

**OPEN MEETING**  
**MEMORANDUM**



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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

**DOCKETED**

APR 15 2014

TO: THE COMMISSION

FROM: Utilities Division

DATE: April 15, 2014

DOCKETED BY 

RE: IN THE MATTER OF THE APPLICATION OF TW TELECOM OF ARIZONA LLC FOR APPROVAL OF RESCISSION OF BOND REQUIREMENT CONTAINED IN ACC DECISION 70057 (DOCKET NO. T-03943A-14-0013)

**ORIGINAL**

**Introduction**

On January 14, 2014, tw telecom of arizona llc ("tw telecom" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting an order cancelling the bond requirement contained in ACC Decision No. 70057 (December 4, 2007). In its Application, tw telecom states that it provides "last-mile" broadband data, voice, dedicated internet access, and dedicated web hosting to business customers in the Phoenix and Tucson metropolitan areas. Tw telecom does not serve residential customers in Arizona.

In addition, the Application states that tw telecom has maintained the \$235,000 bond as required by Decision No. 70057, renewing the bond each year as needed.

**Background**

On December 4, 2007, in Decision No. 70057, the Commission ordered the performance bond requirement of \$1.7 million, established by Decision No. 67108, be modified to a requirement of a performance bond or irrevocable sight draft letter of credit in the amount of \$235,000.

**tw telecom's Application**

In its Application to eliminate the performance bond requirement, tw telecom cites Arizona Administrative Code ("A.A.C.") R14-2-1105(d), which states that "[i]n 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." tw telecom reiterates that it has established through its investment in the state, and by its operating history, that customer deposits are not at risk, therefore, a bond is not necessary or reasonable given tw telecom's history of excellent compliance.

**Complaints and Compliance**

The Consumer Services Section of the Utilities Division reports the following history of complaints, inquiries, or opinions filed against tw telecom:

THE COMMISSION

April 15, 2014

Page 2

2013-2014 - Zero Complaints

2012 - One Complaint (service-related)

2011 - Three Complaints (one billing, one service, one quality of service).

All complaints have been resolved and closed. Consumer Services also reports that tw telecom is in good standing with the Corporations Division of the Commission. The Compliance Section reports that tw telecom is currently in compliance.

**Staff Recommendation**

The Commission has recently, in appropriate circumstances, been relieving telecommunications providers of the obligation of a bond requirement. Staff recommends that tw telecom of arizona llc be relieved of the \$235,000 performance bond or irrevocable sight draft Letter of Credit ("ISDLC") obligation contained in Decision No. 70057.

tw Telecom has communicated to Staff that upon approval of this Application, the performance bond should be returned to the following name and address:

Mr. Reggie Vegliante  
tw telecom  
10475 Park Meadows Drive  
Littleton, CO 80124



Steven M. Olea  
Director  
Utilities Division

SMO:PJG:sms\CHH

ORIGINATOR: Pamela J. Genung

THE COMMISSION

April 15, 2014

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SERVICE LIST FOR: tw telecom of arizona llc  
DOCKET NO.: T-03943A-14-0013

Ms. Joan S. Burke, P.C.  
Attorney for tw telecom of arizona llc  
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Phoenix, Arizona 85003

Mr. Steven M. Olea  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Janice Alward  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Lyn Farmer  
Chief Administrative Law Judge, Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

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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

IN THE MATTER OF THE APPLICATION )  
OF TW TELECOM OF ARIZONA LLC FOR )  
APPROVAL OF RESCISSION OF BOND )  
REQUIREMENT CONTAINED IN ACC )  
DECISION 70057. )

DOCKET NO. T-03943A-14-0013  
DECISION NO. \_\_\_\_\_  
ORDER

Open Meeting  
May 13 and 14, 2014  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On January 14, 2014, tw telecom of arizona llc ("tw telecom" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting an order cancelling the bond requirement contained in ACC Decision No. 70057 (December 4, 2007).

2. In its Application, tw telecom states that it provides "last-mile" broadband data, voice, dedicated internet access, and dedicated web hosting to business customers in the Phoenix and Tucson metropolitan areas. Tw telecom does not serve residential customers in Arizona.

