

OPEN MEETING
MEMORANDUM



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Arizona Corporation Commission

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2014 APR 15 P 2:46

TO: THE COMMISSION

FROM: Utilities Division

APR 15 2014

DATE: April 15, 2014

DOCKETED BY 

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

RE: IN THE MATTER OF THE APPLICATION OF HYPERCUBE TELECOM, LLC
FOR APPROVAL TO RESCIND ITS BOND REQUIREMENTS
(DOCKET NO. T-20805A-14-0093)

ORIGINAL

Introduction

On March 18, 2014, Hypercube Telecom, LLC ("Hypercube" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting rescission of its \$235,000 bond requirement ordered in ACC Decision No. 73154 (May 18, 2012) and return of the bond to Hypercube. In its Application, Hypercube states that it is authorized to provide resold and facilities-based local exchange and facilities-based long distance telecommunications services to business customers in Arizona. Hypercube's tariffs indicate that it does not collect customer deposits.

In addition, the Application states that Hypercube currently has an irrevocable sight draft letter of credit ("ISDLOC") for \$235,000 in effect through June 30, 2014.

Background

On May 18, 2012, in Decision No. 73154, the Commission granted Hypercube a CC&N to provide resold and facilities-based local exchange and resold and facilities-based long distance telecommunications services within the State of Arizona, provided Hypercube complies with conditions outlined in the Decision.

Hypercube's Application

In its Application to eliminate the performance bond requirement, Hypercube 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." Hypercube believes that it has proven financial, technical and managerial ability to provide services in Arizona. In addition, Hypercube states that it does not collect any deposits in Arizona and does not have any prepayment or advance payment policies, therefore believes maintaining a performance bond is no longer necessary.

Complaints and Compliance

The Consumer Services Section of the Utilities Division reports that from January 1, 2011 to March 31, 2014 there have been no complaints, inquiries, or opinions filed against Hypercube. Consumer Services also reports that Hypercube is in good standing with the Corporations Division of the Commission. The Compliance Section reports that Hypercube 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 Hypercube Telecom LLC be relieved of the \$235,000 performance bond or ISDLOC obligation contained in Decision No. 73154. Hypercube has communicated to Staff that upon approval of this Application, the ISDLOC should be returned to the following name and address:

Mr. Robert McCausland
Hypercube Telecom, LLC
3200 West Pleasant Run Road, Suite 300
Lancaster, Texas 75146



Steven M. Olea
Director
Utilities Division

SMO:PJG:sms\BH

ORIGINATOR: Pamela J. Genung

THE COMMISSION

April 15, 2014

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SERVICE LIST FOR: HYPERCUBE TELECOM, LLC

DOCKET NO.: T-20805A-14-0093

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Mr. Jason D. Gellman

Attorneys for Hypercube Telecom, LLC

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Ms. Janice Alward

Chief Counsel, Legal Division

Arizona Corporation Commission

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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 HYPERCUBE TELECOM, LLC FOR
APPROVAL TO RESCIND ITS BOND
REQUIREMENTS.

DOCKET NO. T-20805A-14-0093
DECISION NO. _____
ORDER

Open Meeting
May 13 and 14, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 18, 2014, Hypercube Telecom, LLC ("Hypercube" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting rescission of its \$235,000 bond requirement ordered in ACC Decision No. 73154 and return of the bond to Hypercube.

2. In its Application, Hypercube states that it is authorized to provide resold and facilities-based local exchange and facilities-based long distance telecommunications services to business customers in Arizona. Hypercube's tariffs indicate that it does not collect customer deposits.

3. In addition, Hypercube's Application states that Hypercube currently has an Irrevocable Sight Draft Letter of Credit ("ISDLOC") for \$235,000 in effect through June 30, 2014.

...
...

1 **Background**

2 4. On May 18, 2012, in Decision No. 73154, the Commission granted Hypercube a CC&N
3 to provide resold and facilities-based local exchange and resold and facilities-based long distance
4 telecommunications services within the State of Arizona, provided Hypercube complies with
5 conditions outlined in the Decision.

