of the performance bond or ISDLC be filed with Docket Control, as a compliance item in this docket. The Commission may draw on the performance bond or ISDLC on behalf of and for the sole benefit of the Company's customers, if the Commission finds, in its discretion, that the Company is in default of its obligations arising from its Certificate. The Commission may use the bond or ISDLC funds, as appropriate, to protect the Company's customers and the public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to, returning prepayments or deposits collected from the Company's customers.

#### **4. ESTABLISHING RATES AND CHARGES**

The Applicant would initially be providing service in areas where an incumbent local exchange carrier ("ILEC"), along with various competitive local exchange carriers ("CLECs") and interexchange carriers ("IXCs") are providing telephone service. Therefore, the Applicant would have to compete with those providers in order to obtain subscribers to its services. The Applicant would be a new entrant and would face competition from both an incumbent provider and other competitive providers in offering service to its potential customers. Therefore, the

Applicant would generally not be able to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant indicating that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. The Applicant has submitted proposed tariff pages reflecting the actual rates that it proposes to charge its residential and small business customers for long distance, local exchange and private line services. The Applicant also provided rate comparison information for other competitive local exchange carriers in the State of Arizona. In addition, MCC proposes to provide high capacity private line services to sophisticated government and large business customers and telecommunications carriers that typically negotiate contract rates through a competitive process with the ultimate rates provided on an individual case basis ("ICB") by MCC. These carriers and companies have ample resources and bargaining power to protect their business interests while negotiating for the best market prices for services. Business customers who do not need individualized offerings and do not require an ICB contract to meet their needs will be able to purchase services at the rates contained in MCC's proposed tariff.

Staff has reviewed the proposed rates and concluded that they are comparable to the rates charged by competitive local carriers and local incumbent carriers operating in the State of Arizona. While both an initial rate (the actual rate to be charged) and a maximum rate may be listed for each competitive service offered, the rate charged for a service may not be less than the Applicant's total service long-run incremental cost of providing the service pursuant to A.A.C. R14-2-1109. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value rate base information provided should not be given substantial weight in this analysis.

## **5. LOCAL EXCHANGE CARRIER SPECIFIC ISSUES**

Issues related to the provision of Local Exchange service are discussed below.

### *5.1 Number Portability*

The Commission has adopted rules to address number portability in a competitive telecommunications services market. Local exchange competition may not be vigorous if customers, especially business customers, must change their telephone numbers to take advantage of a competitive local exchange carrier's service offerings. Consistent with federal laws, federal rules and A.A.C. R14-2-1308(A), the Applicant shall make number portability available to facilitate the ability of a customer to switch between authorized local carriers within a given wire center without changing their telephone number and without impairment to quality, functionality, reliability or convenience of use.

### *5.2 Provision of Basic Telephone Service and Universal Service*

The Commission has adopted rules to address universal telephone service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service Fund ("AUSF"). The Applicant will make the necessary monthly payments required by A.A.C. R14-2-1204(B).

### *5.3 Quality of Service*

Staff believes that the Applicant should be ordered to abide by the quality of service standards that were approved by the Commission for Qwest (f/k/a USWC) in Docket No. T-01051B-93-0183 (Decision No. 59421). Because the penalties developed in that docket were initiated because Qwest's level of service was not satisfactory and the Applicant does not have a similar history of service quality problems, Staff does not recommend that those penalties apply to the Applicant. In the competitive market that the Applicant wishes to enter, the Applicant generally will have no market power and will be forced to provide a satisfactory level of service or risk losing its customers. Therefore, Staff believes that it is unnecessary to subject the Applicant to those penalties at this time.

### *5.4 Access to Alternative Local Exchange Service Providers*

Staff expects that there will be new entrant providers of local exchange service who will install the plant necessary to provide telephone service to, for example, a residential subdivision or an industrial park much like existing local exchange companies do today. There may be areas where the Applicant installs the only local exchange service facilities. In the interest of providing competitive alternatives to the Applicant's local exchange service customers, Staff recommends that the Applicant be prohibited from barring access to alternative local exchange service providers who wish to serve such areas. This way, an alternative local exchange service provider may serve a customer if the customer so desires. Access to other providers should be provided pursuant to the provisions of the 1996 Telecommunications Act, the rules promulgated there under and Commission rules on interconnection and unbundling.

