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OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION

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DOCKET NO.: T-20838A-12-0081

ARIZONA CORPORATION COMMISSION
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TO ALL PARTIES:

ORIGINAL

Enclosed please find the recommendation of Administrative Law Judge Sasha Paternoster. The recommendation has been filed in the form of an Opinion and Order on:

WIDE VOICE, LLC
(CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MAY 5, 2014

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

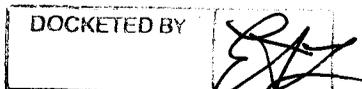
MAY 13, 2014 and MAY 14, 2014

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

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APR 25 2014



Jodi A. Jerich
JODI JERICH
EXECUTIVE DIRECTOR

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
WIDE VOICE, LLC FOR APPROVAL OF A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD LOCAL
EXCHANGE, RESOLD LONG DISTANCE,
FACILITIES-BASED LOCAL EXCHANGE, AND
ACCESS TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-20838A-12-0081

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING: April 14, 2014
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Sasha Paternoster
APPEARANCES: Mr. Matthew G. Bingham, LEWIS, ROCA,
ROTHGERBER, LLP, on behalf of Applicant; and
Mr. Brian E. Smith, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation.

BY THE COMMISSION:

On March 1, 2012, Wide Voice, LLC (“Wide Voice” or “Company”) filed with the Arizona Corporation Commission (“Commission”) an application for approval of a Certificate of Convenience and Necessity (“CC&N”) to provide resold local exchange, facilities-based local exchange, and access telecommunications services on a statewide basis in Arizona. Wide Voice’s application also requested a determination that its proposed services are competitive in Arizona.

On December 19, 2013, Wide Voice filed an amended application to include resold long distance telecommunications services to the list of services for which it is seeking a CC&N.

On December 30, 2013, Wide Voice filed a second amended application to incorporate revisions to Tariff No. 1 and Tariff No. 2.

1 On January 17, 2014, the Commission's Utilities Division ("Staff") filed its Staff Report
2 recommending approval of Wide Voice's application, subject to certain conditions.

3 On February 14, 2014, by Procedural Order, the hearing in this matter was set for April 14,
4 2014, and other procedural deadlines were established.

5 On March 18, 2014, Wide Voice filed an Affidavit of Publication indicating that notice of the
6 application and hearing date had been published in the *Arizona Republic*, a newspaper of general
7 circulation in Arizona.

8 On March 27, 2014, Matthew G. Bingham of Lewis Roca Rothgerber LLP filed his Notice of
9 Appearance on behalf of Wide Voice.

10 On March 31, 2014, Wide Voice filed a Request to Allow Witness to Appear Telephonically
11 ("Request") for the April 14, 2014 hearing. The Request also stated that Staff had no objection to the
12 witness appearing telephonically.

13 On April 1, 2014, by Procedural Order, Wide Voice's Request was granted.

14 On April 14, 2014, a full public hearing was held as scheduled before a duly authorized
15 Administrative Law Judge of the Commission. Wide Voice and Staff appeared through counsel and
16 presented testimony and evidence. No members of the public appeared to give comments on the
17 application. At the conclusion of the hearing, the matter was taken under advisement pending
18 submission of a Recommended Opinion and Order to the Commission.

19 * * * * *

20 Having considered the entire record herein and being fully advised in the premises, the
21 Commission finds, concludes, and orders that:

22 **FINDINGS OF FACT**

23 1. Wide Voice is a foreign limited liability company organized under the laws of
24 Nevada, with its principal office located in Las Vegas.¹

25 2. Wide Voice is authorized to transact business in Arizona and is in good standing with
26 the Commission's Corporations Division.²

27 _____
28 ¹ Exhibit A-2, Attachment A.

² Id.

1 3. On March 1, 2012, Wide Voice filed an application with the Commission to provide
2 resold local exchange, facilities-based local exchange, and access telecommunication services in
3 Arizona. On December 19, 2013, the Company filed an amended application to include resold long
4 distance telecommunications services to the list of services for which it sought a CC&N.

