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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
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MAR 14 2014
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COMMISSIONERS

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

IN THE MATTER OF MIDVALE TELEPHONE COMPANY, INC.'S APPLICATION FOR EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. T-02532A-08-0542

PROCEDURAL ORDER
(Granting Telephonic Appearance)

BY THE COMMISSION:

On October 17, 2008, Midvale Telephone Exchange Inc. ("Midvale") filed with the Arizona Corporation Commission ("Commission") an application for an amendment to its Certificate of Convenience and Necessity ("CC&N"), to include customer locations within Qwest Communication Corporation's ("QCC's") service area. In the application, Midvale stated that it desired Commission authorization to provide facilities-based local exchange service and toll service to two currently unserved customers located in an area of Yavapai County immediately contiguous to the Long Meadows portion of Midvale's Mill Site Exchange ("extension area").

On November 12, 2008, Qwest Corporation ("Qwest") filed a notice indicating that it had accepted service of process of Midvale's application, as it was Qwest rather than QCC that was providing local exchange telecommunications services in the extension area. Qwest also requested that the service list for this matter be revised to include Qwest and exclude QCC.

On November 14, 2008, the Commission's Utilities Division ("Staff") issued a Letter of Insufficiency to Midvale, along with a request for additional data.

On May 7, 2010, a Procedural Order was issued requiring Staff to file an update on the status of this matter, including any appropriate recommendations as to how the matter should be resolved and a statement regarding whether the matter should be administratively closed.

On May 12, 2010, Midvale filed an amended application, in which Midvale continued to identify QCC as the provider for the service area including the extension area. Midvale stated that

the amended application changed the description of the extension area and provided updated loop/line counts. Subsequently, Midvale filed a revised legal description for the extension area.

On May 26, 2010, Staff filed a Staff Update stating that Staff was reviewing Midvale's application and would process it.

On June 14, 2010, Midvale filed Responses to Staff's First Set of Data Requests.

On June 29, 2010, Staff filed a Letter of Sufficiency stating that Midvale's amended application had met the sufficiency requirements of A.A.C. R14-2-502 and that the Commission had 150 calendar days to complete its substantive review.

On July 1, 2010, a Procedural Order was issued requiring Qwest, by July 30, 2010, to file a document either requesting to be added to this docket as a joint applicant or explaining why it was not necessary for Qwest to participate as a party herein. The Procedural Order further permitted Midvale and Staff to make filings providing input on the need for Qwest to participate as a party herein and extended the Commission's time frame to issue a decision in this matter by 30 days.

On July 30, 2010, Qwest filed Qwest Corporation's Motion to Be Added as a Necessary Party, and Statement of Position, in which Qwest requested to be added as a necessary party in interest to this proceeding and not to be designated as a joint applicant. Qwest stated that Qwest supported Midvale's application and that Qwest was willing to participate and fully cooperate in the proceeding, but that Qwest was not the moving entity and did not believe that it should be required to bear the costs of the proceeding. Qwest also noted that Qwest and Midvale had agreed that the circumstances underlying Midvale's application also existed or could arise with other portions of Qwest's Prescott Exchange bordering Midvale's existing service area. Qwest stated that Midvale and Qwest had agreed that it would be more efficient to address these circumstances comprehensively in this proceeding by including additional portions of Qwest's Exchange that could be served more economically by Midvale. Qwest also stated that it understood Midvale was preparing to amend its application again.

On August 11, 2010, a Procedural Order was issued joining Qwest as a necessary party in interest in this matter and suspending the time frame in this matter until Midvale filed with Docket

Control either another amendment to its application or a document stating that it was ready to go forward with its application as it stood.

On November 15, 2010, Midvale filed a Second Amended Application, in which it again identified QCC as the holder of the service area in which the extension area was located and amended the extension area to include additional areas.

On November 16, 2010, a Procedural Order was issued requiring Qwest to file a response to Midvale's Second Amended Application, requiring Staff to file a document regarding the sufficiency of Midvale's Second Amended Application, and suspending the time frame in this matter.

On December 7, 2010, Staff filed Staff's Second Letter of Insufficiency and Second Set of Data Requests.

On December 15, 2010, Midvale filed an amended Attachment C to its Second Amended Application, which included a legal description.

On January 4, 2011, Qwest filed its response to the Second Amended Application, stating that the legal description in the amended Attachment C to the Second Amended Application was correct; that Qwest was the local exchange service provider of record in the affected areas; and that Qwest consented to the transfer of the extension area to Midvale, for the reasons stated in Qwest's Motion filed on July 30, 2010.