### *5.5 911 Service*

The Commission has adopted rules to address 911 and E911 services in a competitive telecommunications services market. The Applicant has certified that in accordance with A.A.C. R14-2-1201(6)(d) and Federal Communications Commission 47 CFR Sections 64.3001 and 64.3002, it will provide all customers with 911 and E911 service, where available, or will coordinate with ILECs and emergency service providers to provide 911 and E911 service.

### *5.6 Custom Local Area Signaling Services*

Consistent with past Commission decisions, the Applicant may offer Caller ID provided that per call and line blocking, with the capability to toggle between blocking and unblocking the transmission of the telephone number, are provided as options to which customers could subscribe with no charge. Also, Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated, indicating that the number has been blocked, must be offered.

## **6. REVIEW OF COMPLAINT INFORMATION**

The Applicant indicated in its response to Staff Data Request STF 1.8 that it has not had an Application for service denied nor authority to provide service revoked in any state. Staff did not find any instances of denied applications or revocation of authority to provide service. The Applicant indicated that none of its officers, directors or partners have been or are currently involved any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency or law enforcement agency. Staff has found no instances of any formal or informal complaint proceedings involving the Applicant or any of its officers, directors or managers. The Applicant also indicated that none of its officers, directors or partners have been in or are currently involved in any civil or criminal investigations, or had judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts in the past ten (10) years. Staff has found no instances of any civil or criminal investigations, judgments levied by any administrative or regulatory agency, or criminal convictions within the last ten (10) years involving the Applicant or any of its officers, directors or managers.

The Applicant is currently providing similar services in one state, California. Staff contacted the California Public Utilities Commission ("CPUC") and five (5) state commissions<sup>2</sup> in the jurisdictions where the Applicant's affiliates are currently authorized to provide service to verify certification to provide service and to inquire about complaints since January 1, 2009. The CPUC indicated the Applicant is authorized to provide service and there were no complaints about MCC. Georgia indicated the Applicant's affiliate is authorized to provide service and it had received eight (8) complaints in the past 12-month period and all were resolved. Of these, four (4) complaints required repair crews to correct issues of dropped calls, poor and intermittent service and a technician not keeping an appointment. Iowa indicated the Applicant's affiliate is authorized to provide service and there had been two (2) written complaints that were resolved. Florida, Missouri and Wisconsin advised that the Applicant's affiliates are authorized to provide service in their jurisdiction and that no complaints had been received about them. The Corporations Division has indicated that MCC is in good standing. The Consumer Services Division reports one (1) service related complaint which has been resolved and closed. A search of the Federal Communications Commission's ("FCC") website found one (1) formal complaint proceeding for slamming which involved the Applicant's affiliates and the FCC ultimately

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<sup>2</sup> Florida, Georgia, Iowa, Missouri and Wisconsin.

denied the complaint. MCC advised Staff of an informal complaint filed with the FCC and it was resolved.

## **7. COMPETITIVE SERVICES ANALYSIS**

The Applicant has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive.

### *7.1 Competitive Services Analysis for Local Exchange Services*

#### **7.1.1 A description of the general economic conditions that exist which make the relevant market for the service one that is competitive.**

The local exchange market that the Applicant seeks to enter is one in which a number of new CLECs have been authorized to provide local exchange service. Nevertheless, ILECs hold a virtual monopoly in the local exchange service market. At locations where ILECs provide local exchange service, the Applicant will be entering the market as an alternative provider of local exchange service and, as such, the Applicant will have to compete with those companies in order to obtain customers. In areas where ILECs do not serve customers, the Applicant may have to convince developers to allow it to provide service to their developments.

#### **7.1.2 The number of alternative providers of the service.**

Qwest and various independent LECs are the primary providers of local exchange service in the State. Several CLECs and local exchange resellers are also providing local exchange service.

#### **7.1.3 The estimated market share held by each alternative provider of the service.**

Since Qwest and the independent LECs are the primary providers of local exchange service in the State, they have a large share of the market. Since the CLECs and local exchange resellers have only recently been authorized to offer service, they have limited market share.

#### **7.1.4 The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in A.A.C. R14-2-801.**

None.