5 4. Notice of Wide Voice's application was given in accordance with the law.

6 5. Staff recommends approval of Wide Voice's application for a CC&N to provide
7 intrastate telecommunication services in Arizona, subject to the following conditions:

- 8 a. Wide Voice comply with all Commission Rules, Orders, and other
9 requirements relevant to the provision of intrastate telecommunications
10 services;
- 11 b. Wide Voice abides by the quality of service standards that were approved by
12 the Commission for Qwest in Docket No. T-01051B-13-0199;
- 13 c. Wide Voice be prohibited from barring access to alternative local exchange
14 service providers who wish to serve areas where Wide Voice is the only local
15 provider of local exchange service facilities;
- 16 d. Wide Voice notify the Commission immediately upon changes to Wide
17 Voice's name, address or telephone number;
- 18 e. Wide Voice cooperate with Commission investigations including, but not
19 limited to, customer complaints;
- 20 f. The rates proposed by Staff are for competitive services. In general, rates for
21 competitive services are not set according to rate of return regulation. Staff
22 obtained information from Wide Voice and has determined that its fair value
23 rate base is zero. Staff has reviewed the rates to be charged by Wide Voice and
24 believes they are just and reasonable as they are comparable to other
25 competitive local carriers, local incumbent carriers and major long distance
26 companies offering service in Arizona and comparable to the rates Wide Voice
27 charges in other jurisdictions. The rate to be ultimately charged by Wide
28 Voice will be heavily influenced by the market. Therefore, while Staff
considered the fair value rate base information submitted by the Company, the
fair value information provided was not given substantial weight in Staff's
analysis;
- g. Wide Voice offer Caller ID with the capability to toggle between blocking and
unblocking the transmission of the telephone number at no charge;
- h. Wide Voice offer Last Call Return service that will not return calls to
telephone numbers that have the privacy indicator activated; and
- i. The Commission authorizes Wide Voice to discount its rates and service
charges to the marginal cost of providing the services.

1 6. Staff further recommends that Wide Voice's CC&N be considered null and void after
2 due process if Wide Voice fails to comply with the following conditions:

- 3 a. Wide Voice shall docket a conforming tariff for each service within its CC&N
4 within 365 days from the date of a Decision in this matter or 30 days prior to
5 providing service, whichever comes first;
- 6 b. Wide Voice shall notify the Commission through a compliance filing within 30
7 days of the commencement of service to end-user customers;
- 8 c. Wide Voice shall abide by the Commission adopted rules that address
9 Universal Service in Arizona. A.A.C. R-14-2-1204(A) indicates that all
10 telecommunications service providers that interconnect into the public
11 switched network shall provide funding for the Arizona Universal Service
12 Fund ("AUSF"). The Applicant will make the necessary monthly payments
13 required by A.A.C. R-14-2-1204(B); and
- 14 d. Wide Voice application be approved based upon its representation to the
15 Commission that Wide Voice will be providing local exchange service directly
16 to end-users in Arizona. Should Wide Voice not provide service directly to
17 end-user customers, it shall notify the Commission within three years of the
18 date of the decision for this application and file for cancellation of its CC&N.

13 **Technical Capability**

14 8. Wide Voice intends to provide its proposed services to a large, US-based company in
15 order to service small- and medium-sized businesses with voice telecommunications services.³ The
16 Company will not provide residential telephone service in Arizona.⁴

17 9. Wide Voice's witness has 35 years of experience in the telecommunications field.⁵
18 According to the witness, Wide Voice intends to provide all Public Switched Telephone Network
19 (PSTN) services for the large technology company for their hosted services to end-users.⁶ The
20 witness stated that Wide Voice is authorized to provide services in 16 states, with applications
21 pending in 10 other territories.⁷ The witness testified that the Company will not have any equipment
22 or employees in Arizona.⁸

23 10. Staff believes Wide Voice has the technical capabilities to provide its proposed
24 services in Arizona.

