

OPEN MEETING ITEM

COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

ORIGINAL



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ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

SEP 27 2011

DATE: SEPTEMBER 27, 2011

DOCKET NO.: T-03346A-11-0283

DOCKETED BY

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Order on:

SBC LONG DISTANCE, INC.
(CANCEL CC&N)

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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

OCTOBER 6, 2011

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 Open Meeting to be held on:

OCTOBER 11, 2011 and OCTOBER 12, 2011

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 Director's Office at (602) 542-3931.

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 GARY PIERCE – Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION OF
9 SBC LONG DISTANCE, LLC TO DISCONTINUE
10 THE PROVISION OF LOCAL EXCHANGE DATA
11 SERVICES FOR BUSINESS CUSTOMERS IN
12 ARIZONA.

DOCKET NO. T-03346A-11-0283

DECISION NO. _____

ORDER

9 Open Meeting
10 October 11 and 12, 2011
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 * * * * *

14 Having considered the entire record herein and being fully advised in the premises, the
15 Arizona Corporation Commission (“Commission”) finds, concludes, and orders that:

16 **FINDINGS OF FACT**

17 **Background**

18 1. In Decision No. 66891 (April 6, 2004), Southwestern Bell Communications Services,
19 Inc. dba SBC Long Distance¹ (“SBC Long Distance”) was granted a Certificate of Convenience and
20 Necessity (“CC&N”) to provide competitive facilities-based and resold local exchange services in
21 Arizona. The Decision required the posting of a performance bond in the amount of \$125,000 and
22 ordered that the performance bond would be forfeited if SBC Long Distance failed to notify each of
23 its customers and the Commission at least 60 days before filing an application to discontinue service
24 pursuant to Arizona Administrative Code (“A.A.C.”) R14-2-1107. SBC Long Distance had
25 previously received a CC&N to provide resold long distance services in Decision No. 61227
(November 23, 1998).

26 2. In Decision No. 67809 (May 5, 2005), the Commission granted approval of SBC Long

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28 ¹ SBC Long Distance’s name officially changed from Southwestern Bell Communications Services, Inc. dba SBC
Long Distance to “SBC Long Distance, Inc.” in approximately November 2004.

1 Distance's application for CC&N authority to provide facilities-based long distance
2 telecommunications services in Arizona. The Decision also required SBC Long Distance to procure
3 and maintain until further Commission order a performance bond equal to \$100,000 and provided
4 that if SBC Long Distance failed to notify each of its customers and the Commission at least 60 days
5 before filing an application to discontinue service pursuant to A.A.C. R14-2-1107, SBC Long
6 Distance's performance bond would be forfeited.

7 3. In Decision No. 67827 (May 5, 2005), the Commission granted approval of a
8 corporate reorganization and consolidation that resulted, *inter alia*, in SBC Long Distance's
9 conversion to a limited liability company—SBC Long Distance, LLC ("SBC LLC")—with CC&N
10 authority to provide resold and facilities-based local and long distance telecommunications services.²
11 The Decision also required SBC LLC to procure an additional performance bond of \$10,000, to help
12 ensure that SBC LLC had appropriate performance bond coverage for all of the services it was
13 authorized to provide.³

14 4. In Decision No. 69885 (August 28, 2007), the Commission granted SBC LLC's
15 application to discontinue providing residential local exchange service in Arizona.

16 5. In Decision No. 69886 (August 28, 2007), the Commission granted SBC LLC's
17 application to discontinue providing local exchange service to business customers in the Tucson area.

18 6. In Decision No. 70479 (September 3, 2008), the Commission granted SBC LLC's
19 application to discontinue providing local exchange and private line services for business customers
20 in Arizona. The Commission found that SBC LLC had indicated that it intended to continue using its
21 local exchange authority to provide tariffed packet data services, specifically intrastate ATM and
22 Frame Relay Services, and that it intended to continue offering intrastate long distance services in
23 Arizona.

24 **This Matter**

25 7. On July 18, 2011, SBC LLC filed an application to discontinue providing local
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27 ² SBC Long Distance combined with SBC Telecom, Inc., an affiliate that also already held, pursuant to Decision No. 62645 (June 13, 2000), a CC&N to provide resold and facilities-based local exchange and long distance services.

