

ORIGINAL

OPEN MEETING



0000139734

MEMORANDUM

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TO: THE COMMISSION

2012 SEP 28 P 3:31

FROM: Utilities Division

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: September 28, 2012

RE: IN THE MATTER OF THE APPLICATION OF TCG PHOENIX AND TELEPORT COMMUNICATIONS AMERICA, LLC FOR APPROVAL OF A PROPOSED CORPORATE REORGANIZATION AND MERGER.  
(DOCKET NO. T-03016A-12-0342)

Introduction

On July 27, 2012, TCG Phoenix and Teleport Communications America, LLC ("Teleport") (collectively, the "Applicants") filed an application seeking approval by the Arizona Corporation Commission ("ACC" or "Commission") for the proposed merger of TCG Phoenix into Teleport pursuant to A.A.C. R14-2-801, et seq. (the "Affiliated Interest Rules") and A.R.S. § 40-285. The Applicants also request that the Certificates of Convenience & Necessity ("CC&Ns") and limited waiver of the Affiliated Interest Rules granted by the Commission to TCG Phoenix be transferred to Teleport.

No Party has sought intervention in this matter.

Background of Applicants

TCG Phoenix is a New York general partnership with headquarters at One AT&T Way, Bedminster, New Jersey 07921. The partners of TCG Phoenix are TCG Joint Venture Holdings, Inc., a Delaware corporation, and TCG Partners, a New York general partnership. Each is a subsidiary of Teleport Communications Group Inc., which is a wholly-owned subsidiary of AT&T Corp., which, in turn, is a wholly-owned subsidiary of AT&T, Inc. TCG Phoenix provides local exchange and resold interexchange telecommunications services and products to business and government customers in Arizona. The partnership interests in TCG Phoenix are not publicly traded.

Teleport is a Delaware limited liability company with headquarters at One AT&T Way, Bedminster, New Jersey 07921. Teleport is a wholly-owned subsidiary of Teleport Communications Group Inc., a wholly-owned subsidiary of AT&T Corp., which, in turn, is a wholly owned subsidiary of AT&T, Inc.

Arizona Corporation Commission

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### The Transaction

Under the proposed transaction, on or about December 31, 2012, the assets, liabilities and operations of the Applicants will merge, with the surviving entity being Teleport. There would be no change in the ultimate ownership and control of assets, liabilities or operations of the merged companies.

The proposed merger is entirely internal to AT&T, Inc. AT&T, Inc. will remain the ultimate corporate parent of Teleport. Therefore, AT&T, Inc. will retain complete indirect ownership and control of the assets and operations used to provide regulated services in the State of Arizona. The merger requires no new financing or re-financing and, therefore, will have no impact on the company's ability to raise capital or its cost of capital.

The merger should be seamless and transparent to Arizona customers. There will be no change in the rates or terms and conditions under which TCG Phoenix currently serves customers either under tariff or contract as a result of the merger. Once the merger is complete, the same personnel who manage these services will continue to do so and there will be no change in the network assets used to provide these services. As the surviving entity, Teleport will make any necessary name changes to tariffs. The only change that customers may notice will be a change in the name of their provider - from TCG Phoenix to Teleport.

TCG began including a name change notice in customer bills on September 1, 2012. The notice will be included in subsequent bills through the end of the year. In addition, after consultation with Staff, TCG mailed notices directly to all customers to inform them that they may intervene in this case and appear at the Commission's Open Meeting and offer comment in support or opposition to the proposed merger. The Notice also informed customers that they could offer written comment at any time through a filing referencing this docket filed with Docket Control. The customer notices were mailed on September 21, 2012.

### Staff's Analysis

The Applicants submitted the information required by A.A.C. R14-2-803.A.1-11. Staff does not believe the proposed reorganization will negatively impact the operations of TCG Phoenix.

A.R.S. § 40-285 requires public service corporations to obtain Commission authorization to assign or dispose of a utility's assets as proposed by the merger in this transaction. The statute serves to protect captive customers from a utility's act to dispose of any of its assets that are necessary for the provision of service; thus, it serves to preempt any service impairment due to disposal of assets essential for providing service. The proposed reorganization will change the direct ownership of TCG Phoenix from TCG Joint Venture Holdings, Inc. and TCG Partners to Teleport but the indirect and ultimate ownership by AT&T, Inc. will not change. As such, Staff

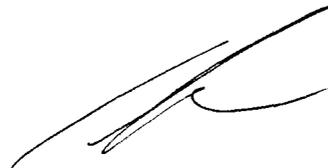
does not believe the proposed reorganization will negatively impact the operations of TCG Phoenix.