25 _____
26 ³ Tr. at 9-10.

27 ⁴ Tr. at 15-16.

28 ⁵ Tr. at 8.

⁶ Tr. at 9-10.

⁷ Tr. at 13-14.

⁸ Tr. at 16-17.

1 **Financial Capabilities**

2 11. Wide Voice provided audited financial statements for the 12 months ending December
3 31, 2011, listing total assets of \$1,056,011; total equity of \$685,236; and a net income of
4 \$1,404,949.⁹ For the 12 months ending December 31, 2012, Wide Voice listed total assets of
5 \$1,604,864; total equity of \$166,989; and a net income of \$3,849,818.¹⁰

6 **Rates and Charges**

7 12. Staff believes that Wide Voice will have to compete with other incumbent local
8 exchange carriers (“ILECs”), and various competitive local exchange (“CLECs”), and interexchange
9 carriers (“IXCs”) in Arizona in order to gain new customers.¹¹ Staff states it does not believe Wide
10 Voice will be able to exert market power given its status as a new entrant in the market.¹²

11 13. Pursuant to A.A.C. R14-2-1109, the rates charged for each service Wide Voice
12 proposes to provide may not be less than the Company’s total service long-run incremental cost of
13 providing that service.

14 14. Wide Voice projects that for the first twelve months of operation in Arizona, it will
15 have a net book value of zero.¹³

16 15. Staff states that in general, rates for competitive services are not set according to rate
17 of return regulation and the Company’s fair value rate base is zero. Staff believes that Wide Voice’s
18 rates will be heavily influenced by the market.¹⁴ Staff reviewed Wide Voice’s proposed tariff pages,
19 the rate comparison information of other CLECs and ILECs and Staff believes that Wide Voice’s
20 proposed rates are comparable to the rates charged by CLECs and ILECs providing service in
21 Arizona.¹⁵ Therefore, Staff states that while it considered the fair value rate base information
22 submitted by Wide Voice, that information was not afforded substantial weight in Staff’s analysis.¹⁶

23 **Local Exchange Carrier Specific Issues**

24 _____

25 ⁹ Exhibit S-1 at 2.

26 ¹⁰ Exhibit S-1 at 2.

27 ¹¹ Exhibit S-1 at 2.

28 ¹² Exhibit S-1 at 2.

¹³ Exhibit A-2, Attachment E.

¹⁴ Exhibit S-1 at 2.

¹⁵ Id.

¹⁶ Id.

1 16. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, Wide Voice will make
2 number portability available to facilitate the ability of customers to switch between authorized local
3 carriers within a given wire center without changing their telephone number and without impairment
4 to quality, functionality, reliability, or convenience of use.

5 17. Pursuant to A.A.C. R14-2-1204(A) all telecommunication service providers that
6 interconnect to the PSTN shall provide funding for the AUSF. Wide Voice shall make payments to
7 the AUSF described under A.A.C. R14-2-1204(B).

8 18. In Commission Decision No. 74208 (December 3, 2013), the Commission approved
9 quality of service standards for Qwest to insure customers received a satisfactory level of service. In
10 this matter, Staff believes Wide Voice should be ordered to abide by those service standards.

11 19. In the areas where the Company is the only local exchange service provider, Staff
12 recommends that Wide Voice be prohibited from barring access to alternative local exchange service
13 providers who wish to serve the area.

14 20. Wide Voice will provide all customers with 911 and E911 service where available, or
15 will coordinate with ILECs and emergency service providers to facilitate the service.

16 21. Pursuant to prior Commission Decisions, Wide Voice may offer customer local area
17 signaling services such as Caller ID and Call Blocking, so long as the customer is able to block or
18 unblock each individual call at no additional cost.

