

ORIGINAL

OPEN MEETING



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MEMORANDUM

Arizona Corporation Commission

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TO: THE COMMISSION

DOCKETED

AZ CORP COMMISSION

FROM: Utilities Division

DEC 31 2013

DOCKET CONTROL

DATE: December 31, 2013

DOCKETED BY

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RE: IN THE MATTER OF THE APPLICATION OF MCI COMMUNICATIONS SERVICES, INC. DBA VERIZON BUSINESS SERVICES AND MCIMETRO ACCESS TRANSMISSION SERVICES, L.L.C. DBA VERIZON ACCESS TRANSMISSION SERVICES FOR APPROVAL OF A WAIVER FROM COMMISSION RULE A.A.C. R14-2-1115.C.3. (DOCKET NOS. T-03394A-13-0398 AND T-03574A-13-0398)

Introduction

On November 19, 2013, pursuant to Arizona Administrative Code (“A.A.C.”) R14-2-1115.I, MCI Communications Services, Inc. d/b/a Verizon Business Services and MCImetro Access Transmission Services, LLC d/b/a Verizon Transmission Services (collectively the “Applicants”) filed a Joint Application with the Arizona Corporation Commission (“Commission” or “ACC”) requesting a waiver from the contract filing requirement of A.A.C. R14-2-1115.C.3, subject to the condition that each Applicant be required to provide Individual Case Basis (“ICB”) contracts to the Commission Staff upon request.

Background

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

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

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

Staff's Analysis

As described below, the Applicants state that as competitive providers, they experience the same issues regarding compliance with the Contract Filing Rule that Cox Arizona Telcom, LLC ("Cox")¹ and CenturyLink² explained in their Applications, and the Commission cited, for a waiver from the Contract Filing Rule:

- (i) Confusion exists regarding the requirement to file ICBs,
- (ii) Numerous Basic Services Arrangements, Commercial Service Agreements, ICBs and other contracts may have to be filed pursuant to A.A.C. R14-2-1115.C.3, depending on the Commission's interpretation of "contract",
- (iii) The administrative time and cost of filing and securing confidential contracts by Staff and the Applicants are burdensome,
- (iv) To date, no carrier has raised a dispute regarding ICBs,
- (v) A.A.C. R14-2-1115.C.3 has created little direct public benefit in regards to ICBs, and
- (vi) 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 A.A.C. R14-2-1115.C.3.

The Applicant's waiver request seeks only relief from Subsection C.3 relative to the filing of contracts.

As stated in the Application, the Applicants hold Certificates of Convenience and Necessity ("CC&Ns") to provide competitive local exchange and interexchange telecommunications services within the State of Arizona. As competitive providers, the Applicants are subject to the administrative requirement of A.A.C. R14-2-1115.C.3 to file contracts they enter for providing competitive services.

On November 21, 2012, the Commission granted Cox a waiver regarding the filing of ICB contracts per R14-2-1115.C.3, subject to the condition that the Applicant be required to provide its ICB contracts to Staff, at any time, upon request, in Decision No. 73579. In addition, on February 6, 2013, the Commission granted CenturyLink a similar waiver in Decision No. 73648.

The Applicants state that the same reasons which form the basis for the waivers granted by the Commission identified above apply to this request.

¹ *In the Matter of the Application of Cox Arizona Telcom, LLC for an Exemption from Commission Rule A.A.C. R14-2-1115.C.3*, ACC Docket No. T-03471A-11-0256.

² *In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Qwest Communications Company, LLC dba CenturyLink QCC, Qwest LD Corp. dba CenturyLink LD and Embarq Communications, Inc. dba CenturyLink Communications for Approval of a Waiver from Commission Rule A.A.C. R14-2-1115.C.3*, ACC Docket Nos. T-01051B-12-0481, T-02811B-12-0481, T-04190A-12-0481 and T-20443A-12-0481.

Staff's Recommendations

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

Staff believes that a conditional waiver of the ICB contract filing requirement is appropriate. As requested by the Applicants, Staff recommends the waiver be subject to the condition that the Applicants provide their ICB contracts to Staff, at any time, upon request.

for 
Steven M. Olea
Director
Utilities Division

SMO:PJG

ORIGINATOR: Pamela J. Genung

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 BOB STUMP

Chairman

3 GARY PIERCE

Commissioner

4 BRENDA BURNS

Commissioner

5 BOB BURNS

Commissioner

6 SUSAN BITTER-SMITH

Commissioner

7
8 IN THE MATTER OF THE APPLICATION)
9 OF MCI COMMUNICATIONS SERVICES, }
10 INC. DBA VERIZON BUSINESS SERVICES }
11 AND MCIMETRO ACCESS }
12 TRANSMISSION SERVICES, L.L.C. DBA }
13 VERIZON ACCESS TRANSMISSION }
14 SERVICES FOR APPROVAL OF A }
15 WAIVER FROM COMMISSION RULE }
16 A.A.C. R14-2-1115.C.3.)

DOCKET NO. T-03394A-13-0398

DOCKET NO. T-03574A-13-0398

13 DECISION NO. _____

14 ORDER

15
16
17 Open Meeting
18 January 14 and January 15, 2014
19 Phoenix, Arizona

19 BY THE COMMISSION:

20 FINDINGS OF FACT

21 1. MCI Communications Services, Inc. d/b/a Verizon Business Services and
22 MCImetro Access Transmission Services, LLC d/b/a Verizon Transmission Services (collectively
23 the "Applicants") are certificated to provide intrastate telecommunications services as public
24 service corporations in the State of Arizona.

