



0000152527

ORIGINAL

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

FEB 3 2014

DOCKETED

AZ CORP COM
DOCKET CONTROL

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

FEB - 3 2014

| | |
|-------------|----|
| DOCKETED BY | nr |
|-------------|----|

IN THE MATTER OF THE APPLICATION OF AT&T CORP., TELEPORT COMMUNICATIONS AMERICA, LLC, SBC LONG DISTANCE, LLC, BELL SOUTH LONG DISTANCE, INC. AND SNET AMERICA, INC. FOR A WAIVER OF COMMISSION RULE A.A.C. R14-2-1115.C.3 (CONTRACT FILING RULE).

- T-20872A-14-0033
- T-20874A-14-0033
- T-03346A-14-0033
- T-03287A-14-0033
- T-03116A-14-0033

APPLICATION

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

1. AT&T Corp., Teleport Communications America, LLC, SBC Long Distance, LLC, Bell South Long Distance, Inc. and SNET America, Inc. (together, "the AT&T Companies" or "the Applicants") request a waiver of the filing requirement contained in A.A.C. R14-2-1115.C.3 ("Contract Filing Rule"), subject to the condition that the Applicants will provide contracts to the Commission Staff at any time upon request.

BACKGROUND

2. AT&T Corp. is certificated to provide facilities-based local exchange and long distance telecommunications services in Arizona. Its original certification was under the name of AT&T Communications of the Mountain States, Inc. ("AT&T Mountain States"); however, in 2012, the Commission approved a corporate merger of AT&T Mountain States with AT&T Corp. which became effective on November 1, 2012.¹

¹ See In the Matter of AT&T Communications of the Mountain States, Inc. and AT&T Corp. for Approval of a Proposed Corporate Reorganization and Merger, Opinion and Order, Decision No. 73558, Docket No. T-02428A-12-0234 (dated October 17, 2012).

1 3. Teleport Communications America, LLC (“Teleport”) is authorized to provide
2 local exchange and resold interexchange telecommunications services and products to business,
3 government and residential customers in Arizona. Its original certification was under the name
4 of TCG Phoenix (“TCG”); however, in 2012, the Commission approved a corporate merger of
5 TCG with Teleport which became effective on January 1, 2013.²

6 4. SBC Long Distance, LLC is currently certificated to provide facilities-based and
7 resold interLATA/intraLATA interexchange telecommunications service in Arizona. Its original
8 certification was under the name of Southwestern Bell Communications Services, Inc. d/b/a
9 Southwestern Bell Long Distance.³ On November 16, 2004, the corporate name was changed to
10 SBC Long Distance, Inc. and on May 5, 2005, the Commission issued orders that expanded its
11 authority to provide facilities-based interLATA interexchange service statewide and approved a
12 corporate reorganization and conversion to a limited liability company, SBC Long Distance,
13 LLC (“SBC LD”).⁴ In addition, on April 6, 2004, the Commission granted the company a
14 Certificate of Convenience and Necessity to provide competitive resold and
15
16
17

18 ² See In the Matter of the Application of TCG Phoenix and Teleport Communications America, LLC for Approval
19 of a Proposed Corporate Reorganization and Merger, Order, Decision No. 73557, Docket No. T-03016A-12-0242
(dated October 17, 2012).

20 ³ See In the Matter of the Application of Southwestern Bell Communications Services, Inc. dba Southwestern Bell
Long Distance for a Certificate of Convenience and Necessity to Provide Competitive Interlata/Intralata Resold
Telecommunications Services Except Local Exchange Services, Order, Decision No. 61227, Docket No. T-03346A-
97-0152 (dated November 23, 1998).

21 ⁴ See In the Matter of the Application of SBC Long Distance, Inc. for a Certificate of Convenience and Necessity to
22 Provide Facilities-Based Interexchange Telecommunications Services in Arizona, Opinion and Order, Decision
No. 67809, Docket No. T-03346-04-0413 (dated May 5, 2005) and In the Matter of the Joint Application of SBC
23 Telecom, Inc. and SBC Long Distance, Inc. for Approval of a Proposed Corporate Reorganization, Order, Decision
No. 67827, Docket Nos. T-03346-04-0911 and T-03811A-04-0911 (dated May 5, 2005).

