

OPEN MEETING ITEM



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BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
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ARIZONA CORPORATION COMMISSION

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DOCKET NO.: T-20890A-13-0298

ARIZONA CORP COMMISSION
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TO ALL PARTIES:

ORIGINAL

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

RED ROCK TELECOMMUNICATIONS 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:

JUNE 23, 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:

JULY 22, 2014 and JULY 23, 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

JUN 13 2014

DOCKETED BY 


JODI JERICH
EXECUTIVE DIRECTOR

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

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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
RED ROCK TELECOMMUNICATIONS, LLC FOR
APPROVAL OF A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
RESOLD LOCAL AND LONG DISTANCE
EXCHANGE, FACILITIES-BASED LONG
DISTANCE AND LOCAL EXCHANGE AND
PRIVATE LINE TELECOMMUNICATION
SERVICES IN ARIZONA.

DOCKET NO. T-20890A-13-0298

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING: May 5, 2014
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
APPEARANCES: Mr. Jeffrey Crockett, BROWNSTEIN HYATT
FARBER SCHRECK, LLP, on behalf of the Applicant;
and
Ms. Maureen Scott, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

On September 4, 2013, Red Rock Telecommunications LLC (“Red Rock” 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 long distance, resold local exchange, facilities-based long distance, facilities-based local exchange, and private line telecommunication services in Arizona. Red Rock’s application also requests a determination that its proposed services are competitive in Arizona.

On November 5, 2013, the Company filed its Notice of Filing Responses to Staff’s First Set of Data Requests.

On January 31, 2014, the Company filed a Notice of Filing Pro Forma Financial Statements.

1 On March 13, 2014, the Commission’s Utilities Division (“Staff”) filed a Staff Report
2 recommending approval of Red Rock’s application, subject to certain conditions.

3 On May 5, 2014, a full public hearing was held as scheduled before a duly authorized
4 Administrative Law Judge (“ALJ”) of the Commission. Staff and Red Rock appeared through
5 counsel and presented testimony and evidence. No members of the public appeared to provide public
6 comment on the application. At the conclusion of the hearing, the matter was taken under
7 advisement pending submission of a Recommended Opinion and Order to the Commission.

8 * * * * *

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

11 **FINDINGS OF FACT**

12 1. Red Rock is a foreign limited liability company organized under the laws of Delaware,
13 with its principal offices located in Phoenix, Arizona.¹

14 2. Red Rock is authorized to transact business in Arizona and is in good standing with
15 the Commission’s Corporations Division.²

16 3. On September 4, 2013, Red Rock filed an application with the Commission to provide
17 resold local exchange, resold long distance, facilities-based long distance, facilities-based local
18 exchange and private line telecommunication services in Arizona.

19 4. Notice of Red Rock’s application was given in accordance with the law.

20 5. Staff recommends approval of Red Rock’s application for a CC&N to provide
21 intrastate telecommunications services subject to the following conditions:

22 (a) Red Rock comply with all Commission Rules, Orders and other requirements
23 relevant to the provision of intrastate telecommunications services;

24 (b) Red Rock abide by the quality of service standards that were approved by the
25 Commission for Qwest Corporation d/b/a CenturyLink in Docket No. T-
01051B-13-0199 (Decision No. 74208);

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28 ¹ Exhibit A-1.

² Exhibit A-1, Attachment A-1.

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- (c) Red Rock be prohibited from barring access to alternative local exchange service providers who wish to serve areas where the Company is the only provider of local exchange service facilities;
- (d) Red Rock be required to notify the Commission immediately upon changes to Red Rock's name, address or telephone number;
- (e) Red Rock cooperate with Commission investigations including, but not limited to customer complaints;
- (f) The rates proposed by this filing are for competitive services. In general, rates for all competitive services are not set according to rate of return regulation. Staff obtained information from the Company indicating that the fair value rate base is expected to be \$6,700,000 at the end of the first twelve months of operation. Staff has reviewed the rates to be charged by Red Rock and believes they are just and reasonable as they are comparable to other competitive local carriers offering service in Arizona. The rate to be ultimately charged by the Company 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 this analysis;
- (g) Red Rock offer Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge;
- (h) Red Rock offer Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated; and
- (i) The Commission authorize Red Rock to discount its rates and service charges to the marginal cost of providing the services.

6. Staff further recommends that Red Rock comply with the following items and if Red Rock fails to do so, that Red Rock's CC&N be considered null and void after due process.

- a. Red Rock shall docket conforming tariffs pages for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever comes first. The tariffs submitted shall coincide with the Application and state that the Company does not collect advances, deposits and/or prepayments from its customers;
- b. Red Rock shall notify the Commission through a compliance filing within 30 days of the commencement of service to end-user customers; and
- c. Red Rock shall abide by the Commission-adopted rules that address Universal Service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service Fund ("AUSF"). Red Rock will make the necessary monthly payments required by A.A.C. R14-2-1204(B).