**7.1.5 The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions.**

ILECs have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly many of the CLECs and local exchange resellers also offer substantially similar services.

**7.1.6 Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the service(s).**

The local exchange service market is:

- a. One in which ILECs own networks that reach nearly every residence and business in their service territories and which provide them with a virtual monopoly over local exchange service. New entrants are also beginning to enter this market.
- b. One in which new entrants will be dependent upon ILECs:
  1. To terminate traffic to customers.
  2. To provide essential local exchange service elements until the entrant's own network has been built.
  3. For interconnection.
- c. One in which ILECs have had an existing relationship with their customers that the new entrants will have to overcome if they want to compete in the market and one in which new entrants do not have a long history with any customers.
- d. One in which most customers have few, if any choices since there is generally only one provider of local exchange service in each service territory.
- e. One in which the Applicant will not have the capability to adversely affect prices or restrict output to the detriment of telephone service subscribers.

*7.2 Competitive Services Analysis for Interexchange Services*

**7.2.1 A DESCRIPTION OF THE GENERAL ECONOMIC CONDITIONS THAT EXIST WHICH MAKES THE RELEVANT MARKET FOR THE SERVICE ONE THAT IS COMPETITIVE.**

The interexchange market that the Applicant seeks to enter is one in which numerous facilities-based and resold interexchange carriers have been authorized to provide service throughout the State. The Applicant will be a new entrant in this market and, as such, will have to compete with those companies in order to obtain customers.

**7.2.2 THE NUMBER OF ALTERNATIVE PROVIDERS OF THE SERVICE.**

There are a large number of facilities-based and resold interexchange carriers providing both interLATA and intraLATA interexchange service throughout the State. In addition, various ILECs provide intraLATA interexchange service in many areas of the State.

**7.2.3 THE ESTIMATED MARKET SHARE HELD BY EACH ALTERNATIVE PROVIDER OF THE SERVICE.**

The large facilities-based interexchange carriers (AT&T, Sprint, MCI WorldCom, etc.) hold a majority of the interLATA interexchange market, and the ILECs provide a large portion of the intraLATA interexchange market. Numerous other interexchange carriers have a smaller part of the market and one in which new entrants do not have a long history with any customers.

**7.2.4 THE NAMES AND ADDRESSES OF ANY ALTERNATIVE PROVIDERS OF THE SERVICE THAT ARE ALSO AFFILIATES OF THE TELECOMMUNICATIONS APPLICANT, AS DEFINED IN A.A.C. R14-2-801.**

None.

**7.2.5 THE ABILITY OF ALTERNATIVE PROVIDERS TO MAKE FUNCTIONALLY EQUIVALENT OR SUBSTITUTE SERVICES READILY AVAILABLE AT COMPETITIVE RATES, TERMS AND CONDITIONS.**

Both facilities-based and resold interexchange carriers have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly many of the ILECs offer similar intraLATA toll services.

**7.2.6 OTHER INDICATORS OF MARKET POWER, WHICH MAY INCLUDE GROWTH AND SHIFTS IN MARKET SHARE, EASE OF ENTRY AND EXIT, AND ANY AFFILIATION BETWEEN AND AMONG ALTERNATIVE PROVIDERS OF THE SERVICE(S).**

The interexchange service market is:

- a. One with numerous competitors and limited barriers to entry.
- b. One in which established interexchange carriers have had an existing relationship with their customers that the new entrants will have to overcome if they want to compete in the market.
- c. One in which the Applicant will not have the capability to adversely affect prices or restrict output to the detriment of telephone service subscribers.

### *7.3 Competitive Services Analysis For Private Line Services*

#### **7.3.1 PRIVATE LINE SERVICES**

Private line service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multi-site enterprise. Private line service provides a means by which customers may transmit and receive messages and data among various customer locations over facilities operated and provided by the Applicant.

#### **7.3.2 DESCRIPTION OF REQUESTED SERVICES**

MCC proposes to provide private line service. Private line service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multi-site enterprise.

