

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

OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION

AZ CORPORATION COMMISSION
DOCKET CONTROL

2014 MAY 23 AM 8 58

DATE: MAY 23, 2014
DOCKET NO.: T-04180A-13-0467

ORIGINAL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Mark Preny. The recommendation has been filed in the form of an Order on:

ENTRIX TELECOM, INC.
(CANCELLATION OF 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:

JUNE 2, 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:

JUNE 10, 2014 AND JUNE 11, 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

DOCKETED

MAY 23 2014

DOCKETED BY

Jodi A. Jerich
JODI JERICH
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

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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
ENTRIX TELECOM, INC. FOR APPROVAL TO
CANCEL ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. T-04180A-13-0467

DECISION NO. _____

ORDER

Open Meeting
June 10 and 11, 2014
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On September 16, 2003, in Decision No. 66233, issued in Docket No. T-04180A-03-0272, Entrix Telecom, Inc. ("Entrix") was granted a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold long distance telecommunications services in Arizona.
2. On December 23, 2013, Entrix filed a letter stating that it would cease providing service in Arizona by no later than December 31, 2013, and requesting cancellation of its CC&N effective by that same date.
3. On April 14, 2014, the Commission's Utilities Division ("Staff") filed a Staff Report recommending approval of Entrix's request for cancellation of its CC&N.
4. The Staff Report advised that Entrix has not had any customers in Arizona since approximately March 31, 2013. The Staff Report further indicated that Entrix had collected no advances, deposits, or prepayments from customers in Arizona.

1 5. Staff recommends cancellation of Entrix's CC&N to provide resold long distance
2 telecommunications service and approval of Entrix's request to cancel and withdraw its Arizona
3 tariff. As Entrix does not currently provide services to customers in Arizona, and it never collected
4 advances, deposits, or prepayments from Arizona customers, Staff recommends approval of Entrix's
5 request for waiver of the requirement to publish notice as stated in A.A.C. R-14-2-1107(A)(2).

6 6. Staff further recommends that Entrix's \$10,000 performance bond on file with the
7 Commission be "released and returned".

8 7. The Consumer Services Section of the Utilities Division reports that there have been
9 no complaints, inquiries, or opinions filed against Entrix.

10 8. The Commission's Corporations Division reports that Entrix is in good standing.

11 9. The Commission's Compliance Section reports that there are no current compliance
12 delinquencies for Entrix.

13 10. A.A.C. R-14-2-1107(A)(2) requires that any telecommunications company providing
14 competitive local exchange or interexchange service that intends to discontinue service or to abandon
15 all or a portion of its service area shall file an application to discontinue services including
16 verification that all affected customers have been notified of the proposed discontinuance or
17 abandonment, and that all affected customers will have access to an alternative provider.

18 11. A.A.C. R14-2-1107(A)(4) requires that an application to discontinue service include a
19 list of all alternative utilities providing the same or similar service within the affected geographic
20 area.

21 12. A.A.C. R14-2-1107(B) requires a competitive telecommunications provider to publish
22 legal notice of its application to discontinue service in all counties affected by its application within
23 20 days after filing the application.

24 13. In Decision No. 67404 (November 2, 2004) the Commission stated that it would
25 render A.A.C. R14-2-1107 meaningless and would run afoul of the rule's intent and plain language to
26 exempt an Applicant from the requirements of the rule simply because it is no longer providing
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1 service in Arizona.¹ Further, Decision No. 67404 states that the rule is intended to ensure that
2 existing customers receive advance notice of a telecommunications provider's pending plan to
3 discontinue service so that they have an opportunity to procure service through an alternate provider
4 before the discontinuance of service.

5 14. Here, Entrix has not provided telecommunications services to Arizona customers since
6 approximately March 31, 2013. Entrix has never collected advances, deposits, or prepayments from
7 Arizona customers. No Arizona customers have filed a complaint against Entrix. Under these
8 circumstances, imposing the requirements of A.A.C. R-14-2-1107(A)(2), (4) and (B) would serve no
9 practical purpose.

10 15. Staff's recommendation for approval of Entrix's application to cancel its CC&N to
11 provide competitive resold long distance telecommunications services is reasonable. Further, we find
12 it appropriate to grant Entrix's request for a waiver of the notice requirement set forth in A.A.C. R14-
13 2-1107(A)(2). Therefore, it is reasonable to cancel Entrix's Arizona tariff, and to release and return
14 Entrix's \$10,000 performance bond on file with the Commission. Additionally, it is reasonable and
15 appropriate to grant Entrix a waiver of the requirements in A.A.C. R14-2-1107(A)(4) and (B).

16 CONCLUSIONS OF LAW

17 1. Entrix is a public service corporation within the meaning of Article XV of the Arizona
18 Constitution and A.R.S. §§ 40-281 and 40-282.

19 2. The Commission has jurisdiction over Entrix and the subject matter of the application.

20 3. Under the circumstances described herein, waiver of A.A.C. R14-2-1107(A)(2), (4),
21 and (B) is appropriate.

22 4. It is reasonable and appropriate and in the public interest to cancel Entrix's CC&N to
23 provide competitive resold long distance telecommunications services in Arizona and to cancel its
24 associated tariff.

25 5. Staff's recommendations are reasonable and should be adopted.

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28 ¹ See also Decision No. 72710 (December 9, 2011).

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ORDER

IT IS THEREFORE ORDERED that Entrix Telecom, Inc.'s Certificate of Convenience and Necessity to provide competitive resold long distance telecommunications services in the State of Arizona, granted in Decision No. 66233 (September 16, 2003), is hereby cancelled.

IT IS FURTHER ORDERED that Entrix Telecom, Inc. is hereby granted a waiver of the notice requirements of A.A.C. R14-2-1107(A)(2), (4), and (B).

IT IS FURTHER ORDERED that Entrix Telecom, Inc.'s competitive resold long distance tariffs on file with the Commission are hereby cancelled.

1 IT IS FURTHER ORDERED that the Utility Division's Director's Office shall make
2 arrangements to return the \$10,000 performance bond to Entrix Telecom, Inc.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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8 CHAIRMAN _____ COMMISSIONER

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11 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

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

18 _____
19 JODI A. JERICH
20 EXECUTIVE DIRECTOR

21
22 DISSENT _____

23
24 DISSENT _____
25 MP:ru
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1 SERVICE LIST FOR: ENTRIX TELECOM, INC.

2 DOCKET NO.: T-04180A-13-0467

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