

OPEN MEETING

MEMORANDUM



0000153052

Arizona Corporation Commission

DOCKETED

APR 28 2014

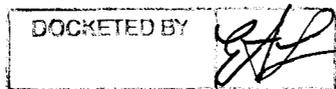
RECEIVED

2014 APR 28 P 1:42

TO: THE COMMISSION

FROM: Utilities Division

DATE: April 28, 2014



AT 0000 0000 0000

ORIGINAL

RE: IN THE MATTER OF THE APPLICATION OF XO COMMUNICATIONS SERVICES, LLC FOR APPROVAL OF RESCISSION OF BOND REQUIREMENT CONTAINED IN ARIZONA CORPORATION COMMISSION DECISION NO. 70471 (DOCKET NO. T-04302A-14-0115)

Introduction

On April 1, 2014, XO Communications Services, LLC ("XO Communications" 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. 70471. In Arizona, the Applicant is authorized to provide competitive local exchange and interexchange services pursuant to authorization issued by the Commission in Decision No. 61373, dated January 29, 1999. XO Communications serves business customers in the Phoenix metropolitan area. The Applicant does not serve residential customers in Arizona.

In its Application, XO Communications states that it has maintained the \$235,000 bond as required by Decision No. 70471, renewing and submitting the bond each year.

Background

On January 17, 2003, in Decision No. 65520, XO Communications was reorganized and the Commission ordered the Applicant to procure a \$235,000 performance bond. The Applicant's obligation to maintain the performance bond or irrevocable sight draft letter of credit was further reaffirmed by Decision No. 67006 dated May 24, 2004, Decision No. 67460 dated January 4, 2005, and Decision No. 70471 dated September 3, 2008.

XO Communications' Application

In its Application to eliminate the performance bond requirement, XO Communications 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." XO Communications states 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 XO Communications' history.

Complaints and Compliance

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

- 2014 - Zero Complaints, Zero Inquiries
- 2013 - Six Complaints (four billing, two service), One Inquiry (one other¹)
- 2012 - Three Complaints (one billing, one service, one quality of service),
Two Inquiries (two billing)
- 2011 - Ten Complaints (six billing, two quality of service, one disconnect/termination, one other²), Two Inquiries (one billing, one other³)

All complaints have been resolved and closed. Consumer Services also reports that XO Communications is in good standing with the Corporations Division of the Commission. The Compliance Section reports that XO Communications 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 XO Communications be relieved of the \$235,000 performance bond or irrevocable sight draft letter of credit obligation approved in Decision No. 70471.

XO Communications has communicated to Staff that upon approval of this Application, the bond documents should be returned to the following name and address:

Mr. Nick Jukich
Risk Management
XO Communications
13865 Sunrise Valley Drive, Suite 400
Herndon, Virginia 20171-4661



Steven M. Olea
Director
Utilities Division

SMO:PJG:sms\CHH

ORIGINATOR: Pamela J. Genung

¹ Non-Jurisdictional Authority.

² Company Policy and Procedures.

³ Non-Jurisdictional Authority.

THE COMMISSION

April 28, 2014

Page 3

SERVICE LIST FOR: XO Communications Services, LLC
DOCKET NO.: T-04302A-14-0115

Ms. Joan S. Burke, P.C.
Attorney for XO Communications Services, LLC
Law Office of Joan S. Burke, P.C.
1650 North First Avenue
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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 XO COMMUNICATIONS SERVICES,
LLC FOR APPROVAL OF RESCISSION OF
BOND REQUIREMENT CONTAINED IN
ARIZONA CORPORATION COMMISSION
DECISION NO. 70471.

DOCKET NO. T-04302A-14-0115

DECISION NO. _____

ORDER

Open Meeting
May 13 and 14, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On April 1, 2014, XO Communications Services, LLC (“XO Communications” 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. 70471.
2. In Arizona, the Applicant is authorized to provide competitive local exchange and interexchange services pursuant to authorization issued by the Commission in Decision No. 61373, dated January 29, 1999.
3. XO Communications serves business customers in the Phoenix metropolitan area. The Applicant does not serve residential customers in Arizona.
4. In its Application, XO Communications states that it has maintained the \$235,000 bond as required by Decision No. 70471, renewing and submitting the bond each year.

...

1 **Background**

2 5. On January 17, 2003, in Decision No. 65520, XO Communications was reorganized and
3 the Commission ordered the Applicant to procure a \$235,000 performance bond.