#### **7.3.3 A DESCRIPTION OF THE GENERAL ECONOMIC CONDITIONS THAT EXIST THAT MAKE THE RELEVANT MARKET FOR THE SERVICE ONE THAT IS COMPETITIVE.**

Interexchange carriers ("IXCs") hold a substantial share of the private line service market. Also, ILECs and a number of CLECs have been authorized to provide private line service. The Applicant will be entering the market as an alternative provider of private line service and, as such, the Applicant will have to compete with several existing companies in order to obtain customers.

#### **7.3.4 THE NUMBER OF ALTERNATIVE PROVIDERS OF THE SERVICE.**

IXCs are providers of private line service in the State of Arizona. ILECs and a number of CLECs also provide private line service.

#### **7.3.5 THE ESTIMATED MARKET SHARE HELD BY EACH ALTERNATIVE PROVIDER OF THE SERVICE.**

IXCs and ILECs hold a substantial share of the private line market. CLECs likely have a smaller share of the private line market.

**7.3.6 THE NAMES AND ADDRESSES OF ANY ALTERNATIVE PROVIDERS OF THE SERVICE THAT ARE ALSO AFFILIATES OF THE TELECOMMUNICATIONS APPLICANT, AS DEFINED IN A.A.C. R14-2-801.**

None.

**7.3.7 THE ABILITY OF ALTERNATIVE PROVIDERS TO MAKE FUNCTIONALLY EQUIVALENT OR SUBSTITUTE SERVICES READILY AVAILABLE AT COMPETITIVE RATES, TERMS, AND CONDITIONS.**

IXCs and ILECs have the ability to offer the same services that the Applicant has requested in its respective service territories. Similarly, many of the CLECs offer substantially similar services.

**8. RECOMMENDATIONS**

The following sections contain Staff recommendations on the Application for a CC&N and the Applicant's petition for a Commission determination that its proposed services should be classified as competitive.

*8.1 Recommendations on the Application for a CC&N*

Staff recommends that Applicant's Application for a CC&N to provide intrastate telecommunications services, as listed in this Report, be granted. In addition, Staff further recommends:

1. That the Applicant complies with all Commission Rules, Orders and other requirements relevant to the provision of intrastate telecommunications services;
2. That the Applicant complies with federal laws, federal rules and A.A.C. R14-2-1308(A), to make number portability available;
3. That the Applicant abides by the quality of service standards that were approved by the Commission for Qwest in Docket No. T-01051B-93-0183;
4. That the Applicant be prohibited from barring access to alternative local exchange service providers who wish to serve areas where the Applicant is the only provider of local exchange service facilities;
5. That the Applicant provide all customers with 911 and E911 service, where available, or will coordinate with ILECs and emergency service providers to

provide 911 and E911 service in accordance with A.A.C. R14-2-1201(6)(d) and Federal Communications Commission 47 CFR Sections 64.3001 and 64.3002;

6. That the Applicant be required to notify the Commission immediately upon changes to the Applicant's name, address or telephone number;
7. That the Applicant cooperates with Commission investigations including, but not limited to customer complaints;
8. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to other competitive local carriers, local incumbent carriers and major long distance companies offering service in Arizona and comparable to the rates the Applicant charges in other jurisdictions. The rate to be ultimately charged by the Applicant will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value information provided was not given substantial weight in this analysis;
9. In the event the Applicant requests to discontinue and/or abandon its service area, it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107;
10. That the Applicant offer Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge;
11. That the Applicant offer Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated;
12. Staff recommends that the Commission authorize the Applicant to discount its rates and service charges to the marginal cost of providing the services.

Staff further recommends that the Applicant be ordered to comply with the following. If it does not do so, the Applicant's CC&N shall be null and void after due process.

1. The Applicant shall docket conforming tariff pages for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever comes first. The tariffs submitted shall coincide with the Application.
2. The Applicant shall:

- a. Procure either a performance bond or an ISDLC equal to \$225,000. The minimum bond or ISDLC of \$225,000 should be increased if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected for Applicant's customers. The bond or ISDLC should be increased in increments of \$112,500. This increase should occur when the total amount of advances, deposits, and/or prepayments is within \$22,500 of the bond or ISDLC amount.
  - b. Docket proof of the original performance bond or ISDLC with the Commission's Business Office and 13 copies of the performance bond or ISDLC with Docket Control, as a compliance item in this docket, within 90 days of the effective date of a Decision in this matter or 10 days before the first customer is served, whichever comes earlier. The performance bond or ISDLC must remain in effect until further order of the Commission. The Commission may draw on the performance bond or ISDLC on behalf of and for the sole benefit of the Company's customers, if the Commission finds, in its discretion, that the Company is in default of its obligations arising from its Certificate. The Commission may use the performance bond or ISDLC funds, as appropriate, to protect the Company's customers and the public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to returning prepayments or deposits collected from the Company's customers.
  - c. As a compliance filing, the Company shall notify the Commission that it has started providing service in Arizona within 30 days of the first customer being served.
  - d. If at some time in the future the Applicant does not collect advances, deposits and/or prepayments from its customers, Staff recommends that the Applicant be allowed to file a request for cancellation of its established performance bond or ISDLC regarding its resold and facilities-based long distance, resold and facilities-base local exchange and private line telecommunications services. Staff recommends the Commission require that such a request reference the Decision in this docket and explain the Applicant's plans for canceling those portions of the performance bond or ISDLC.
3. Abide by the Commission adopted rules that address Universal Service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service Fund ("AUSF"). The Applicant will make the necessary monthly payments required by A.A.C. R14-2-1204(B).

*8.2 Recommendation on the Applicant's Petition to Have Its Proposed Services Classified As Competitive*

Staff believes that the Applicant's proposed services should be classified as competitive. There are alternatives to the Applicant's services. The Applicant will have to convince customers to purchase its services, and the Applicant has no ability to adversely affect the local exchange or interexchange service markets. Therefore, the Applicant currently has no market power in the local exchange, interexchange service or switched access markets where alternative providers of telecommunications services exist. Staff therefore recommends that the Applicant's proposed services be classified as competitive.

**STAFF'S FIRST SET OF DATA REQUESTS TO  
MCC TELEPHONY OF THE WEST, LLC  
DOCKET NO. T-20718A-09-0580**

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**MCC's Supplemental Response to STF 1.2**

**State Telecommunications Operating Authority of Affiliated Entities**

**MCC Telephony of Florida, LLC**

Florida      Certificate No. 8582      Docket No. 050212-TX      Effective 6/13/05

**MCC Telephony of Georgia, LLC**

Georgia      Certificate No. L-0383      Docket No. 19479-U      Approved 3/15/05

**Mediacom Telephony of Illinois, LLC**

Illinois      Docket No. 09-0285      Approved 9/29/09

**MCC Telephony of Iowa, LLC**

Iowa      Docket No. TCU-04-4      WRU-04-6-3755      4/1/04

**MCC Telephony of Minnesota, LLC**

Minnesota      Docket No. P-6414/NA-04-1803      12/7/04; Docket No. P6414/M-05-176;  
3/16/05; Docket No. P-6414/M-05-410      4/28/05

**MCC Telephony of Missouri, LLC**

Missouri      Case No. LA-2005-0150      Effective 5/15/05

**MCC Telephony of the Mid-Atlantic, LLC**

Delaware      Findings & Order No. 7097, Docket No. 06-350      12/19/06

Maryland      ML# 103921, 104208, TE-8854, 1/10/07

Virginia      Case No. PUC-2009-00072, May 10, 2010

**MCC Telephony of the Midwest, LLC**

Indiana      Cause 43043, 5/31/06

South Dakota      TC06-046, 10/3/06

Wisconsin      Utility ID 3484

Ohio      Certificate No. 90-9380; Case Nos. 10-0127-TP-ACE; 90-9380-TP-TRF

Kansas      *Pending Applications*, Docket Nos. 10-MTMT-432-COC (CLEC) &  
10-MTMT433-COC, both filed 12/28/09.

**State Telecommunications Operating Authority of Affiliated Entities (cont)**

**MCC Telephony of the South, LLC**

Alabama Docket 29929 6/23/06  
Kentucky Registration with "voice exchange tariff", filed 10/18/06 (eff. 10/20/06)  
Carrier ID: 5055370 clec/22205537 ixc  
Mississippi Docket No. 06-UA-076, TC-123-2198-00 3/30/06  
North Carolina CPCNs, Docket No. P-1501, Sub 0, Sub 1  
Tennessee CCN, Docket No. 09-00204, granted at hearing March 22, 2010 (order pending)