

OPEN MEETING



0000153499

ORIGINAL

MEMORANDUM

Arizona Corporation Commission

TO: THE COMMISSION

DOCKETED

FROM: Utilities Division

MAY 21 2014

DATE: May 21, 2014

DOCKETED BY

RECEIVED

2014 MAY 21 P 4 08

AZ CORP COMMISSION
DOCKET CONTROL

RE: IN THE MATTER OF THE APPLICATION OF ESCHELON TELECOM OF ARIZONA, INC. FOR APPROVAL OF AN ORDER RESCINDING ITS BOND REQUIREMENT. (DOCKET NO. T-03406A-14-0081)

Introduction

On March 7, 2014, Eschelon Telecom Of Arizona, Inc. ("Eschelon-AZ" or "Applicant") submitted an Application requesting an order rescinding the \$235,000 performance bond requirement contained in Decision No. 67674 (March 9, 2005). In its Application, Eschelon-AZ states it provides local and long distance telecommunications services and high-speed internet access services to small and medium-sized businesses as well as enterprise customers in Arizona. Eschelon-AZ does not service residential customers on Arizona.

In addition, the Applicant states that Eschelon-AZ has maintained the \$235,000 performance bond as required by Decision No. 67674, renewing the bond each year as needed.

Background

On July 25, 2000, in Decision No. 62751, the Commission granted Eschelon-AZ a Certificate of Convenience and Necessity to provide resold and facilities-based long distance and resold and facilities-based local exchange telecommunications services within the State of Arizona, provided Eschelon-AZ complied with conditions outlined in the Decision. As a condition of approval, the Commission required Eschelon-AZ to procure a performance bond equal to the minimum of 120 days intrastate revenue as well as any prepayments or deposits collected from its customers. In Decision No. 67674 (March 9, 2005), the Commission modified the performance bond requirement for Eschelon-AZ to \$235,000.

Eschelon-AZ's Application

In its Application to eliminate the performance bond or irrevocable sight draft Letter of Credit ("ISDLOC") requirement, Eschelon-AZ 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." After almost 14 years of providing services in Arizona, including investing substantial capital in building and operating a facilities-based, proprietary operating network, Eschelon-AZ believes it has proven its financial, technical and managerial ability to provide services in Arizona and that maintaining a performance bond is no longer necessary.

Complaints and Compliance

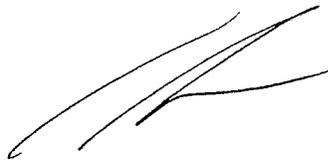
The Consumer Services Section of the Utilities Division reports that there have been no complaints, inquiries, or opinions about Eschelon-AZ for the period of January 1, 2011 to March 12, 2014. According to the Corporations Division, Eschelon-AZ is in good standing. The Compliance Section reports that Eschelon-AZ is in compliance.

Staff Recommendations

The Commission has, in appropriate circumstances, relieved telecommunications providers of the obligation to maintain a performance bond or ISDLOC. Staff recommends that Eschelon-AZ be relieved of the \$235,000 performance bond or ISDLOC obligation contained in Decision No. 67674.

Eschelon-AZ has communicated to Staff that upon approval of this Application, the performance bond should be released and returned to the following name and address:

Hanh Tran
Director of Risk Management
Integra
1201 NE Lloyd Blvd., Suite 500
Portland, OR 97232



Steven M. Olea
Director
Utilities Division

SMO:LLM:sms\BH

ORIGINATOR: Lori L. Morrison

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 ESCHELON TELECOM OF ARIZONA,
INC. FOR APPROVAL OF AN ORDER
RESCINDING ITS BOND REQUIREMENT.

DOCKET NO. T-03406A-14-0081
DECISION NO. _____
ORDER

Open Meeting
June 10 and 11, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 7, 2014, Eschelon Telecom Of Arizona, Inc. ("Eschelon-AZ" or "Applicant") submitted an Application requesting an order rescinding the \$235,000 performance bond requirement contained in Decision No. 67674 (March 9, 2005).

2. In its Application, Eschelon-AZ states it provides local and long distance telecommunications services and high-speed internet access services to small and medium-sized businesses as well as enterprise customers in Arizona. Eschelon-AZ does not service residential customers on Arizona.

3. In addition, the Applicant states that Eschelon-AZ has maintained the \$235,000 performance bond as required by Decision No. 67674, renewing the bond each year as needed.

...
...