The proposed reorganization requires Commission approval for the transfer of CC&Ns, granted in Decision Nos. 59874 and 65631, from TCG Phoenix to Teleport. As the proposed reorganization is entirely internal to AT&T, Inc., a change in assets, services or management will not impact their customers. Decision No. 68269 ordered that TCG Phoenix procure a performance bond of \$200,000 and stipulated conditions under which the bond would need to increase.<sup>1</sup> The bond requirements in Decision No. 68269 should also apply or transfer to Teleport in addition to the other conditions placed on TCG Phoenix's CC&N by the Commission. Teleport should be required to file a new bond which complies with this requirement within 90 days of the Commission's Order approving the proposed merger.

In Decision No. 60728, dated March 23, 1998, the Commission granted TCG Phoenix a limited waiver of A.A.C. R14-2-801, et seq. in accordance with the findings, conditions and provisions described in Findings of Fact Nos. 6-14 of the Decision. Staff supports the transfer of the limited waiver from TCG Phoenix to Teleport.

Staff's Recommendations

Staff recommends approval of the proposed reorganization. Additionally, Staff recommends that CC&Ns granted to TCG Phoenix in Decision Nos. 59874 and 65631 and the limited waiver granted in Decision No. 60728 to TCG Phoenix be transferred to Teleport, as discussed above. Additionally, Staff recommends that bond requirements in Decision No. 68269 also transfer or apply to Teleport in addition to the other conditions on the CC&Ns approved by the Commission in Decision Nos. 59874 and 65631.



Steven M. Olea  
Director  
Utilities Division

SMO:AFF:sms\MAS

ORIGINATOR: Armando F. Fimbres

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<sup>1</sup> T-03016A-05-0149, In the Matter of the Joint Application of SBC Communications, Inc., AT&T Corp and their Arizona subsidiaries: SBC Long Distance, Inc., SBC Telecom, Inc., Snet America, Inc. dba SBC Long Distance East, AT&T Communications of the Mountain States, Inc., TCG Phoenix, TCG Payphones, Inc., ACC National Long Distance Corp. dba Vista International Communications Notice of Intent concerning the proposed merger of SBC Communications and AT&T Corp.

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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

IN THE MATTER OF THE APPLICATION )  
OF TCG PHOENIX AND TELEPORT )  
COMMUNICATIONS AMERICA, LLC FOR )  
APPROVAL OF A PROPOSED )  
CORPORATE REORGANIZATION AND )  
MERGER. )

DOCKET NOS. T-03016A-12-0342  
  
DECISION NO. \_\_\_\_\_  
ORDER

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Open Meeting  
October 16 and October 17, 2012  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On July 27, 2012, TCG Phoenix and Teleport Communications America, LLC ("Teleport") (collectively, the ("Applicants")) filed an application seeking approval by the Arizona Corporation Commission ("ACC" or "Commission") for the proposed merger of TCG Phoenix into Teleport pursuant to A.A.C. R14-2-801, et seq. (the "Affiliated Interest Rules") and A.R.S. § 40-285.

2. The Applicants also request that the Certificates of Convenience & Necessity ("CC&Ns") and limited waiver of the Affiliated Interest Rules granted by the Commission to TCG Phoenix be transferred to Teleport.

3. No Party has sought intervention in this matter.

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1 Background

2 4. TCG Phoenix is a New York general partnership with headquarters at One AT&T  
3 Way, Bedminster, New Jersey 07921. The partners of TCG Phoenix are TCG Joint Venture  
4 Holdings, Inc., a Delaware corporation, and TCG Partners, a New York general partnership. Each  
5 is a subsidiary of Teleport Communications Group Inc., which is a wholly-owned subsidiary of  
6 AT&T Corp., which, in turn is a wholly-owned subsidiary of AT&T Inc.

7 5. TCG Phoenix provides local exchange and resold interexchange  
8 telecommunications services and products to business and government customers in Arizona. The  
9 partnership interests in TCG Phoenix are not publicly traded.

10 6. Teleport is a Delaware limited liability company with headquarters at One AT&T  
11 Way, Bedminster, New Jersey 07921. Teleport is a wholly-owned subsidiary of Teleport  
12 Communications Group Inc., a wholly-owned subsidiary of AT&T Corp., which, in turn, is a  
13 wholly owned subsidiary of AT&T Inc.

14 The Transaction

15 7. Under the proposed transaction, on or about December 31, 2012, the assets,  
16 liabilities and operations of the Applicants will merge, with the surviving entity being Teleport.  
17 There would be no change in the ultimate ownership and control of assets, liabilities or operations  
18 of the merged companies.

