

OPEN MEETING ITEM

COMMISSIONERS
BOB STUMP – Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH



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ARIZONA CORPORATION COMMISSION

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DATE: OCTOBER 1, 2013

DOCKET NO.: T-20882A-13-0108

AZ CORP COMMISSION
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ORIGINAL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

TNCI OPERATING COMPANY, LLC
(CC&N / FACILITIES-BASED)

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 10, 2013

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 16, 2013 and OCTOBER 17, 2013

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.

Arizona Corporation Commission

DOCKETED

OCT 01 2013

DOCKETED BY

JODI JERICH
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 BOB STUMP - Chairman
4 GARY PIERCE
5 BRENDA BURNS
6 BOB BURNS
7 SUSAN BITTER SMITH

8 IN THE MATTER OF THE APPLICATION OF
9 TNCI OPERATING COMPANY LLC FOR
10 APPROVAL OF A CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO PROVIDE
12 FACILITITES-BASED AND RESOLD LOCAL
13 EXCHANGE; FACILITIES-BASED AND RESOLD
14 LONG DISTANCE; SWITCHED ACCESS; AND
15 PRIVATE LINE TELECOMMUNICATION
16 SERVICES IN ARIZONA.

DOCKET NO. T-20882A-13-0108

DECISION NO. _____

OPINION AND ORDER

12 DATE OF HEARING: September 23, 2013
13 PLACE OF HEARING: Phoenix, Arizona
14 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
15 APPEARANCES: Mr. Michael T. Hallam, LEWIS, ROCA,
16 ROTHGERBER, L.L.P, on behalf of Applicant; and
17 Mr. Matthew Laudone, Staff Attorney, Legal Division,
18 on behalf of the Utilities Division of the Arizona
19 Corporation.

18 **BY THE COMMISSION:**

19 On April 16, 2013, TNCI Operating Company, LLC ("TNCI" or the "Company") filed with
20 the Arizona Corporation Commission ("Commission") an application for approval of a Certificate of
21 Convenience and Necessity ("CC&N") to provide facilities-based and resold local exchange;
22 facilities-based and resold long distance; switched access; and private line telecommunication
23 services in the State of Arizona. TNCI's application also requests a determination that its proposed
24 services are competitive in Arizona.

25 On June 14, 2013, the Company filed an amendment to its application.

26 On August 9, 2013, the Commission's Utilities Division ("Staff") filed a Staff Report
27 recommending approval of TNCI's application, subject to certain conditions.
28

1 On August 12, 2013, TNCI filed a Request for Waiver and/or Expedited Treatment
2 (“Request”). The Request stated that TNCI needed expedited treatment of its application in order to
3 complete a transaction whereby TNCI would acquire the estate of Trans National Communications
4 International, Inc. (“TNCI-DIP”) in a bankruptcy sale. As part of the bankruptcy sale, TNCI-DIP’s
5 customer accounts and accounts would be transferred to TNCI. TNCI stated that expedited treatment
6 of its application was needed so that Arizona customers would not be harmed by TNCI-DIP’s
7 bankrupt status.

8 On August 15, 2013, by Procedural Order, TNCI’s request for expedited treatment of the
9 hearing in this matter was granted; the hearing was scheduled for September 23, 2013; and other
10 procedural deadlines were established.

11 On August 30, 2013, TNCI filed an Affidavit of Publication, showing that notice of TNCI’s
12 application and the hearing date had been published in the *Arizona Republic*, a newspaper of general
13 circulation, on August 23, 2013.

14 On September 16, 2013, TNCI filed a Request to Allow Witness to Appear Telephonically
15 (“Request”). The Request stated that TNCI’s witness was scheduled to be in Florida on the date of
16 the hearing and that the witness would be unable to attend the hearing in person.

17 On September 18, 2013, by Procedural Order, TNCI’s request for its witness to appear
18 telephonically was granted.

19 On September 23, 2013, a full public hearing was held as scheduled before a duly authorized
20 Administrative Law Judge of the Commission. TNCI and Staff appeared through counsel and
21 presented testimony and evidence. No members of the public appeared to give public comments. At
22 the conclusion of the hearing, Staff was directed to file, as a late-filed exhibit, Attachment A that was
23 referenced in the Staff Report.

24 On September 23, 2013, Staff filed a Notice of Filing, which included its late-filed exhibit.

25 Upon receipt of the late-filed exhibit, the matter was taken under advisement pending
26 submission of a Recommended Opinion and Order to the Commission.