...
...

Technical Capability

1 7. Arizona is the first state where Red Rock has applied for a CC&N to provide its
2 proposed services.³

3 8. Red Rock's witness stated that the Company intends to provide school districts, local
4 governments, and small businesses access to large amounts of bandwidth in rural areas.⁴

5 9. The Company will provide its proposed services using what it describes as a
6 GENBAND G7, carrier grade switch. The Company's witness stated that the GENBAND G7 is the
7 "largest switch that's currently available on the market" and that it is the type of switch that
8 companies like CenturyLink and AT&T use for their operations.⁵ The Company's witness also stated
9 that the switch will be housed in a building located in Phoenix near the second largest central office
10 in the state and close to the Van Buren fiber rings.⁶ Red Rock's witness stated that the location of its
11 switch will allow the Company greater connectivity to deploy its proposed services.⁷

12 10. Red Rock's senior management averages over fifteen years' experience in the
13 telecommunication industry.⁸ Red Rock's Chairman and CEO, Mr. Jack Pleiter was formerly
14 Chairman and CEO and founder of Mountain Telecommunications, Inc., an Arizona competitive
15 local exchange carrier ("CLEC").⁹ Mr. Pleiter testified that he has close to 30 years' experience in
16 the telecommunications business.¹⁰

17 11. In the first twelve months in operation, Red Rock anticipates hiring approximately 38
18 employees in Arizona.¹¹ Red Rock's witness stated that the Company will hire switch technicians
19 (trained in routers and PBX type equipment) as well as router technicians and router programmers
20 (trained to handle the management of large computer networks) in Arizona.¹²

24 ³ Tr. at 12

25 ⁴ *Id.* at 13.

26 ⁵ *Id.* at 14.

27 ⁶ *Id.* at 15.

28 ⁷ *Id.*

⁸ Exhibit A-2 at 2.

⁹ Tr. at 6-7. According to the witness, Mountain Telecommunications was acquired by Eschelon.

¹⁰ Tr. at 6.

¹¹ Exhibit A-2 at 4.

¹² Tr. at 19-20.

1 12. Red Rock intends to have a customer service center located in Arizona that will handle
2 calls 24/7, 365 days per year, using its own employees.¹³

3 13. Staff believes Red Rock has the technical capabilities to provide its proposed services
4 in Arizona.

5 **Financial Capabilities**

6 14. Red Rock was founded in 2008, but has not provided services in any state/jurisdiction
7 and could not provide two years of historical financial information. Therefore, the Company
8 provided pro-forma Balance Sheets and Income Statements, indicating that during the Company's
9 first year of operations it expects to have Total Assets of \$400,000, Total Equity of \$250,000, and
10 Net Income of negative \$972,240.¹⁴

11 **Rates and Charges**

12 15. Staff believes that Red Rock's rates will be heavily influenced by the market. Staff
13 states that Red Rock will have to compete with other incumbent local exchange carriers ("ILECs")
14 and various CLECs, and interexchange carriers ("IXCs") in Arizona in order to gain new
15 customers.¹⁵ Based on the competitive environment that Red Rock will be operating in, Staff
16 believes that the Company will not be able to exert any market power. Therefore, Staff states that the
17 competitive process should result in just and reasonable rates.¹⁶

18 16. Pursuant to A.A.C. R14-2-1109, the rates charged for each service Red Rock proposes
19 to provide may not be less than the Company's total service long-run incremental cost of providing
20 that service.

21 17. Staff states that although it considered the Company's proposed fair value rate base of
22 \$6.7 million at the end of the first twelve months the Company is operation; Staff did not give the fair
23 value rate base information substantial weight in its analysis because Red Rock's rates in Arizona
24 will be heavily influenced by the market.¹⁷

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¹³ Exhibit S-1 at 1.

27 ¹⁴ Exhibit A-3.

28 ¹⁵ Exhibit S-1 at 2.

¹⁶ *Id.*

¹⁷ *Id.*

1 18. Red Rock's proposed tariff states that the Company may offer rates based on an
2 individual case basis ("ICB").¹⁸ Red Rock is placed on notice that all ICB contracts shall comply
3 with A.R.S. §40-334 as well as A.A.C. R14-2-1115. A.R.S. §40-334(A) states that public service
4 corporations "shall not, as to rates, charges, service, facilities or in any respect, make or grant any
5 preference or advantage to any person or subject any person to any prejudice or disadvantage."

6 **Local Exchange Carrier Specific Issues**

7 19. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, Red Rock will make
8 number portability available to facilitate the ability of customers to switch between authorized local
9 carriers within a given wire center without changing their telephone number and without impairment
10 to quality, functionality, reliability or convenience of use.

11 20. Pursuant to A.A.C. R14-2-1204(A) all telecommunication service providers that
12 interconnect to the public switched network shall provide funding for the Arizona Universal Service
13 Fund. Red Rock shall make payments to the AUSF described under A.A.C. R14-2-1204(B).

