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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

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DOCKETED BY NR

IN THE MATTER OF THE APPLICATION
OF COX ARIZONA TELCOM, L.L.C. FOR
AN EXEMPTION FROM COMMISSION
RULE A.A.C. R14-2-1115.C.3.

DOCKET NO. T-03471A-11-0256

DECISION NO. 73579

ORDER

Open Meeting
October 16 and 17, 2012
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Cox Arizona Telcom, L.L.C. ("Cox") is certificated to provide intrastate telecommunications service as a public service corporation in the State of Arizona.

2. On June 28, 2011, Cox filed an application seeking an exemption from Arizona Corporation Commission ("ACC" or "Commission") Rule A.A.C. R14-2-1115.C.3. pursuant to A.A.C. R14-2-1115.I.

3. Cox states in its application that "an exemption from the rule would relieve administrative burden, cost and time for both Cox and Commission Staff."¹

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¹ Page 1, lines 11 – 12, In The Matter of the Application of Cox Arizona Telcom, L.L.C. for an Exemption from Commission Rule A.A.C. R14-2-1115.C.3, Docket No. T-03471A-11-0256

1 Background

2 4. A.A.C. R14-2-1101 states “These rules shall govern the provision of competitive,
3 intrastate telecommunications services to the public by telecommunications companies subject to
4 the jurisdiction of the Arizona Corporation Commission. Unless otherwise ordered by the
5 Commission, these rules shall not govern the provision of service by independently or local
6 exchange carrier-owned pay telephones (COPTs) and alternative operator service (AOS)
7 providers, which shall instead be governed by Articles [sic] 9 and Article 10 of this Chapter,
8 respectively. The provision of local exchange service also shall be governed by Article 5 of this
9 Chapter, to the extent that Article is not inconsistent with these rules.”

10 5. A.A.C. R14-2-1115.C states “Each telecommunications company governed by this
11 Article shall file with the Commission current tariffs, price levels, and contracts that comply with
12 the provisions of this Article and with all Commission rules, orders, and all other requirements
13 imposed by the laws of the state of Arizona.”

14 6. A.A.C. R14-2-1115.C.3 states “Contracts of telecommunications companies
15 governed by this Article shall be filed with the Commission not later than five business days after
16 execution. If the contract includes both competitive and noncompetitive services, it must be filed
17 at least five business days prior to the effective date of the contract and must separately state the
18 tariffed rate for the noncompetitive services and the price for the competitive services.”

19 7. A.A.C. 1115.I – Variations, Exemptions of Commission Rules – states “The
20 Commission may consider variations or exemptions from the terms or requirements of any of the
21 rules included herein (14 A.A.C. 2, Article 11) upon the verified application of an affected party.
22 The application must set forth the reasons why the public interest will be served by the variation or
23 exemption from the Commission rules and regulations. Any variation or exemption granted shall
24 require an order of the Commission. Where a conflict exists between these rules and an approved
25 tariff or order of the Commission, the provisions of the approved tariff or order of the Commission
26 shall apply.”

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1 Staff's Analysis

2 8. Cox's application for a waiver of R14-2-1115.C.3 pursuant to R14-2-1115.I can be
3 summarized as follows:

- 4 A. Confusion exists regarding the requirement to file Individual Case Basis
agreements ("ICBs").
- 5 B. Numerous Basic Services Arrangements, Commercial Service Agreements,
6 ICBs and other contracts may have to be filed pursuant to R14-2-1115.C.3
depending the Commission's interpretation of "contract."
- 7 C. The administrative time and cost of filing and securing confidential
contracts by Staff and Cox are burdensome.
- 8 D. To date, no carrier has raised a dispute regarding ICBs.
- 9 E. Rule 1115.C.3 has created little direct public benefit in regards to ICBs, and
- 10 F. The Commission has the authority to ask for any contract if issues are
brought to the Commission's attention regardless of whether any contracts
have been filed pursuant to R14-2-1115.C.3.

11 9. Staff has reviewed the Cox rationale presented in its application and while Staff
12 understands the Company's rationale, Staff disagrees with Cox. Staff believes it is incumbent
13 upon Cox to follow Commission's rules. Though Cox cites a number of factors that have limited
14 its filing of ICBs, Staff does not find any of these reasons to be persuasive.

15 10. Staff recognizes that the telecommunications industry has evolved significantly
16 since these rules were adopted. The need no longer exists today, in Staff's opinion to require
17 carriers to file these contracts within 5 days of their execution.

18 11. Therefore, while Staff does not recommend that Cox be exempted from the
19 requirements of the rules altogether, Staff does believe that a waiver of the filing requirement is
20 appropriate; subject to the condition that Cox be required to provide its ICB contracts to Staff, at
21 any time, upon request..

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CONCLUSIONS OF LAW

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1. Cox Arizona Telcom, L.L.C. is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over Cox Arizona Telcom, L.L.C. and the subject matter in this filing.

3. The Commission, having reviewed the filing and Staff's Memorandum dated October 2, 2012, concludes that it is in the public interest to grant approval as proposed and discussed herein.

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ORDER

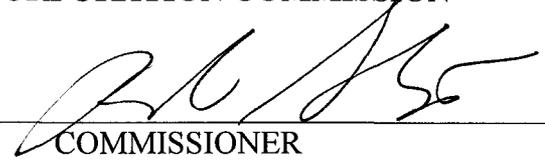
IT IS THEREFORE ORDERED that the application of Cox Arizona Telcom, L.L.C. seeking a complete exemption from A.A.C. R14-2-1115.C.3. pursuant to A.A.C. R14-2-1115.I, be and hereby is denied.

IT IS FURTHER ORDERED that Cox Arizona Telcom, L.L.C. shall be granted a waiver regarding the filing of ICBs per A.A.C. R14-2-1115.C.3, subject to the condition that Cox be required to provide its ICB contracts to Staff and/or the Commission, at any time, upon request.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

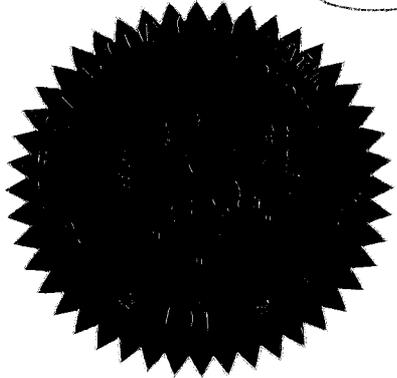

CHAIRMAN


COMMISSIONER


COMMISSIONER

EXCUSED
COMM. NEWMAN
COMMISSIONER


COMMISSIONER



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 21st day of November, 2012.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:AFF:sms\MAS

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