27 * * * * *
28 Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. TNCI is a foreign limited liability corporation organized under the laws of Delaware,
4 with its principal offices located in Santa Barbara, CA.¹

5 2. TNCI is authorized to transact business in Arizona and is in good standing with the
6 Commission's Corporations Division.²

7 3. TNCI is wholly owned subsidiary of TNCI Holdings LLC.³

8 4. On April 16, 2013, TNCI filed an application with the Commission requesting
9 authority to provide facilities-based and resold local exchange; facilities-based and resold long
10 distance; switched access; and private line telecommunication services in Arizona.⁴

11 5. TNCI filed its application in conjunction a transfer of customer base and assets docket,
12 whereby TNCI would acquire the assets of TNCI-DIP in a bankruptcy proceeding.⁵ TNCI-DIP is
13 authorized to provide resold long distance⁶ and resold and facilities-based local exchange
14 telecommunication services in Arizona.⁷

15 6. Notice of TNCI's application was given in accordance with the law.

16 7. Staff recommends approval of TNCI's application for a CC&N to provide intrastate
17 telecommunication services in Arizona, subject to the following conditions:

- 18 a. TNCI comply with all Commission Rules, Orders, and other requirements
- 19 relevant to the provision of intrastate telecommunications services;
- 20 b. TNCI abides by the quality of service standards that were approved by the
- 21 Commission for Qwest in Docket No. T-01051B-93-0183;
- 22 c. TNCI be prohibited from barring access to alternative local exchange service

23 ¹ Exhibit A-1.

24 ² Exhibit A-1, Attachment A.

25 ³ Exhibit A-1 at A-8.

26 ⁴ Exhibit A-1.

27 ⁵ In Decision No. 74094 (September 23, 2013) the Commission approved TNCI's application to acquire the customers
(including customers' contracts) and certain assets of TNCI-DIP. The Decision states that on October 9, 2011, TNCI-DIP
28 filed for voluntary petition for relief under Chapter 11 of Title 11, in Bankruptcy court. Further, TNCI-DIP and TNCI
entered in to a sale agreement whereby at final closing TNCI-DIP would assign to TNCI those assets and customer for
which applicable state governmental approvals have been obtained in order to complete the assignment. Under the
agreement TNCI will continue to provide services under the same rates, terms and conditions of service as were
previously provided by TNCI-DIP.

⁶ Decision No. 64982 (June 26, 2002).

⁷ Decision No. 67672 (March 9, 2005).

1 providers who wish to serve areas where TNCI is the only local provider of
2 local exchange service facilities;

- 3 d. TNCI notify the Commission immediately upon changes to TNCI's name,
4 address or telephone number;
- 5 e. TNCI cooperate with Commission investigations including, but not limited to
6 customer complaints;
- 7 f. The rates proposed by Staff are for competitive services. In general, rates for
8 competitive services are not set according to rate of return regulation. Staff
9 obtained information from TNCI and has determined that its fair value rate
10 base is zero. Staff has reviewed the rates to be charged by TNCI and believes
11 they are just and reasonable as they are comparable to other competitive local
12 carriers, local incumbent carriers and major long distance companies offering
13 service in Arizona and comparable to the rates TNCI charges in other
14 jurisdictions. The rate to be ultimately charged by TNCI will be heavily
15 influenced by the market. Therefore, while Staff considered the fair value rate
16 base information submitted by the Company, the fair value information
17 provided was not given substantial weight in Staff's analysis;
- 18 g. TNCI offer Caller ID with the capability to toggle between blocking and
19 unblocking the transmission of the telephone number at no charge;
- 20 h. TNCI offer Last Call Return service that will not return calls to telephone
21 numbers that have the privacy indicator activated; and
- 22 i. The Commission authorize TNCI to discount its rates and service charges to
23 the marginal cost of providing the services.