28 ³ Decision No. 61227 did not require a performance bond, which has since become a standard requirement for resold long distance telecommunications providers who collect or may collect deposits, advances, or prepayments.

1 exchange business data services in Arizona, effective October 31, 2011; to relinquish its CC&N to
2 provide competitive local exchange services in Arizona; and to have its local exchange and access
3 tariffs cancelled. According to SBC LLC, this application is the final phase of its plan to discontinue
4 providing local exchange services in Arizona. SBC LLC intends to continue providing intrastate and
5 interstate long distance services in Arizona.

6 8. SBC LLC states that it continued providing tariffed packet data services in order to
7 phase out service to two long-term contract customers, which phase out has now been completed.
8 SBC LLC further states that it is phasing out these services nationally. SBC LLC attested that it no
9 longer has any local exchange customers in Arizona and, thus, that no customers must be notified of
10 its requested discontinuation of service. In addition, SBC LLC states that it has no deposits to refund.

11 9. SBC LLC provided local exchange data services to its business customers in Arizona
12 using dedicated circuits obtained from the incumbent local exchange carrier ("ILEC"). SBC LLC
13 chose to stop providing business local exchange data services in Arizona because the provision of
14 such services is not cost effective.

15 10. SBC LLC states that any prospective customers for its services could obtain the same
16 or similar types of services from various ILECs, competitive local exchange carriers ("CLECs"),
17 wireless carriers, and Voice over Internet Protocol ("VOIP") service providers. SBC LLC provided a
18 list of ILECs and CLECs with its application.

19 11. On August 5, 2011, SBC LLC filed an Affidavit of Publication showing that notice of
20 its application had been published in the *Arizona Republic* on July 29, 2011.

21 12. On August 9, 2011, the Commission's Utilities Division ("Staff") filed a Staff Report
22 recommending cancellation of SBC LLC's CC&N for resold and facilities-based local exchange
23 services, effective after a Commission decision is issued authorizing the cancellation. Staff states
24 that after cancellation of the CC&N, SBC LLC will no longer be authorized to provide resold or
25 facilities-based local exchange services in Arizona and thus will no longer be subject to the
26 requirements of Decision No. 66891.⁴ Staff also recommends that SBC LLC's Arizona tariffs be
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28 ⁴ This would mean that the \$125,000 bond required therein would no longer be required.

1 cancelled and withdrawn.

2 13. On August 15, 2011, SBC LLC filed a response to the Staff Report, stating that SBC
3 LLC has no objections to the Staff Report, supporting Staff's recommendation, and requesting that
4 the Commission approve this matter at its September Open Meeting.

5 14. A.A.C. R14-2-1107(A)(2) requires that an application to discontinue competitive local
6 exchange service include verification that all affected customers have been notified of the proposed
7 discontinuance and that all affected customers will have access to an alternative provider. Because
8 SBC LLC no longer has any local exchange customers, it no longer has any such affected customers
9 to notify.

10 15. A.A.C. R14-2-1107(A)(4) requires that an application to discontinue competitive local
11 exchange service include a list of all alternative utilities providing the same or similar service within
12 the affected geographic area. Although SBC LLC no longer provides any competitive local exchange
13 service, and there is no practical use for such a list, SBC LLC provided a list of ILECs and CLECs
14 with its application.

15 16. A.A.C. R14-2-1107(B) requires a provider of competitive local exchange service to
16 publish legal notice of its application to discontinue service in all counties affected by its application
17 within 20 days after filing the application. Although SBC LLC had discontinued providing
18 competitive local exchange service in Arizona before filing the instant application, and thus there was
19 no real practical benefit to be gained from publication of such notice, SBC LLC did publish notice of
20 its application as required by the rule.

21 17. Staff's recommendations to cancel SBC LLC's CC&N to provide resold and facilities-
22 based local exchange services and to cancel any remaining SBC LLC local exchange service tariffs
23 that are on file with the Commission are reasonable and appropriate and will be adopted. In addition,
24 it is reasonable and appropriate to eliminate the requirement for SBC LLC to have a \$125,000
25 performance bond to protect its local exchange service customers, as required by Decision No.
26 66891, and to close the docket in which SBC LLC's local exchange CC&N was granted, Docket No.
27 T-03346A-03-0844.