1 facilities-based local exchange services in Arizona⁵; however, in 2011, SBC LD ceased
2 providing this service and the Commission cancelled this authority.⁶

3 5. BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service is certificated
4 to provide competitive interLATA/intraLATA resold telecommunications services in Arizona. It
5 was authorized as a long distance provider in May 1999.⁷

6 6. SNET America, Inc. is certificated to provide competitive intrastate
7 telecommunications services as a reseller.⁸ It was certified in Arizona in 1997.

8 7. The Applicants are subject to the Arizona Competitive Telecommunications
9 Services Rules, A.A.C. R14-2-1101, *et seq.*, and must comply with all rules applicable to the
10 provision of intrastate telecommunications services under the terms of its certifications.

11 8. A.A.C. R14-2-1115.C provides, "Each telecommunications company governed by
12 this Article shall file with the Commission current tariffs, price levels, and contracts that comply
13 with the provisions of this Article and with all Commission rules, orders, and all other
14 requirements imposed by the laws of the state of Arizona." The Applicants file with the
15 Commission company tariffs which contain the terms, conditions and maximum rates for the
16 services they provide to Arizona customers.

17
18 ⁵ See In the Matter of the Application of Southwestern Bell Communications Services, Inc. dba Southwestern Bell
19 Long Distance for a Certificate of Convenience and Necessity to Provide Competitive Resold and Facilities-Based
20 Local Exchange Telecommunications Services in Arizona, Opinion and Order, Decision No. 66891, Docket
21 No. T-03346A-03-0844 (dated April 6, 2004).

22 ⁶ See In the Matter of the Application of SBC Long Distance, LLC to Discontinue the Provision of Local Exchange
23 Data Services for Business Customers in Arizona, Order, Decision No. 72629, Docket No. T-03346A-11-0283
24 (dated October 14, 2011).

⁷ See In the Matter of the Application of BellSouth Long Distance, Inc. for a Certificate of Convenience and
Necessity to Provide Competitive InterLATA/IntraLATA Resold Telecommunications Services Except Local
Exchange Services, Order, Decision No. 61689, Docket No. T-03287A-96-0579 (dated May 13, 1999).

⁸ See In the Matter of the Application of SNET America, Inc. for a Certificate of Convenience and Necessity to
Provide Competitive InterLATA/IntraLATA Resold Telecommunications Services Except Local Exchange
Services, Order, Docket No. U-3116A-96-143 (dated July 30, 1997).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

(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 the Contract Filing Rule.

12. The Commission Staff's analysis of Cox's application concluded:

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

Therefore, while Staff does not recommend that Cox be exempted from the rules requirement altogether, Staff does believe that a waiver of filing requirement is appropriate, subject to the condition that Cox be required to provide its ICB contracts to Staff, at any time, upon request.

The Commission adopted Staff's recommendation, granting Cox a waiver of the Contract Filing Rule.¹⁰

13. As competitive telecommunications services providers, the AT&T Companies are similarly situated to Cox in that they provide telecommunications services and enter into contracts similar to Cox. The AT&T Companies experience the same problems and issues regarding compliance with the Contract Filing Rule that Cox presented in its application. The AT&T Companies adopt and incorporate herein the reasons stated in paragraph 11 above in support of their request for a waiver from the Rule.

¹⁰ See In the Matter of the Application of Cox Arizona Telecom, LLC for an Exemption from Commission Rule A.A.C. R14-2-1115.C. (Docket No. T-03471A-11-0256), Opinion and Order, Decision No. 73579 (dated November 21, 2012).