19 8. The proposed merger is entirely internal to AT&T Inc. AT&T Inc. will remain the  
20 ultimate corporate parent of Teleport. Therefore, AT&T Inc. will retain complete indirect  
21 ownership and control of the assets and operations used to provide regulated services in the State  
22 of Arizona. The merger requires no new financing or re-financing and, therefore, will have no  
23 impact on the company's ability to raise capital or its cost of capital.

24 9. The merger should be seamless and transparent to Arizona customers. There will be  
25 no change in the rates or terms and conditions under which TCG Phoenix currently serves  
26 customers either under tariff or contract as a result of the merger. Once the merger is complete, the  
27 same personnel who manage these services will continue to do so and there will be no change in  
28 the network assets used to provide these services. As the surviving entity, Teleport will make any

1 necessary name changes to tariffs. The only change that customers may notice will be a change in  
2 the name of their provider - from TCG Phoenix to Teleport.

3 10. TCG began including a name change notice in customer bills on September 1,  
4 2012. The notice will be included in subsequent bills through the end of the year. In addition,  
5 after consultation with Staff, TCG mailed notices directly to all customers to inform them that they  
6 may intervene in this case and appear at the Commission's Open Meeting and offer comment in  
7 support or opposition to the proposed merger. The Notice also informed customers that they could  
8 offer written comment at any time through a filing referencing this docket filed with Docket  
9 Control. The customer notices were mailed on September 21, 2012.

10 Staff's Analysis and Conclusions

11 11. The Applicants submitted the information required by A.A.C. R14-2-803.A.1-11.  
12 Staff does not believe the proposed reorganization will negatively impact the operations of TCG  
13 Phoenix.

14 12. A.R.S. § 40-285 requires public service corporations to obtain Commission  
15 authorization to assign or dispose of a utility's assets as proposed by the merger in this transaction.  
16 The statute serves to protect captive customers from a utility's act to dispose of any of its assets  
17 that are necessary for the provision of service; thus, it serves to preempt any service impairment  
18 due to disposal of assets essential for providing service.

19 13. The proposed reorganization will change the direct ownership of TCG Phoenix  
20 from TCG Joint Venture Holdings, Inc. and TCG Partners to Teleport but the indirect and ultimate  
21 ownership by AT&T Inc. will change. As such, Staff does not believe the proposed reorganization  
22 will negatively impact the operations of TCG Phoenix.

23 14. The proposed reorganization requires Commission approval for the transfer of  
24 CC&Ns, granted in Decision Nos. 59874 and 65631, from TCG Phoenix to Teleport. As the  
25 proposed reorganization is entirely internal to AT&T Inc. a change in assets, services or  
26 management, customers will not be impacted.

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ORDER

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2 IT IS THEREFORE ORDERED that the application of TCG Phoenix and Teleport  
3 Communications America, LLC seeking approval for the proposed merger of TCG Phoenix into  
4 Teleport Communications America, LLC pursuant to A.A.C. R14-2-801, et seq. and A.R.S. § 40-  
5 285 be and hereby is approved as discussed herein.

6 IT IS FURTHER ORDERED that the Certificates of Convenience & Necessity granted to  
7 TCG Phoenix in Decision Nos. 59874 and 65631 be transferred to Teleport Communications  
8 America, LLC; and Teleport Communications America, LLC shall be subject to the same CC&N  
9 conditions placed on TCG Phoenix in Decision Nos. 59874 and 65631.

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1 IT IS FURTHER ORDERED that the bond requirements (and other requirements) imposed  
 2 on TCG Phoenix in Decision No. 68269 shall also apply to Teleport Communications America,  
 3 LLC. Teleport shall file a new bond which complies with this requirement within 90 days of the  
 4 Commission's Order approving the proposed merger.

5 IT IS FURTHER ORDERED that the limited waiver granted to TCG Phoenix in Decision  
 6 No. 60728 be transferred to Teleport Communications America, LLC.

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

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9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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CHAIRMAN

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COMMISSIONER

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COMMISSIONER

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COMMISSIONER

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COMMISSIONER

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IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
 Executive Director of the Arizona Corporation Commission,  
 have hereunto, set my hand and caused the official seal of  
 this Commission to be affixed at the Capitol, in the City of  
 Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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ERNEST G. JOHNSON  
 EXECUTIVE DIRECTOR

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DISSENT: \_\_\_\_\_

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DISSENT: \_\_\_\_\_

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SMO:AFF:sms

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1 SERVICE LIST FOR: TCG Phoenix  
2 DOCKET NO. T-03016A-12-0342

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