6 **Hypercube's Application**

7 5. In its Application to eliminate the performance bond requirement, Hypercube cites
8 Arizona Administrative Code ("A.A.C.") R14-2-1105(d), which states that "[i]n appropriate
9 circumstances, the Commission may require, as a precondition to certification, the procurement of a
10 performance bond sufficient to cover any advances or deposits the telecommunications company may
11 collect from its customers, or order that such advances or deposits be held in escrow or trust."
12 Hypercube believes that it has proven financial, technical and managerial ability to provide services in
13 Arizona. In addition, Hypercube states that it does not collect any deposits in Arizona and does not
14 have any prepayment or advance payment policies, therefore believes maintaining a performance bond
15 is no longer necessary.

16 **Complaints and Compliance**

17 6. The Consumer Services Section of the Utilities Division reports that from January 1, 2011
18 to March 31, 2014 there have been no complaints, inquiries, or opinions filed against Hypercube.

19 7. Consumer Services also reports that Hypercube is in good standing with the Corporations
20 Division of the Commission.

21 8. The Compliance Section reports that Hypercube is currently in compliance.

22 **Staff Recommendation**

23 9. The Commission has recently, in appropriate circumstances, been relieving
24 telecommunications providers of the obligation of a bond requirement.

25 10. Staff recommends that Hypercube Telecom LLC be relieved of the \$235,000
26 performance bond or ISDLOC obligation approved in Decision No. 73154.

27 11. Hypercube has communicated to Staff that upon approval of this Application, the
28 ISDLOC should be returned to the following name and address:

1 Mr. Robert McCausland
 2 Hypercube Telecom, LLC
 3 3200 West Pleasant Run Road, Suite 300
 4 Lancaster, Texas 75146

CONCLUSIONS OF LAW

5 1. Hypercube Telecom LLC is a public service corporation within the meaning of Article
 6 XV of the Arizona Constitution.

7 2. The Commission has jurisdiction over Hypercube Telecom LLC and the subject
 8 matter in this filing.

9 3. The Commission, having reviewed the filing and Staff's Memorandum dated April 15,
 10 2014, concludes that it is in the public interest to approve Hypercube Telecom LLC's Application as
 11 proposed and discussed herein.

ORDER

12
 13 IT IS THEREFORE ORDERED that the Application of Hypercube Telecom LLC to rescind
 14 the \$235,000 performance bond or irrevocable sight draft letter of credit requirement contained in
 15 Decision No. 73154 be and hereby is approved.

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1 IT IS FURTHER ORDERED that Hypercube Telecom LLC may cancel, rescind, discontinue
 2 and be released from any performance bond, irrevocable sight draft letter of credit or other
 3 instrument obtained in compliance with the \$235,000 performance bond or irrevocable sight draft
 4 letter of credit requirement established in Decision No. 73154.

5 IT IS FURTHER ORDERED that the Hypercube Telecom LLC irrevocable sight draft letter
 6 of credit be returned to the following name and address as provided by the Applicant:

7 Mr. Robert McCausland
 8 Hypercube Telecom, LLC
 9 3200 West Pleasant Run Road, Suite 300
 10 Lancaster, Texas 75146

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

12 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

13
 14 CHAIRMAN

COMMISSIONER

15
 16 COMMISSIONER

COMMISSIONER

COMMISSIONER

17
 18 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 19 Director of the Arizona Corporation Commission, have
 20 hereunto, set my hand and caused the official seal of this
 21 Commission to be affixed at the Capitol, in the City of
 22 Phoenix, this _____ day of _____, 2014.

23 _____
 24 JODI JERICH
 25 EXECUTIVE DIRECTOR

26 DISSENT: _____

DISSENT: _____

27 SMO:PJG:sms\CHH

1 SERVICE LIST FOR: HYPERCUBE TELECOM, LLC
2 DOCKET NO. T-20805A-14-0093

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15 Chief Counsel, Legal Division
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18 Ms. Lyn Farmer
19 Chief Administrative Law Judge, Hearing Division
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