1 14. Recently, the Commission Staff considered similar applications from the
2 CenturyLink Companies (“CenturyLink”),¹¹ tw telecom of arizona llc (“tw telecom”),¹²
3 XO Communications Services, LLC (“XOCS”)¹³ and MCI Communications Services, Inc.
4 d/b/a Verizon Business Services (“Verizon”)¹⁴ for exemptions from the Contract Filing
5 Rule. After careful review of these applications, the Commission Staff recommended, and
6 the Commission granted, waivers to these other companies as well (CenturyLink QC –
7 Decision No. 73648; tw telecom – Decision No. 73773; XOCS – Decision No. 73916; and
8 Verizon – Decision No. 74301). The Commission recognized that the public interest is
9 served by waiving the Contract Filing Rule when that rule will cause the unnecessary
10 expenditure of resources needed to prepare, copy, file and retain all services contracts
11 entered into by telecommunications carriers. Moreover, even with a waiver, the public
12 interest is protected because the Commission continues to have ready access to information,
13 including contracts, when a telecommunications carrier is willing to provide any contract
14 requested by the Commission or Staff at any time and acknowledges the Commission’s
15 authority to require the filing of these contracts.

16 15. By this Application, the AT&T Companies specifically agree that the waiver,
17 if granted, will be subject to the condition that each Applicant be required to provide its ICB

18 _____
19 ¹¹ See In the Matter of the Application of Qwest Corporation dba CenturyLink QC, Qwest Communications
20 Company, LLC dba Century Link QCC, Qwest LD Corp. dba CenturyLink LD and Embarq Communications, Inc.
21 dba CenturyLink Communications for Approval of a Waiver from Commission Rule A.A.C. R14-2-1115.C.3
(Docket Nos. T-01051B-12-0481, T-02811B-12-0481, T-04190A-12-0481 and T-20443A-12-0481).

22 ¹² See In the Matter of the Application of tw telecom of arizona, llc for Approval of a Waiver of Commission Rule
23 A.A.C. R14-2-1115.C.3 (Docket No. T-03943A-13-0013).

24 ¹³ See In the Matter of the Application of XO Communications Services, LLC for a Waiver of Commission Rule
A.A.C. R14-2-1115.C.3 (Contract Filing Rule) (Docket No. T-04302A-13-0101).

¹⁴ See In The Matter of The Application of MCI Communications Services, Inc. d/b/a Verizon Business Services
and MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services for a Waiver from
Commission Rule A.A.C. R14-2-1115.C.3 (Docket Nos. T-03394A-13-0398 and T-03574A-13-0398).

1 contracts to Staff at any time upon request. As is the case today, ICB contracts provided to
2 Staff shall not be open to public inspection or made public, except on order of the
3 Commission or by the Commission or a Commissioner in the course of a hearing or
4 proceeding. The non-public nature of such submissions is provided for in
5 AAC R14-2-1115.C.4. It is reasonable and appropriate to assure that such treatment is
6 accorded to ICBs provided to Staff pursuant to the waiver.

7 16. The same reasons supporting the waivers granted by the Commission in its
8 Decision No. 73579, as well as the other decisions cited, support this request by the AT&T
9 Companies. No facts or circumstances distinguish this Application from Cox's and the
10 other companies' applications in a way that should result in a different outcome. As noted,
11 this waiver request is conditioned and mirrors the waiver granted them.

12 **CONCLUSION**

13 For the reasons stated above, the granting of a waiver of A.A.C. R14-2-1115.C.3 to the
14 AT&T Companies is appropriate and in the public interest. Therefore, the AT&T Companies
15 request that the Commission grant this Application for a waiver under A.A.C. R14-2-1115.I
16 (Variations) from A.A.C. R14-2-1115.C.3, with the condition that the AT&T Companies be
17 required to submit any Arizona service contract to Commission Staff upon request.

18 RESPECTFULLY SUBMITTED this 3rd day of February, 2014.

19 GALLAGHER & KENNEDY, P.A.

20 By 
21 Michael M. Grant
22 2575 East Camelback Road
23 Phoenix, Arizona 85016-9225
24 Attorneys for the AT&T Companies

1 **Original and 23 copies** filed this
3rd day of February, 2014, with:

2
3 Docket Control
4 Arizona Corporation Commission
1200 West Washington Street
5 Phoenix, Arizona 85007

6 **Copies** of the foregoing delivered
this 3rd day of February, 2014, to:

7 Steve Olea, Director
8 Utilities Division
9 Arizona Corporation Commission
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 Pam Genung
13 Utilities Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona 85007

17 

18 17840-36/3999676v2

19
20
21
22
23
24