24 8. Staff further recommends that TNCI's CC&N be considered null and void after due
25 process if TNCI fails to comply with the following conditions:

- 26 a. TNCI shall docket conforming tariffs for each service within its CC&N within
27 365 days from the date of a Decision in this matter or 30 days prior to
28 providing service, whichever comes first;
- 29 b. TNCI shall notify the Commission through a compliance filing within 30 days
30 of the commencement of service to end-user customers;
- 31 c. TNCI shall abide by the Commission adopted rules that address Universal
32 Service in Arizona. A.A.C. R-14-2-1204(A) indicates that all
33 telecommunications service providers that interconnect into the public
34 switched network shall provide funding for the Arizona Universal Service
35 Fund. The Applicant will make the necessary monthly payments required by
36 A.A.C. R-14-2-1204(B); and
- 37 d. TNCI continue to provide services in accordance with Interexchange Tariff
38 No. 1, Local Exchange Tariff No. 2 and Access Tariff No. 3 authorized for
39 TNCI-DIP by the Commission and reaffirmed in this proceeding.

40 **Technical Capability**

41 9. TNCI states that its top four officers possess an average of 14 years' experience in the

1 telecommunication industry.⁸

2 10. TNCI's witness testified that the Company is authorized to provide telecommunication
3 services in 49 states/jurisdictions.⁹ However, TNCI is currently not providing telecommunication
4 services in any jurisdiction.¹⁰

5 11. TNCI states that this application is being filed in conjunction with a transaction in
6 which TNCI will acquire "certain of the assets, including customer accounts and contracts and
7 telecommunications equipment of TNCI-DIP," through a bankruptcy proceeding.¹¹ TNCI's
8 application goes on to state that TNCI-DIP is currently authorized to provide local exchange
9 (including exchange access) and interexchange telecom services in Arizona.¹²

10 12. TNCI intends to continue to provide the same telecommunication services as TNCI-
11 DIP under the same Commission approved rates, terms and conditions.¹³

12 13. TNCI intends to provide its proposed services to business customers.¹⁴ TNCI's
13 application states it will provide: 1) basic local exchange services and various ancillary services such
14 as customer calling features; 2) long distance services; 3) dedicated Internet Protocol ("IP")
15 integrated voice and data services; and 4) private line, frame relay and other non-voice services.¹⁵
16 Further, TNCI intends to resell the services of CenturyLink, Sprint, and Level 3/Global Crossing.¹⁶

17 14. Staff believes that TNCI has the technical capabilities to provide its proposed services
18 in Arizona.

19 **Financial Capabilities**

20 15. TNCI provided public pro forma financial statements showing Total Assets of
21 \$20,849,000, Shareholder Equity of \$11,311,000, and a Net Income of \$17,908,000.¹⁷

22 16. TNCI's proposed tariffs state that it will not require or collect deposits or advance
23

24 ⁸ Exhibit A-1 at Attachment E.

⁹ Tr. at 7-8.

25 ¹⁰ Exhibit A-1 at A-19.

¹¹ Exhibit A-1 at A-9.

26 ¹² Id.

¹³ Id.

27 ¹⁴ Exhibit A-1 at A-19.

¹⁵ Id.

¹⁶ Exhibit A-1 at A-17.

28 ¹⁷ Staff's Notice of Filing at Attachment A (docketed September 23, 2013).

1 payments from customers.¹⁸

2 17. The Commission requires telecom companies to obtain a performance bond
3 depending on the type of service provided, prior to beginning service in Arizona ("2002 Bond
4 Policy").¹⁹ The purpose of the bond is to: 1) protect customers in the event a telecom company
5 defaulted; 2) protect customer pre-payments and advances; 3) protect the loss of monthly service that
6 has been paid for in advance; and 4) protect customers from incurring costs related to physical
7 equipment changes resulting from the status of the default provider.²⁰ For long distance resellers, a
8 bond (in the amount of \$10,000) is required only if the reseller collects advances or pre-payments.²¹
9 For local exchange resellers, a bond (in the amount of \$25,000) is required for all providers.²² The
10 rationale for requiring a bond for all local exchange resellers is due to the potential for large numbers
11 of customers to lose monthly service charges, which had been paid in advance.²³ For facilities-based
12 providers of local and long distance service, the policy requires the posting of a \$100,000 per
13 provision of service.²⁴ The requirement that all facilities-based providers post a bond is to minimize
14 the potential that a provider would stop providing service without notice to its customers. If a
15 facilities-based telecommunications provider stopped providing service, in addition to the loss of
16 services and prepayments, its customers would have no dial tone, and would be unable to contact
17 authorities in the event of a fire or other emergency. This would have a serious impact on the
18 public's safety.