14 21. In Commission Decision No. 59421 (December 20, 1995), the Commission approved
15 quality of service standards for Qwest Corporation d/b/a CenturyLink which imposed penalties due to
16 an unsatisfactory level of service. In this matter, Staff believes Red Rock does not have a similar
17 history of service quality problems, and therefore the penalties in that decision should not apply.

18 22. In the areas where the Company is the only local exchange service provider, Staff
19 recommends that Red Rock be prohibited from barring access to alternative local exchange service
20 providers who wish to serve the area.

21 23. Red Rock will provide all customers with 911 and E911 service where available, or
22 will coordinate with ILECs, and emergency service providers to facilitate the service.

23 24. Pursuant to prior Commission Decisions, Red Rock may offer customer local area
24 signaling services such as Caller ID and Call Blocking, so long as the customer is able to block or
25 unblock each individual call at no additional cost.

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28 ¹⁸ Exhibit A-2 at Attachment PJG 1-11, 4.10.

1 25. Red Rock must offer Last Call Return service, which will not allow the return of calls
2 to the telephone numbers that have the privacy indicator activated.

3 **Complaint Information**

4 26. Staff states that Red Rock has not had an application for authority to provide service
5 denied in any state/jurisdiction.

6 27. Staff reported that through November 8, 2013, no consumer complaints, inquiries, or
7 opinions had been filed against Red Rock.

8 28. The Company is in good standing with the Commission's Corporations Division.

9 29. Staff's review of the Company's application showed that no complaints had been filed
10 against Red Rock with the Federal Communications Commission.

11 30. Red Rock states that none of its officers, directors, partners or managers have been or
12 are currently involved in any formal or informal complaint proceeding before any state or federal
13 regulatory agency, commission, administrative or law enforcement agency.¹⁹

14 31. Red Rock also states that its officers, directors, partner, or managers have not been
15 involved in any civil or criminal investigations, or had judgments entered in any civil matter, or by
16 any administrative or regulatory agency, or been convicted of any criminal acts with the last ten (10)
17 years.²⁰

18 **Competitive Analysis**

19 32. Red Rock's application requests that its proposed services be classified as competitive
20 in Arizona. Staff believes that Red Rock's proposed services should be classified as competitive
21 because the Company will have to compete with IXCs, ILECs, and CLECs to gain a share of the
22 market in which it will be operating in. Based on the above factors, Staff concludes that Red Rock's
23 proposed services should be classified as competitive in Arizona.

24 33. We find that Staff's recommendations are reasonable and should be adopted. We also
25 find that Red Rock's proposed services are competitive in Arizona.

26 ...

27 _____
28 ¹⁹ Exhibit A-1 at A-11.

²⁰ *Id.* at A-12.

CONCLUSIONS OF LAW

1
2 1. Red Rock is a public service corporation within the meaning of Article XV of the
3 Arizona Constitution, A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over Red Rock and the subject matter of the
5 application.

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

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

9 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
10 Statutes, it is in the public interest for Red Rock to provide facilities-based long distance and local
11 exchange, resold long distance and local exchange and private line telecommunications services as
12 set forth in its application.

13 6. Red Rock is a fit and proper entity to receive a CC&N authorizing it to provide
14 intrastate telecommunications services in Arizona, subject to Staff's recommendations as set forth
15 herein.

16 7. Red Rock's fair value rate base is not useful in determining just and reasonable rates
17 for the competitive services it proposes to provide to Arizona customers.

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

22 9. Staff's recommendations are reasonable and should be adopted.

ORDER

23
24 IT IS THEREFORE ORDERED that the application of Red Rock Telecommunications LLC
25 for a Certificate of Convenience and Necessity to provide facilities-based long distance and local
26 exchange, resold long distance and local exchange and private line telecommunications services in
27 Arizona, is hereby approved, subject to Staff's recommendations as more fully described in Findings
28 of Fact Nos. 5 and 6.

1 IT IS FURTHER ORDERED that if Red Rock Telecommunications LLC fails to comply with
2 the Staff recommendations described in Findings Fact No. 6, the Certificate of Convenience and
3 Necessity granted herein shall be considered null and void after due process.

4 IT IS FURTHER ORDERED that Red Rock Telecommunications LLC shall comply with
5 A.R.S. §40-334 as well as A.A.C. R14-2-1115 with respect to its Individual Case Basis contracts.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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10 CHAIRMAN

COMMISSIONER

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12 COMMISSIONER

COMMISSIONER

COMMISSIONER

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14 IN WITNESS WHEREOF, I, JODI JERICH, Executive
15 Director of the Arizona Corporation Commission, have
16 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.

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18 _____
19 JODI JERICH
EXECUTIVE DIRECTOR

20 DISSENT _____

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22 DISSENT _____
23 YBK:tv

1 SERVICE LIST FOR: RED ROCK TELECOMMUNICATIONS LLC

2 DOCKET NO.: T-20890A-13-0298

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