

OPEN MEETING

MEMORANDUM



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Arizona Corporation Commission

DOCKETED

AUG 22 2014

TO: THE COMMISSION

FROM: Utilities Division

DATE: August 22, 2014

RE: IN THE MATTER OF THE APPLICATION OF MCLEODUSA TELECOMMUNICATIONS SERVICES, L.L.C. DBA PAETEC BUSINESS SERVICES FOR APPROVAL OF RESCISSION OF THE BOND REQUIREMENT CONTAINED IN DECISION NO. 64657 (DOCKET NO. T-03267A-14-0124)

RECEIVED

2014 AUG 22 A 11: 25

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

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ORIGINAL

Introduction

On April 10, 2014, McLeodUSA Telecommunications Services, LLC ("McLeodUSA" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting an order cancelling the bond requirement contained in Decision No. 64657. In Arizona, the Applicant is authorized to provide competitive resold interexchange telecommunications services pursuant to Decision No. 61001, dated July 16, 1998, and competitive resold and facilities-based local exchange and exchange access telecommunications services pursuant to Decision No. 62627, dated June 9, 2000. The Applicant serves residential and business customers in Arizona.

Background

On March 25, 2002, in Decision No. 64657, the Commission granted McLeodUSA's application for encumbrance of its assets subject to the requirement that McLeodUSA procure a minimum \$600,000 performance bond. On November 17, 2011, in Decision No. 72670, the Commission approved the transfer of indirect control of McLeodUSA to Windstream Corporation.

McLeodUSA's Application

In its Application to eliminate the performance bond requirement, McLeodUSA 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." McLeodUSA 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 to ensure McLeodUSA's compliance with Commission orders.

In its Application, McLeodUSA states that it has maintained the bond as required by Decision No. 64657, renewing and submitting the bond annually. The Applicant stated that the bond McLeodUSA had most recently provided to the Commission would expire May 15, 2014 and

THE COMMISSION

August 22, 2014

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that the Applicant was seeking expedited review of its Application to avoid another annual renewal. Staff has confirmed that the \$600,000 performance bond was renewed in May 2014.

Complaints and Compliance

Consumer Services reports that McLeodUSA is in good standing with the Corporations Division of the Commission. The Compliance Section reports that McLeodUSA is currently in compliance.

Staff Recommendation

The Commission has, in appropriate circumstances, relieved telecommunications providers of the obligation to maintain a performance bond. Staff recommends that McLeodUSA Telecommunications Services, LLC be relieved of the \$600,000 performance bond obligation contained in Decision No. 64657.

McLeodUSA has communicated to Staff as part of their original Application that upon approval of this Application, the \$600,000 performance bond should be returned to the following name and address:

Mr. Mark Bennage
Windstream Corporation
4001 N. Rodney Parham Drive
Little Rock, Arkansas 72212



Steven M. Olea
Director
Utilities Division

SMO:PJG:sms\CHH

ORIGINATOR: Pamela J. Genung

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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 MCLEODUSA)
TELECOMMUNICATIONS SERVICES,)
L.L.C. DBA PAETEC BUSINESS SERVICES)
FOR APPROVAL OF RESCISSION OF THE)
BOND REQUIREMENT CONTAINED IN)
DECISION NO. 64657.)

DOCKET NO. T-03267A-14-0124
DECISION NO. _____
ORDER

Open Meeting
September 9 and 10, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On April 10, 2014, McLeodUSA Telecommunications Services, LLC ("McLeodUSA" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting an order cancelling the bond requirement contained in Decision No. 64657.

2. In Arizona, the Applicant is authorized to provide competitive resold interexchange telecommunications services pursuant to Decision No. 61001, dated July 16, 1998, and competitive resold and facilities-based local exchange and exchange access telecommunications services pursuant to Decision No. 62627, dated June 9, 2000.

3. The Applicant serves residential and business customers in Arizona.

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1 Background

2 4. On March 25, 2002, in Decision No. 64657, the Commission granted McLeodUSA's
3 application for encumbrance of its assets subject to the requirement that McLeodUSA procure a
4 minimum \$600,000 performance bond.

5 5. On November 17, 2011, in Decision No. 72670, the Commission approved the transfer
6 of indirect control of McLeodUSA to Windstream Corporation.

7 McLeodUSA's Application

8 6. In its Application to eliminate the performance bond requirement, McLeodUSA cites
9 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 7. McLeodUSA states that it has established through its investment in the state, and by its
14 operating history, that customer deposits are not at risk; therefore, a bond is not necessary to ensure
15 McLeodUSA's compliance with Commission orders.

16 8. In its Application, McLeodUSA states that it has maintained the \$600,000 bond as
17 required by Decision No. 64657, renewing and submitting the bond annually.

18 9. The Applicant stated that the bond McLeodUSA had most recently provided to the
19 Commission would expire May 15, 2014 and that the Applicant was seeking expedited review of its
20 Application to avoid another annual renewal.

21 10. Staff has confirmed that the \$600,000 performance bond was renewed in May 2014.

22 Complaints and Compliance

23 11. Consumer Services reports that McLeodUSA is in good standing with the Corporations
24 Division of the Commission.

25 12. The Compliance Section reports that McLeodUSA is currently in compliance.

26 Staff Recommendation

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

1 Telecommunications Services, LLC be relieved of the \$600,000 performance bond obligation
2 contained in Decision No. 64657.

3 14. McLeodUSA has communicated to Staff that upon approval of this Application, the
4 \$600,000 performance bond should be returned to the following name and address:

5 Mr. Mark Bennage
6 Windstream Corporation
7 4001 N. Rodney Parham Drive
8 Little Rock, Arkansas 72212

8 CONCLUSIONS OF LAW

9 1. McLeodUSA Telecommunications Services, LLC is a public service corporation within
10 the meaning of Article XV of the Arizona Constitution.

11 2. The Commission has jurisdiction over McLeodUSA Telecommunications Services,
12 LLC and the subject matter in this filing.

13 3. The Commission, having reviewed the filing and Staff's Memorandum dated August
14 22, 2014, concludes that it is in the public interest to approve the McLeodUSA Telecommunications
15 Services, LLC's Application as proposed and discussed herein.

16 ORDER

17 IT IS THEREFORE ORDERED that the Application of McLeodUSA Telecommunications
18 Services, LLC to terminate the \$600,000 performance bond requirement contained in Decision No.
19 64657 be and hereby is approved.

20 IT IS FURTHER ORDERED that McLeodUSA Telecommunications Services, LLC may
21 cancel, rescind, discontinue and be released from any performance bond, irrevocable sight draft letter
22 of credit or other instrument obtained in compliance with the \$600,000 performance bond
23 requirement set by Decision No. 64657.

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1 IT IS FURTHER ORDERED that the McLeodUSA Telecommunications Services, LLC
2 \$600,000 performance bond be returned to the following name and address as provided by the
3 Applicant:

4 Mr. Mark Bennage
5 Windstream Corporation
6 4001 N. Rodney Parham Drive
7 Little Rock, Arkansas 72212

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

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

10
11 CHAIRMAN

COMMISSIONER

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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: _____

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26 SMO:PJG:sms\CHH

1 SERVICE LIST FOR: MCLEODUSA TELECOMMUNICATIONS SERVICES, L.L.C.
2 DOCKET NO. T-03267A-14-0124

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4 Attorney for Windstream Corporation
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10 Arizona Corporation Commission
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