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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman
GARY PIERCE
Commissioner
BRENDA BURNS
Commissioner
BOB BURNS
Commissioner
SUSAN BITTER SMITH
Commissioner

Arizona Corporation Commission

DOCKETED

MAR 21 2013

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IN THE MATTER OF THE APPLICATION) DOCKET NO. T-03943A-13-0013
 OF TW TELECOM OF ARIZONA LLC FOR)
 APPROVAL OF A WAIVER OF)
 COMMISSION RULE A.A.C. R14-2-1115.C.3)
 (CONTRACT FILING RULE)) DECISION NO. 73773
) **ORDER**

Open Meeting
March 12 and 13, 2013
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

Introduction

1. On January 22, 2013, tw telecom of Arizona llc ("tw telecom") filed an application with the Arizona Corporation Commission requesting a waiver of the filing requirement contained in Arizona Administrative Code ("A.A.C.") R14-2-1115.C.3 ("Contract Filing Rule"), subject to the condition that tw telecom will provide contracts to the Commission Staff at any time upon request.

2. In Decision No. 63262 dated December 14, 2000, tw telecom was authorized to provide competitive local exchange and interexchange telecommunications services in Arizona. tw telecom is subject to the Arizona Competitive Telecommunication Services Rules and must comply with A.A.C. R14-2-1101-1115.

3. Staff recommends approval of tw telecom's application as discussed herein.

...

1 **Background**

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

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

11 6. A.A.C. R14-2-1115.I states “The Commission may consider variations or
12 exemptions from the terms or requirements of any of the rules included herein (14 A.A.C.2,
13 Article 11) upon the verified application of an affected party. The application must set forth the
14 reasons why the public interest will be served by the variation or exemption from the Commission
15 rules and regulations. Any variation or exemption granted shall require an order of the
16 Commission. Where a conflict exists between these rules and an approved tariff or order of the
17 Commission, the provisions of the approved tariff or order of the Commission shall apply.”
18 [Emphasis added].

19 **Staff Analysis**

20 7. tw telecom indicated in its application that it seeks the same waiver that was
21 granted to Cox Arizona Telecom, L.L.C. (“Cox”) in Decision No. 37579, dated November 21,
22 2012. tw telecom states, in its application, the following reasons for a waiver from A.A.C. R14-2-
23 1115.C.3. First, filing all contracts would be an enormous undertaking according to tw telecom
24 since this may encompass commercial service contracts, basic service contracts, carrier service
25 agreements, national agreements and other contracts. According to tw telecom, the public interest
26 will be served by a waiver in this situation as it will avoid the unnecessary expenditure of
27 resources needed to prepare, copy, file and retain all services contracts entered into by tw telecom.

28 ...

1 Second, the Company states that the core public interest served by the rule, is the Commission's
2 ready access to information, including contracts, which enable it to protect both ratepayers and
3 regulated utilities from anti-competitive behavior. Not every telecommunications services contract
4 needs to be filed for this interest to be protected. The Company states that it is willing to provide
5 any contract requested by the Commission or Staff at any time; and acknowledges the
6 Commission's authority to require the filing of these contracts. tw Telecom states that it will work
7 with Staff to appropriately protect any information considered confidential contained in a contract.

8 8. Staff recognizes that the telecommunications industry has changed since the
9 Contact Filing Rules were adopted by the Commission. Staff believes that there is no need for
10 carriers to file contracts within five (5) days of their execution.

11 9. In Decision No.73579, the Commission granted Cox a waiver regarding the filing
12 of ICB contracts per A.A.C. R14-2-1115.C.3, subject to the condition that Cox be required to
13 provide its ICBs contracts to Staff and/or the Commission, at any time, upon request. On,
14 February 6, 2013, in Decision No. 73648, the Commission also granted CenturyLink QC and its
15 affiliates a waiver of the filing requirement subject to its providing ICB contracts to Staff and the
16 Commission at any time upon request.

17 Staff's Recommendations

18 10. While Staff does not recommend that tw telecom be exempted from the contract
19 filing requirement of A.A.C. R14-2-1115.C.3 altogether, Staff does believe that it is appropriate
20 that tw telecom should be granted a waiver of the contract filing requirement. The waiver should
21 be subject to the condition that tw telecom be required to provide any service contract to Staff, at
22 any time, upon request.

23 CONCLUSIONS OF LAW

24 1. tw telecom of Arizona llc is a public service corporation within the meaning of
25 Article XV of the Arizona Constitution.

26 2. The Commission has jurisdiction over tw telecom of Arizona llc and the subject
27 matter in this filing.
28

1 3. The Commission having reviewed the filing and Staff's Memorandum dated
2 February 27, 2013, concludes that it is in the public interest to grant approval as discussed herein.

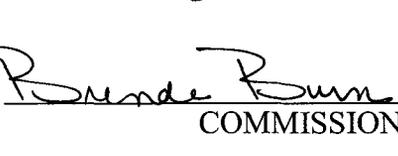
3 ORDER

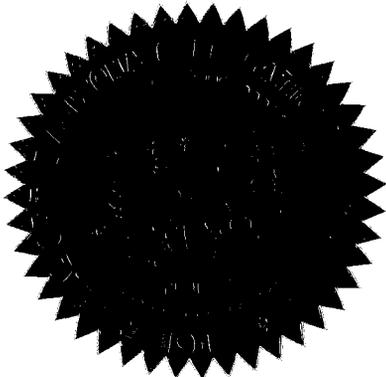
4 IT IS THEREFORE ORDERED that the application of tw telecom of Arizona llc seeking a
5 waiver of the filing requirement contained in A.A.C. R14-2-1115.C.3, subject to the condition that
6 tw telecom will provide contracts to the Commission Staff at any time upon request, be and hereby
7 is approved.

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

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

11
12  CHAIRMAN  COMMISSIONER  COMMISSIONER

13
14
15  COMMISSIONER  COMMISSIONER



16
17 IN WITNESS WHEREOF, I JODI JERICH, Executive
18 Director of the Arizona Corporation Commission, have
19 hereunto, set my hand and caused the official seal of this
20 Commission to be affixed at the Capitol, in the City of
21 Phoenix, this 21st day of March, 2013.

22 
23 JODI JERICH
24 EXECUTIVE DIRECTOR

25 DISSENT: _____

26
27 DISSENT: _____

28 SMO:JFB:sms/MAS

1 SERVICE LIST FOR: tw telecom of Arizona llc
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