No additional filings were made in this docket until December 16, 2011, when a Procedural Order was issued requiring Midvale and Qwest to make filings providing their current positions in the matter and proposals for how the matter should proceed and requiring Staff to make a filing in response and including a recommendation as to how this matter should proceed.

On January 6, 2012, in Docket No. T-02532A-10-0207 et al., Decision No. 72728 was issued approving a Midvale request to transfer its assets, liabilities, and customers to Midvale Telephone Company, Inc. ("MTCI") and transferring to MTCI both Midvale's CC&N for facilities-based local exchange telecommunications services and Midvale's Eligible Telecommunications Carrier ("ETC") designation.

On January 17, 2012, Qwest dba CenturyLink-QC ("CenturyLink") filed its response to the December 2011 Procedural Order, stating that its position in this matter had not changed and that it continued to support the proposed transfer of territory as set forth in the Second Amended Application, as amended by Midvale's Attachment C. CenturyLink added that it believed this matter should proceed in typical fashion, with a Staff Report, followed by a brief hearing after notice to affected customers.

On January 30, 2012, MTCI fna Midvale filed its response to the December 2011 Procedural Order, stating that MTCI desired to seek transfer of the territory in the Second Amended Application, as amended by Midvale's Attachment C. MTCI stated that it believed the matter should move forward with a Staff Report, notice to Midvale's customers, and a short hearing. MTCI also stated that it would not object to having the matter proceed to Open Meeting without a hearing.

On February 17, 2012, Staff filed its response to the December 2011 Procedural Order, stating that Staff agreed that the matter should proceed, but had not yet received Midvale's response to Staff's Second Letter of Insufficiency and Second Data Request. Staff recommended that, in order to move forward, Midvale file its response to the Second Data Request and all future Data Requests in an expeditious manner, to allow Staff to make a sufficiency finding and complete its analysis. Staff stated that it agreed with the process described by CenturyLink in its January 2012 filing.

No additional filings were made in this docket until April 9, 2013, when a Procedural Order was issued requiring MTCI and CenturyLink to make filings providing their current positions in the matter and proposals for how the matter should be resolved, requiring Staff to make a filing in response and including a recommendation as to how the matter should be resolved, and requiring all of the parties to address whether this docket should be administratively closed.

On May 10, 2013, CenturyLink filed its response to the April 2013 Procedural Order, stating that its position had not changed and that it continued to support the proposed transfer of territory as set forth in Midvale's Second Amended Application, as amended by Midvale's Attachment C filed on December 15, 2010. CenturyLink stated that the proceeding should move forward.

On May 13, 2013, MTCI filed its response to the April 2013 Procedural Order, stating that it was still in the public interest for the transfer to be completed; that the only barrier to sufficiency was the filing of an acceptable legal description of the transfer area; and that the matter should move forward to Open Meeting, without a hearing, once the application was found sufficient, a Staff Report was filed, and notice was given to affected customers.

On May 21, 2013, Staff filed its response to the April 2013 Procedural Order, stating that Staff agreed the matter should proceed, that Staff had been working on the correct legal description with MTCI and CenturyLink, and that Staff would be filing a corrected legal description. Staff stated that it would then make a sufficiency finding, complete its analysis, and file a Staff Report.

On November 18, 2013, Staff filed a corrected legal description and corresponding map. Staff stated that both MTCI and CenturyLink agreed as to the legal description and that CenturyLink had confirmed that it had no customers in the transfer area.

On February 11, 2014, Staff filed its Staff Report, recommending approval of MTCI's application, subject to certain conditions.

On February 14, 2014, a Procedural Order was issued setting the date for hearing in this matter.

On February 28, 2014, CenturyLink filed its Request for Legal Counsel to Appear Telephonically at the April 15, 2014 hearing ("Request").

No objections to the Request have been filed, accordingly, the Request should be granted.

IT IS THEREFORE ORDERED granting Qwest Corporation dba CenturyLink QC's Request for Legal Counsel to Appear Telephonically at the April 15, 2014 hearing.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31, 38, and 42 with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona Supreme Court Rule 42). Representation before the Commission includes appearance at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for

discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

Dated this 14th day of March, 2014.

SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed
this 14th day of March, 2014 to:

Gary H. Horton
Attorney at Law
989 South Main Street, Suite A #447
Cottonwood, AZ 86326

Midvale Telephone Company, Inc.
P.O. Box 7
2205 Keithley Creek Road
Midvale, ID 83645

Norman G. Curtright
Reed Peterson
QWEST CORPORATION DBA
CENTURYLINK-QC
20 East Thomas Road, 1st Floor
Phoenix, AZ 85012

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, AZ 85007

Steven Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, AZ 85007

By: RUnquera
Rebecca Unquera
Assistant to Lyn Farmer