3. In addition, the Application states that tw telecom has maintained the \$235,000 bond as required by Decision No. 70057, renewing the bond each year as needed.

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...

1 **Background**

2 4. On December 4, 2007, in Decision No. 70057, the Commission ordered the performance  
3 bond requirement of \$1.7 million, established by Decision No. 67108, be modified to a requirement of  
4 a performance bond or irrevocable sight draft letter of credit in the amount of \$235,000.

5 **tw telecom's Application**

6 5. In its Application to eliminate the performance bond requirement, tw telecom cites  
7 Arizona Administrative Code ("A.A.C.") R14-2-1105(d), which states that "[i]n appropriate  
8 circumstances, the Commission may require, as a precondition to certification, the procurement of a  
9 performance bond sufficient to cover any advances or deposits the telecommunications company may  
10 collect from its customers, or order that such advances or deposits be held in escrow or trust." tw  
11 telecom reiterates that it has established through its investment in the state, and by its operating  
12 history, that customer deposits are not at risk; therefore, a bond is not necessary or reasonable given  
13 tw telecom's history of excellent compliance.

14 **Complaints and Compliance**

15 6. The Consumer Services Section of the Utilities Division reports the following history of  
16 complaints, inquiries, or opinions filed against tw telecom:

17 2013-2014 - Zero Complaints

18 2012 - One Complaint (service-related)

19 2011 - Three Complaints (one billing, one service, one quality of service).

20 7. All complaints have been resolved and closed. Consumer Services also reports that tw  
21 telecom is in Good Standing with the Corporations Division of the Commission.

22 8. The Compliance Section reports that tw telecom is currently in compliance.

23 **Staff Recommendation**

24 9. The Commission has recently, in appropriate circumstances, been relieving  
25 telecommunications providers of the obligation of a bond requirement. Staff recommends that tw  
26 telecom of arizona llc be relieved of the \$235,000 performance bond or irrevocable sight draft Letter  
27 of Credit ("ISDLC") obligation contained in Decision No. 70057.

28 ...

1 10. tw telecom has communicated to Staff that upon approval of this Application, the bond  
2 should be returned to the following name and address:

3 Mr. Reggie Vegliante  
4 tw telecom  
5 10475 Park Meadows Drive  
6 Littleton, CO 80124

6 CONCLUSIONS OF LAW

7 1. tw telecom of arizona llc is a public service corporation within the meaning of Article  
8 XV of the Arizona Constitution.

9 2. The Commission has jurisdiction over tw telecom of arizona llc and the subject matter  
10 in this filing.

11 3. The Commission, having reviewed the filing and Staff's Memorandum dated April 15,  
12 2014, concludes that it is in the public interest to approve the tw telecom of arizona llc's Application  
13 as proposed and discussed herein.

14 ORDER

15 IT IS THEREFORE ORDERED that the Application of tw telecom of arizona llc to  
16 terminate the performance bond or irrevocable sight draft letter of credit requirement contained in  
17 Decision No. 70057 be and hereby is approved.

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IT IS FURTHER ORDERED that tw telecom of arizona llc may cancel, rescind, discontinue and be released from any performance bond, irrevocable sight draft letter of credit or other instrument obtained in compliance with the \$235,000 performance bond or irrevocable sight draft letter of credit requirement set by Decision No. 70057.

IT IS FURTHER ORDERED that the tw telecom of arizona llc performance bond be returned to the following name and address as provided by the Applicant:

Mr. Reggie Vegliante  
tw telecom  
10475 Park Meadows Drive  
Littleton, CO 80124

IT IS FURTHER ORDERED that this Decision shall 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\CHH

1 SERVICE LIST FOR: tw telecom of arizona llc  
2 DOCKET NO. T-03943A-14-0013

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4 Attorney for tw telecom of arizona llc  
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7 Phoenix, Arizona 85003

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10 Arizona Corporation Commission  
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14 Chief Counsel, Legal Division  
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18 Chief Administrative Law Judge, Hearing Division  
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