19 18. Staff's witness testified that Staff has revised its policies regarding the determination
20 of performance bond requirements for telecommunication providers.²⁵ Under Staff's revised
21 performance bond policy, Staff recommends that there be no performance bond in this matter.²⁶
22 Staff's witness testified that the revised bond policy only requires a bond in instances where the
23

24 ¹⁸ Exhibit A-1 at Attachment B.

25 ¹⁹ Amended Utilities Division Policy on Performance Bond Requirements for Telecommunications Providers (issued June
26 7, 2002).

27 ²⁰ Id.

28 ²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Tr. at 16-17.

²⁶ Tr. at 17.

1 company has issues associated with either its managerial or technical abilities to provide its proposed
 2 services in Arizona.²⁷ The witness stated when Staff initially implemented its 2002 Bond Policy
 3 requirements there were a number of companies that entered the market for a while and then would
 4 leave customers stranded.²⁸ The witness further stated that under the A.A.C. rules for
 5 telecommunications companies,²⁹ the performance bond is an option, and not a requirement.³⁰

6 Rates and Charges

7 19. Staff believes that TNCI will have to compete with other incumbent local exchange
 8 carriers (“ILECs”), and various competitive local exchange (“CLECs”), and interexchange carriers
 9 (“IXCs”) in Arizona in order to gain new customers.³¹

10 20. Pursuant to A.A.C. R14-2-1109, the rates charged for each service TNCI proposes to
 11 provide may not be less than the Company’s total service long-run incremental cost of providing that
 12 service.

13 21. TNCI projects that for the first twelve months of operation in Arizona, it will have
 14 total revenues of \$279,690 and a net book value of zero.³²

15 22. Staff states that in general, rates for competitive services are not set according to rate
 16 of return regulation and the Company’s fair value rate base is zero. Staff believes that TNCI’s rates
 17 will be heavily influenced by the market.³³ Staff reviewed TNCI’s proposed tariff pages, the rate
 18 comparison information of other CLECs and local incumbent carriers (“ILECs”) and Staff believes
 19 that TNCI’s proposed rates are comparable to the rates charged by CLECs and ILECs providing
 20 service in Arizona.³⁴ Therefore, Staff states that while it considered the fair value rate base
 21 information submitted by TNCI, it did not accord that information substantial weight in Staff’s
 22 analysis.³⁵

23 ²⁷ Tr. at 17.

24 ²⁸ Id.

25 ²⁹ A.A.C. R14-2-1105.D states: In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

26 ³⁰ Tr. at 18.

27 ³¹ Exhibit S-1 at 3.

28 ³² Exhibit S-1 at 4.

³³ Exhibit S-1 at 3.

³⁴ Id.

³⁵ Id.

1 **Local Exchange Carrier Specific Issues**

2 23. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, TNCI will make
3 number portability available to facilitate the ability of customers to switch between authorized local
4 carriers within a given wire center without changing their telephone number and without impairment
5 to quality, functionality, reliability or convenience of use.

6 24. Pursuant to A.A.C. R14-2-1204(A) all telecommunication service providers that
7 interconnect to the public switched network shall provide funding for the AUSF. TNCI shall make
8 payments to the AUSF described under A.A.C. R14-2-1204(B).

9 25. In Commission Decision No. 59421 (December 20, 1995), the Commission approved
10 quality of service standards for Qwest which imposed penalties due to an unsatisfactory level of
11 service. In this matter, Staff believes TNCI does not have a similar history of service quality
12 problems, and therefore the penalties in that decision should not apply.

13 26. In the areas where the Company is the only local exchange service provider, Staff
14 recommends that TNCI be prohibited from barring access to alternative local exchange service
15 providers who wish to serve the area.

16 27. TNCI will provide all customers with 911 and E911 service where available, or will
17 coordinate with ILECs, and emergency service providers to facilitate the service.

18 28. Pursuant to prior Commission Decisions, TNCI may offer customer local area
19 signaling services such as Caller ID and Call Blocking, so long as the customer is able to block or
20 unblock each individual call at no additional cost.

21 29. TNCI must offer Last Call Return service, which will not allow the return of calls to
22 the telephone numbers that have the privacy indicator activated.