4 6. The Applicant's obligation to maintain the performance bond or irrevocable sight draft
5 letter of credit was further reaffirmed by Decision No. 67006 dated May 24, 2004, Decision No. 67460
6 dated January 4, 2005, and Decision No. 70471 dated September 3, 2008.

7 **XO Communications' Application**

8 7. In its Application to eliminate the performance bond requirement, XO Communications
9 cites Arizona Administrative Code ("A.A.C.") R14-2-1105(d), which states that "[i]n appropriate
10 circumstances, the Commission may require, as a precondition to certification, the procurement of a
11 performance bond sufficient to cover any advances or deposits the telecommunications company may
12 collect from its customers, or order that such advances or deposits be held in escrow or trust."

13 8. XO Communications states that it has established through its investment in the state, and
14 by its operating history, that customer deposits are not at risk, therefore, a bond is not necessary or
15 reasonable given XO Communications' history.

16 **Complaints and Compliance**

17 9. The Consumer Services Section of the Utilities Division reports the following history of
18 complaints, inquiries, or opinions filed against XO Communications:

19 2014 - Zero Complaints, Zero Inquiries

20 2013 - Six Complaints (four billing, two service), One Inquiry (one other¹)

21 2012 - Three Complaints (one billing, one service, one quality of service), Two
22 Inquiries (two billing)

23 2011 - Ten Complaints (six billing, two quality of service, one
24 disconnect/termination, one other²), Two Inquiries (one billing, one other³).

25 10. All complaints have been resolved and closed.

26

27

¹ Non-Jurisdictional Authority.

28

² Company Policy and Procedures.

³ Non-Jurisdictional Authority.

1 11. Consumer Services also reports that XO Communications is in good standing with the
2 Corporations Division of the Commission.

3 12. The Compliance Section reports that XO Communications is currently in compliance.

4 **Staff Recommendation**

5 13. The Commission has recently, in appropriate circumstances, been relieving
6 telecommunications providers of the obligation of a bond requirement.

7 14. Staff recommends that XO Communications be relieved of the \$235,000 performance
8 bond or irrevocable sight draft Letter of Credit ("ISDLC") obligation approved in Decision No.
9 70471.

10 15. XO Communications has communicated to Staff that upon approval of this Application,
11 the bond documents should be returned to the following name and address:

12 Mr. Nick Jukich
13 Risk Management
14 XO Communications
15 13865 Sunrise Valley Drive, Suite 400
16 Herndon, Virginia 20171-4661

17 CONCLUSIONS OF LAW

18 1. XO Communications Services, LLC is a public service corporation within the meaning
19 of Article XV of the Arizona Constitution.

20 2. The Commission has jurisdiction over XO Communications Services, LLC and the
21 subject matter in this filing.

22 3. The Commission, having reviewed the filing and Staff's Memorandum dated April 28,
23 2014, concludes that it is in the public interest to approve the XO Communications Services, LLC's
24 Application as proposed and discussed herein.

25 ...
26 ...
27 ...
28 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS THEREFORE ORDERED that the Application of XO Communications Services, LLC to terminate the performance bond or irrevocable sight draft letter of credit requirement contained in Decision No. 70471 be and hereby is approved.

IT IS FURTHER ORDERED that XO Communications Services, 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. 70471.

...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...

1 IT IS FURTHER ORDERED that the XO Communications Services, LLC bond documents
2 be returned to the following name and address as provided by the Applicant:

3 Mr. Nick Jukich
4 Risk Management
5 XO Communications
6 13865 Sunrise Valley Drive, Suite 400
7 Herndon, Virginia 20171-4661

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

9
10 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

11 _____
12 CHAIRMAN

13 _____
14 COMMISSIONER

15 _____
16 COMMISSIONER

17 _____
18 COMMISSIONER

19 _____
20 COMMISSIONER

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

26 _____
27 JODI JERICH
28 EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:PJG:sms\CHH

1 SERVICE LIST FOR: XO COMMUNICATIONS SERVICES, LLC
2 DOCKET NO. T-04302A-14-0115

3 Ms. Joan S. Burke, P.C.
4 Attorney for XO Communications Services, LLC
5 Law Office of Joan S. Burke, P.C.
6 1650 North First Avenue
7 Phoenix, Arizona 85003

8 Mr. Steven M. Olea
9 Director, Utilities Division
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ms. Janice M. Alward
14 Chief Counsel, Legal Division
15 Arizona Corporation Commission
16 1200 West Washington Street

17 Ms. Lyn Farmer
18 Chief Administrative Law Judge, Hearing Division
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, Arizona 85007Phoenix, Arizona 85007

22
23
24
25
26
27
28