25 Introduction

26 2. On November 19, 2013, pursuant to Arizona Administrative Code ("A.A.C.") R14-
27 2-1115.I, the Applicants filed a Joint Application with the Arizona Corporation Commission
28 ("Commission" or "ACC") requesting a waiver from the contract filing requirement of A.A.C.

1 R14-2-1115.C.3, subject to the condition that each Applicant be required to provide Individual
2 Case Basis ("ICB") contracts to the Commission Staff upon request.

3 Background

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

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

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

21 6. A.A.C. R14-2-1115.I states "The Commission may consider variations or
22 exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2,
23 Article 11) upon the verified Application of an affected party. The Application must set forth the
24 reasons why the public interest will be served by the variation or exemption from the Commission
25 rules and regulations. Any variation or exemption granted shall require an order of the
26 Commission. Where a conflict exists between these rules and an approved tariff or order of the
27 Commission, the provisions of the approved tariff or order of the Commission shall apply."

28 ...

1 Staff's Analysis

2 7. As described below, the Applicants state that as competitive providers, they
3 experience the same issues regarding compliance with the Contract Filing Rule that Cox Arizona
4 Telcom, LLC ("Cox")¹ and CenturyLink² explained in their Applications for a waiver from the
5 Contract Filing Rule, which were approved by the Commission:

- 6 (i) Confusion exists regarding the requirement to file ICBs,
7 (ii) Numerous Basic Services Arrangements, Commercial Service Agreements, ICBs
8 and other contracts may have to be filed pursuant to A.A.C. R14-2-1115.C.3,
9 depending on the Commission's interpretation of "contract",
10 (iii) The administrative time and cost of filing and securing confidential contracts by
11 Staff and the Applicants are burdensome,
12 (iv) To date, no carrier has raised a dispute regarding ICBs,
13 (v) A.A.C. R14-2-1115.C.3 has created little direct public benefit in regards to ICBs,
14 and
15 (vi) The Commission has the authority to ask for any contract if issues are brought to
16 the Commission's attention regardless of whether any contracts have been filed
17 pursuant to A.A.C. R14-2-1115.C.3.

18 8. The Applicant's Application for a waiver request asks only for relief from
19 Subsection C.3 relative to the filing of contracts.

20 9. As stated in the Application, the Applicants hold Certificates of Convenience and
21 Necessity ("CC&Ns") to provide competitive local exchange and interexchange
22 telecommunications services within the State of Arizona. As competitive providers, the
23 Applicants are subject to the administrative requirement of A.A.C. R14-2-1115.C.3 to file
24 contracts it enters for providing competitive services.

25 10. On November 21, 2012, the Commission granted Cox a waiver regarding the filing
26 of ICBs per R14-2-1115.C.3, subject to the condition that the Applicant be required to provide its
27 ICB contracts to Staff, at any time, upon request, in Decision No. 73579. In addition, on February
28 6, 2013, the Commission granted CenturyLink a similar waiver in Decision No. 73648.

26 ¹ *In the Matter of the Application of Cox Arizona Telcom, LLC for an Exemption from Commission Rule A.A.C. R14-2-1115.C.3*, ACC Docket No. T-03471A-11-0256.

27 ² *In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Qwest Communications Company, LLC dba CenturyLink QCC, Qwest LD Corp. dba CenturyLink LD and Embarq Communications, Inc. dba CenturyLink Communications for Approval of a Waiver from Commission Rule A.A.C. R14-2-1115.C.3*, ACC Docket Nos. T-01051B-12-0481, T-02811B-12-0481, T-04190A-12-0481 and T-20443A-12-0481.

1 11. The Applicants state that the same reasons which form the basis for the waivers
2 granted by the Commission identified above apply to this request on behalf of the Applicants.

3 Staff's Recommendations

4 12. Staff recognizes that the telecommunications industry has evolved significantly
5 since these Commission rules were adopted. The need no longer exists today, in Staff's opinion,
6 to require carriers to file these contracts within five (5) days of their execution.

7 13. Staff does believe that a conditional waiver of the ICBs filing requirement is
8 appropriate. As requested by the Applicants, the waiver should be subject to the condition that the
9 Applicants be required to provide its ICB contracts to Staff, at any time upon request.

10 CONCLUSIONS OF LAW

11 1. MCI Communications Services, Inc. d/b/a Verizon Business Services and
12 MCImetro Access Transmission Services, LLC d/b/a Verizon Transmission Services are public
13 service corporations within the meaning of Article XV of the Arizona Constitution.

14 2. The Commission has jurisdiction over MCI Communications Services, Inc. d/b/a
15 Verizon Business Services and MCImetro Access Transmission Services, LLC d/b/a Verizon
16 Transmission Services and the subject matter in this filing.

17 3. The Commission, having reviewed the filing and Staff's Memorandum dated
18 December 31, 2013, concludes that it is in the public interest to grant approval as proposed and
19 discussed herein.

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ORDER

IT IS THEREFORE ORDERED that the Joint Application of MCI Communications Services, Inc. d/b/a Verizon Business Services and MCImetro Access Transmission Services, LLC d/b/a Verizon Transmission Services seeking a waiver of the filing requirement contained in A.A.C. R14-2-1115.C.3, subject to the condition that the Applicants will provide its ICB contracts to the Commission Staff, at any time upon request, be and hereby is approved.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, 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 _____, 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:PJG:sms\MAS

1 SERVICE LIST FOR: MCI COMMUNICATIONS SERVICES, INC. DBA VERIZON
2 BUSINESS SERVICES AND MCIMETRO ACCESS TRANSMISSION SERVICES, L.L.C.
3 DBA VERIZON ACCESS TRANSMISSION SERVICES
4 DOCKET NOS. T-03394A-13-0398 AND T-03574A-13-0398

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