1 Background

2 4. On July 25, 2000, in Decision No. 62751, the Commission granted Eschelon-AZ a
3 Certificate of Convenience and Necessity to provide resold and facilities-based long distance and
4 resold and facilities-based local exchange telecommunications services within the State of Arizona,
5 provided Eschelon-AZ complied with conditions outlined in the Decision. As a condition of
6 approval, the Commission required Eschelon-AZ to procure a performance bond equal to the
7 minimum of 120 days intrastate revenue as well as any prepayments or deposits collected from its
8 customers. In Decision No. 67674 (March 9, 2005), the Commission modified the performance bond
9 requirement for Eschelon-AZ to \$235,000.

10 Eschelon-AZ's Application

11 5. In its Application to eliminate the performance bond or irrevocable sight draft Letter of
12 Credit ("ISDLOC") requirement, Eschelon-AZ cites Arizona Administrative Code ("A.A.C.") R14-2-
13 1105(d), which states that "[i]n appropriate circumstances, the Commission may require, as a
14 precondition to certification, the procurement of a performance bond sufficient to cover any advances
15 or deposits the telecommunications company may collect from its customers, or order that such
16 advances or deposits be held in escrow or trust."

17 6. After almost 14 years of providing services in Arizona, including investing substantial
18 capital in building and operating a facilities-based, proprietary operating network, Eschelon-AZ
19 believes it has proven its financial, technical and managerial ability to provide services in Arizona and
20 that maintaining a performance bond is no longer necessary.

21 Complaints and Compliance

22 7. The Consumer Services Section of the Utilities Division reports that there have been no
23 complaints, inquiries, or opinions about Eschelon-AZ for the period of January 1, 2011 to March 12,
24 2014. According to the Corporations Division, Eschelon-AZ is in good standing. The Compliance
25 Section reports that Eschelon-AZ is in compliance.

26 Staff Recommendations

27 8. The Commission has, in appropriate circumstances, relieved telecommunications
28 providers of the obligation to maintain a performance bond or ISDLOC. Staff recommends that

1 Eschelon-AZ be relieved of the \$235,000 performance bond or ISDLOC obligation contained in
2 Decision No. 67674.

3 9. Eschelon-AZ has communicated to Staff that upon approval of this Application, the
4 performance bond should be released and returned to the following name and address:

5 Hanh Tran
6 Director of Risk Management
7 Integra
8 1201 NE Lloyd Blvd, Suite 500
9 Portland, OR 97232

10 CONCLUSIONS OF LAW

11 1. Eschelon Telecom Of Arizona, Inc. is a public service corporation within the meaning
12 of Article XV of the Arizona Constitution.

13 2. The Commission has jurisdiction over Eschelon Telecom Of Arizona, Inc. and the
14 subject matter in this filing.

15 3. The Commission, having reviewed the filing and Staff's Memorandum dated May 21,
16 2014, concludes that it is in the public interest to approve the Eschelon Telecom Of Arizona, Inc.
17 Application as proposed and discussed herein.

18 ORDER

19 IT IS THEREFORE ORDERED that the Application of Eschelon Telecom Of Arizona, Inc.
20 to terminate the performance bond or irrevocable sight draft letter of credit requirement contained in
21 Decision No. 67674 be and hereby is approved.

22 IT IS FURTHER ORDERED that Eschelon Telecom Of Arizona, Inc. may cancel, rescind,
23 discontinue and be released from any performance bond, irrevocable sight draft letter of credit or
24 other instrument obtained in compliance with the \$235,000 performance bond or irrevocable sight
25 draft letter of credit requirement set by Decision No. 67674.

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

1 IT IS FURTHER ORDERED that any performance bond on file with the Commission on
 2 behalf of Eschelon Telecom Of Arizona, Inc. be returned to the following name and address provided
 3 by the Applicant:

4 Hanh Tran
 5 Director of Risk Management
 6 Integra
 7 1201 NE Lloyd Blvd, Suite 500
 8 Portland, OR 97232

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

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

11 _____
 12 CHAIRMAN COMMISSIONER

13 _____
 14 COMMISSIONER COMMISSIONER COMMISSIONER

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

20 _____
 21 JODI JERICH
 22 EXECUTIVE DIRECTOR

23 DISSENT: _____

24 DISSENT: _____

25 SMO:LLM:sms\BH

1 SERVICE LIST FOR: Eschelon Telecom of Arizona, Inc.
2 DOCKET NO. T-03406A-14-0081

3 Mr. Michael W. Patten
4 Roska DeWulf & Patten, PLC
5 One Arizona Center
6 400 East Van Buren Street, Suite 800
7 Phoenix, Arizona 85004

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 Phoenix, Arizona 85007

18
19
20
21
22
23
24
25
26
27
28