23 **Complaint Information**

24 30. TNCI's application states that none of the Company's officers, directors, partners, nor
25 managers have been or are currently involved in any formal or informal complaint proceedings
26 before any state or federal regulatory agency, commission, administrative or law enforcement
27
28

1 agency.³⁶

2 31. TNCI states that none of the Company's officers, directors, partners or managers have
3 been involved in any civil or criminal investigations, or had judgments entered in any civil matter, or
4 by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten
5 (10) years.³⁷

6 32. Staff's review of TNCI's application revealed that no complaints had been filed with
7 the Federal Communications Commission against TNCI.

8 **Competitive Review**

9 33. TNCI's application requests that its proposed telecommunication services in Arizona
10 be classified as competitive. Staff believes TNCI's proposed services should be classified as
11 competitive because TNCI will have to compete with CLECs and ILECs to gain customers; there are
12 alternative providers to TNCI's proposed services; ILECs hold a virtual monopoly in local exchange
13 and IXC markets; and that TNCI will not have the ability to adversely affect the local exchange or
14 IXC markets in Arizona.³⁸

15 34. Based on the above factors, Staff concludes that TNCI's proposed service should be
16 classified as competitive.

17 **Resolution**

18 35. The goal of the 2002 Bond Policy is to protect the public in the event the company
19 defaults. The various bond amounts were developed by evaluating the amount of risk to each type of
20 customer. The 2002 Bond Policy is designed to minimize potential losses or damages to customers
21 by: 1) protecting customer pre-payments and advances; 2) protecting customers' loss for pre-paid
22 monthly services; and 3) minimizing costs to customers for physical equipment changes. The 2002
23 Bond Policy provides the same level of protection, per customer type, for all consumers.

24 36. Staff's revised bond policy, as articulated at the hearing in this matter, only offers
25 protection to consumers who are receiving service from providers who have had previous managerial
26 and/or technical issues. Staff did not articulate any criteria for determining what types of managerial

27 ³⁶ Exhibit A-1 at A-11.
28 ³⁷ Exhibit A-1 at A-12.
³⁸ Exhibit S-1 at 11.

1 and/or technical issues will trigger the requirement for a performance bond, and therefore we are
 2 concerned that this could lead to unequal or unfair treatment between regulated telecom providers.
 3 When Staff's witness was asked how Staff's revised bond policy provides protection for customer
 4 deposits when a company goes out of business, Staff stated that there have been a "couple of
 5 instances where companies have gone out of business, but because they [the companies] were not
 6 strictly abiding by the Commission's orders, they didn't have a bond in place."³⁹ The witness further
 7 stated that in instances where the companies went out of business, they cancelled their bonds
 8 beforehand and therefore the use of the bond to cover deposits was not an option available to the
 9 Commission.⁴⁰ Staff did not explain what actions, if any, it takes to insure that bonds remain in effect,
 10 but we believe that at a minimum, telecom providers should certify in their annual reports that any
 11 required performance bond remains in effect.

12 37. Further, TNCI has only existed since March 14, 2013, when it was formed in
 13 conjunction with the sale of TNCI-DIP's bankruptcy proceeding. TNCI has no history of providing
 14 its proposed services in Arizona or any other jurisdiction where it is authorized to provide telecom
 15 services. Staff's witness testified that Staff's review of TNCI's application did not include a review
 16 of whether any complaints had been filed against TNCI-DIP,⁴¹ even though TNCI will share many of
 17 the same customer service, technical, operational and managerial personnel as TNCI-DIP.⁴² TNCI's
 18 close association with a telecom provider that has entered bankruptcy, and whose customers are being
 19 transferred to TNCI, raises concerns about not requiring a performance bond.

20 38. In Decision No. 67672, which approved TNCI-DIP's application to provide facilities-
 21 based services in Arizona, TNCI-DIP was required to procure a performance bond for its services.
 22 There is no evidence in the record whether this bond still exists.

23 39. Further, TNCI will be a facilities-based telecommunications provider and there could
 24 be a serious impact to the public's safety if TNCI defaults on its service to Arizona customers.⁴³ In
 25

26 ³⁹ Tr. at 20.

27 ⁴⁰ Tr. at 21.

28 ⁴¹ Id.

⁴² Staff Report filed in Docket Nos. T-20882A-13-0114 et. al. at 3.

⁴³ In Docket No. T-04220A-03-0829, Staff discussed safety issues and the requirement that "the local service would need to have a bond regardless of whether deposits are collected or not."