19 22. Wide Voice must offer Last Call Return service, which will not allow the return of
20 calls to the telephone numbers that have the privacy indicator activated.

21 **Complaint Information**

22 23. Wide Voice's application states that none of the Company's officers, directors,
23 partners, nor managers have been or are currently involved in any formal or informal complaint
24 proceedings before any state or federal regulatory agency, commission, administrative or law
25 enforcement agency.¹⁷

26 24. Wide Voice states that none of the Company's officers, directors, partners or
27

28 ¹⁷ Exhibit A-2 at A-11.

1 managers have been involved in any civil or criminal investigations, or had judgments entered in any
2 civil matter, or by any administrative or regulatory agency, or been convicted of any criminal acts
3 within the last ten (10) years.¹⁸

4 25. Staff verified that Wide Voice has no formal or informal complaint proceedings
5 pending before any state or federal regulatory commission, administrative agency or law enforcement
6 agency involving the Company or any of its officers, directors, or managers.

7 26. As of the filing of the Staff Report, Wide Voice had no complaints filed with the
8 Federal Communications Commission ("FCC").

9 Competitive Review

10 27. Wide Voice's application requests that its proposed telecommunication services in
11 Arizona be classified as competitive. Staff believes Wide Voice's proposed services should be
12 classified as competitive because Wide Voice will have to compete with CLECs and ILECs to gain
13 customers; there are alternative providers to Wide Voice's proposed services; ILECs hold a virtual
14 monopoly in local exchange and IXC markets; and that Wide Voice will not have the ability to
15 adversely affect the local exchange or IXC markets in Arizona.¹⁹

16 28. Based on the above factors, Staff concludes that Wide Voice's proposed service
17 should be classified as competitive.

18 29. Staff's recommendations are reasonable and should be adopted.

19 CONCLUSIONS OF LAW

20 1. Wide Voice is a public service corporation within the meaning of Article XV of the
21 Arizona Constitution, A.R.S. §§ 40-281 and 40-282.

22 2. The Commission has jurisdiction over Wide Voice and the subject matter of the
23 application.

24 3. Notice of the application was given in accordance with the law.

25 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a
26 CC&N to provide competitive telecommunication services.

27 _____
28 ¹⁸ Exhibit A-2 at A-12.

¹⁹ Exhibit S-1 at 5-7.

1 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
2 Statutes, it is in the public interest for Wide Voice to provide the telecommunication services set forth
3 in its application.

4 6. The telecommunication services Wide Voice intends to provide are competitive within
5 Arizona.

6 7. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
7 it is just and reasonable and in the public interest for Wide Voice to establish rates and charges that
8 are not less than Wide Voice's total service long-run incremental costs of providing the competitive
9 services approved herein.

10 8. Staff's recommendations are reasonable and should be adopted.

11 **ORDER**

12 IT IS THEREFORE ORDERED that the application of Wide Voice, LLC for a Certificate of
13 Convenience and Necessity to provide resold local exchange, resold long distance, facilities-based
14 long distance, and facilities-based local exchange telecommunication services in Arizona is hereby
15 approved, subject to the conditions set forth herein in Finding of Facts Nos. 5 and 6.

16 IT IS FURTHER ORDERED that Wide Voice, LLC's telecommunication services are
17 competitive in Arizona.

18 IT IS FURTHER ORDERED that if Wide Voice, LLC, fails to comply with the Staff
19 conditions described in Finding of Fact No. 6, the Certificate of Convenience and Necessity granted
20 herein shall be considered null and void after due process.

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IT IS FURTHER ORDERED that Wide Voice, LLC, shall docket conforming tariffs for each service within its CC&N within 365 days of the effective date of this Decision or 30 days prior to serving its first customer, whichever comes first. The tariffs submitted shall coincide with the application in this matter.

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

BY 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 the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____ 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SP:ru

1 SERVICE LIST FOR: WIDE VOICE, LLC

2 DOCKET NO.: T-20838A-12-0081

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