28 18. SBC LLC desires to continue providing intrastate resold and facilities-based long

1 distance services in Arizona, and it is reasonable and appropriate to allow SBC LLC to do so and to
2 require SBC LLC to maintain the \$110,000 in performance bond coverage previously required of it to
3 provide those services.

4 **CONCLUSIONS OF LAW**

5 1. SBC LLC is a CC&N holder authorized to provide service as a public service
6 corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and
7 40-282.

8 2. The Commission has jurisdiction over SBC LLC and the subject matter of the
9 application.

10 3. SBC LLC has complied with the applicable requirements of A.A.C. R14-2-1107 as
11 pertaining to its application to discontinue providing resold and facilities-based local exchange
12 services in Arizona.

13 4. It is reasonable and appropriate and in the public interest to cancel SBC LLC's CC&N
14 to provide resold and facilities-based local exchange services in Arizona and to cancel any tariff that
15 SBC LLC has filed with the Commission for such services.

16 5. It is also reasonable and appropriate and in the public interest to eliminate the
17 requirement for SBC LLC to have a \$125,000 performance bond to protect its local exchange service
18 customers, as required by Decision No. 66891, and to close the docket in which SBC LLC's local
19 exchange CC&N was granted, Docket No. T-03346A-03-0844.

20 6. It is reasonable and appropriate and in the public interest to allow SBC LLC to
21 continue providing intrastate resold and facilities-based long distance services and to require SBC
22 LLC to maintain, until further Commission order, the \$110,000 in performance bond coverage
23 previously required for these services in Decision No. 67809 (May 5, 2005) and Decision No. 67827
24 (May 5, 2005).

25 **ORDER**

26 IT IS THEREFORE ORDERED that SBC Long Distance, LLC's Certificate of Convenience
27 and Necessity to provide resold and facilities-based local exchange services in the State of Arizona,
28 granted in Decision No. 66891 (April 5, 2004), is hereby cancelled.

1 IT IS FURTHER ORDERED that any SBC Long Distance, LLC tariffs on file with the
2 Commission for resold or facilities-based local exchange service are hereby cancelled.

3 IT IS FURTHER ORDERED that the requirement for SBC Long Distance, LLC to have a
4 \$125,000 performance bond to protect its local exchange service customers, imposed in Decision No.
5 66891 (April 5, 2004), is hereby cancelled.

6 IT IS FURTHER ORDERED that SBC Long Distance, LLC's Certificate of Convenience and
7 Necessity to provide resold and facilities-based long distance services in the State of Arizona, granted
8 in Decision No. 61227 (November 23, 1998) and Decision No. 67809 (May 5, 2005), remains in
9 effect.

10 IT IS FURTHER ORDERED that SBC Long Distance, LLC shall maintain \$110,000 in
11 performance bond coverage for its resold and facilities-based long distance services, as previously
12 required in Decision No. 67809 (May 5, 2005) and Decision No. 67827 (May 5, 2005), until further
13 order of the Commission.

14 IT IS FURTHER ORDERED that SBC Long Distance, LLC's tariffs for resold and facilities-
15 based long distance services remain in effect.

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1 IT IS FURTHER ORDERED that Docket No. T-03346A-03-0844 is hereby closed.

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

3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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6 CHAIRMAN

COMMISSIONER

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8 COMMISSIONER

COMMISSIONER

COMMISSIONER

9 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
10 Executive Director of the Arizona Corporation Commission,
11 have hereunto set my hand and caused the official seal of the
12 Commission to be affixed at the Capitol, in the City of Phoenix,
13 this _____ day of _____,
14 2011.

15 _____
16 ERNEST G. JOHNSON
17 EXECUTIVE DIRECTOR

18 DISSENT _____

19
20 DISSENT _____

1 SERVICE LIST FOR: SBC LONG DISTANCE, LLC

2 DOCKET NO.: T-03346A-11-0283

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