1 the event TNCI defaults, customers could lose service, prepayments, and have no dial tone in an
2 emergency situation. Therefore at this time, we believe it is prudent and in the public interest to
3 require a performance bond in this matter. Accordingly, we find that TNCI should be required to post
4 a performance bond or irrevocable sight draft letter of credit in the amount of \$225,000 with the
5 Commission.⁴⁴

6 40. Staff's recommendations, as modified herein, are reasonable and should be adopted.

7 **CONCLUSIONS OF LAW**

8 1. TNCI is a public service corporation within the meaning of Article XV of the Arizona
9 Constitution, A.R.S. §§ 40-281 and 40-282.

10 2. The Commission has jurisdiction over TNCI and the subject matter of the application.

11 3. Notice of the application was given in accordance with the law.

12 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a
13 CC&N to provide competitive telecommunication services.

14 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
15 Statutes, it is in the public interest for TNCI to provide the telecommunication services set forth in its
16 application.

17 6. The telecommunication services TNCI intends to provide are competitive within
18 Arizona.

19 7. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
20 it is just and reasonable and in the public interest for TNCI to establish rates and charges that are not
21 less than TNCI's total service long-run incremental costs of providing the competitive services
22 approved herein.

23 8. Staff's recommendations, as modified herein, are reasonable and should be adopted.

24 **ORDER**

25 IT IS THEREFORE ORDERED that the application of TNCI Operating Company, LLC, for a
26 Certificate of Convenience and Necessity to provide resold long distance, resold local exchange, and
27

28 ⁴⁴ The performance bond will include a \$100,000 bond for each facilities-based service and \$25,000 for resold local exchange services.

1 facilities-based local exchange telecommunication services in Arizona, is hereby conditionally
2 approved subject to TNCI Operating Company, LLC's compliance with the requirements set forth in
3 Finding of Facts Nos. 7 and 8 and as modified herein.

4 IT IS FURTHER ORDERED that if TNCI Operating Company, LLC, fails to comply with
5 the Staff conditions described in Finding of Fact No. 8 and below, the Certificate of Convenience and
6 Necessity granted herein shall be considered null and void after due process.

7 IT IS FURTHER ORDERED that TNCI Operating Company, LLC, shall docket conforming
8 tariffs for each service within its CC&N within 365 days of the effective date of this Decision or 30
9 days prior to serving its first customer, whichever comes first. The tariffs submitted shall coincide
10 with the application in this matter.

11 IT IS FURTHER ORDERED that TNCI Operating Company, LLC shall procure a
12 performance bond or irrevocable sight draft letter of credit in the amount of \$225,000.

13 IT IS FURTHER ORDERED that the minimum bond amount of \$225,000 shall be increased
14 if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected from
15 TNCI Operating Company, LLC's customers. The bond amount shall be increased in increments of
16 \$112,500, whenever the total amount of advances, deposits, and prepayments are within \$22,500 of
17 the bond amount.

18 IT IS FURTHER ORDERED that TNCI Operating Company, LLC shall file the original
19 performance bond or irrevocable sight draft letter of credit with the Commission's Business Office
20 and thirteen (13) copies of the performance bond or irrevocable sight draft letter of credit with
21 Docket Control, as a compliance item in this docket, within 90 days of the effective date of this
22 Decision or 10 days before the first customer is served, whichever comes earlier. The performance
23 bond or irrevocable sight draft letter of credit shall remain in effect until further order of the
24 Commission. The Commission may draw on the performance bond or irrevocable sight draft letter of
25 credit on behalf of and for the sole benefit of TNCI Operating Company, LLC's customers, if the
26 Commission finds, in its discretion, that TNCI Operating Company, LLC is in default of its
27 obligations arising from its Certificate. The Commission may use the performance bond or
28 irrevocable sight draft letter of credit, as appropriate, to protect TNCI Operating Company, LLC's

1 customers and the public interest and take any and all actions the Commission deems necessary, in its
2 discretion, including, but not limited to returning prepayments or deposits collected from TNCI
3 Operating Company, LLC's customers.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
6
7

8 CHAIRMAN

COMMISSIONER

9
10 COMMISSIONER

COMMISSIONER

COMMISSIONER

11
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this _____ day of _____ 2013.

16 JODI JERICH
17 EXECUTIVE DIRECTOR

18 DISSENT _____
19

20 DISSENT _____
21 YK:ru

1 SERVICE LIST FOR: TNCI, OPERATING COMPANY, L.L.C.

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