

OPEN MEETING



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ORIGINAL

MEMORANDUM

TO: THE COMMISSION
FROM: Utilities Division
DATE: August 22, 2014
RE: IN THE MATTER OF THE APPLICATION OF SPECTROTEL, INC. FOR APPROVAL OF AN ORDER RESCINDING ITS BOND REQUIREMENT. (DOCKET NO. T-20821A-14-0161)

Arizona Corporation Commission
DOCKETED
AUG 22 2014
DOCKET CONTROL
AZ CORP COM
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Introduction

On May 21, 2014, Spectrotel, Inc. ("Spectrotel" or "Applicant") submitted an Application requesting an order rescinding the \$135,000 performance bond requirement contained in Decision No. 73917 (June 27, 2013). In its Application, Spectrotel states it provides resold and facilities-based local exchange, resold long distance and switched access telecommunications services to business customers in Arizona. Spectrotel does not service residential customers in Arizona. In addition, the Applicant stated that Spectrotel had a bond of \$135,000 in effect through May 31, 2014. Staff has confirmed with the Arizona Corporation Commission ("Commission") Business Office that it is in possession of a bond in Spectrotel's name in the amount of \$135,000.

Background

On June 27, 2013, in Decision No. 73917, the Commission granted Spectrotel a Certificate of Convenience and Necessity to provide facilities-based local exchange, resold local exchange, resold long distance and switched access telecommunications services within the State of Arizona, provided Spectrotel complied with conditions outlined in the Decision. As a condition of approval, the Commission required Spectrotel to procure a performance bond or irrevocable sight draft letter of credit ("ISDLOC") equal to \$135,000.

Spectrotel's Application

In its Application to eliminate the performance bond or the ISDLOC requirement, Spectrotel 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." Spectrotel believes that maintaining a performance bond is no longer necessary as it does not collect any deposits in Arizona and does not have any prepayment or advance payment policies. In addition, Spectrotel states that rescinding the bond/ISDLOC requirement will not alter the rates, terms or conditions of service for Arizona Spectrotel customers, will not adversely impact service and will put Spectrotel on "equal footing" with other Arizona competitive local exchange carriers

("CLEC")s as well as incumbent service providers such as CenturyLink. Finally, Spectrotel requests that as its bond expires on May 31, 2014, the bond requirement be suspended until this application is resolved so that Spectrotel may avoid incurring the cost of acquiring a new ISDLOC or bond shortly before the bond requirement is rescinded by the Commission.

Complaints and Compliance

The Consumer Services Section of the Utilities Division reports that there have been no complaints or opinions about Spectrotel for the period of January 1, 2011 to May 30, 2014. According to the Corporations Division, Spectrotel is in good standing. The Compliance Section reports that Spectrotel is currently out of compliance with Decision No. 73917 due to its performance bond having expired on May 22, 2014 and no replacement has been received from Spectrotel.

Staff Recommendations

In allowing their bond to expire prior to the Commission relieving them of the bond requirement, Spectrotel is out of compliance with Decision No. 73917. Allowing a company to be relieved of the bond requirement while that company is out of compliance with Commission requirements does not provide for a "level playing field" amongst other Arizona CLECs or incumbent service providers who have kept their bond in effect while the Commission considers the request to rescind the bond or ISDLOC requirement. Staff therefore recommends that the Commission deny Spectrotel's request for a rescission of their bond requirement. Staff further recommends the Commission order the Applicant to procure a new bond in the amount of \$135,000 and keep it current until December 31, 2015. If during that period of time Spectrotel is in compliance with all Commission requirements, Staff recommends that the requirements be rescinded, effective January 1, 2016, with no further order of the Commission.

However, the Commission has relieved telecommunications providers of the obligation to maintain a performance bond or ISDLOC. Thus, in the alternative, should the Commission decide to relieve Spectrotel of this requirement, Staff recommends that Spectrotel be put on notice that any future events of non-compliance of Commission requirements will result in the Commission initiating Show Cause action against Spectrotel.

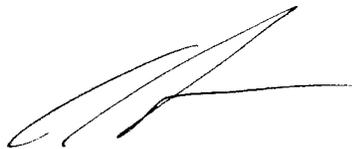
THE COMMISSION

August 22, 2014

Page 3

Should the Commission grant this Application, Spectrotel indicates in its Application that the performance bond should be released and returned to the following name and address:

John Dempsey
Finance Manager
3535 State Highway 66
Ste 7, Bldg 7
Neptune, NJ 07753



Steven M. Olea
Director
Utilities Division

SMO:MAC:sms\BH

ORIGINATOR: Matt Connolly

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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 SPECTROTEL, INC. FOR APPROVAL
OF AN ORDER RESCINDING ITS BOND
REQUIREMENT.

DOCKET NO. T-20821A-14-0161
DECISION NO. _____
ORDER

Open Meeting
September 9 and 10, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On May 21, 2014, Spectrotel, Inc. ("Spectrotel" or "Applicant") submitted an Application requesting an order rescinding the \$135,000 performance bond requirement contained in Decision No. 73917 (June 27, 2013).
 2. In its Application, Spectrotel states it provides resold and facilities-based local exchange, resold long distance and switched access telecommunications services to business customers in Arizona. Spectrotel does not service residential customers on Arizona.
 3. In addition, the Applicant states that Spectrotel had a bond of \$135,000 in effect through May 31, 2014.
 4. Staff has confirmed that the Arizona Corporation Commission Business Office is in possession of a bond in Spectrotel's name in the amount of \$135,000.
- ...

1 Background

2 5. On June 27, 2013, in Decision No. 73917, the Commission granted Spectrotel a Certificate
3 of Convenience and Necessity to provide facilities-based local exchange, resold local exchange, resold
4 long distance and switched-access telecommunications services within the State of Arizona, provided
5 Spectrotel complied with conditions outlined in the Decision. As a condition of approval, the
6 Commission required Spectrotel to procure a performance bond or irrevocable sight draft letter of
7 credit (“ISDLOC”) equal to \$135,000.

8 Spectrotel’s Application

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

15 7. Spectrotel believes that maintaining a performance bond is no longer necessary as it
16 does not collect any deposits in Arizona and does not have any prepayment or advance payment
17 policies. In addition, Spectrotel states that rescinding the bond/ISDLOC requirement will not alter
18 the rates, terms or conditions of service for Arizona Spectrotel customers, will not adversely impact
19 service and will put Spectrotel on “equal footing” with other Arizona Competitive local exchange
20 carriers (“CLEC”)s as well as incumbent service providers such as CenturyLink. Finally, Spectrotel
21 requests that as their bond expires on May 31, 2014, the bond requirement be suspended until this
22 application is resolved so that Spectrotel may avoid incurring the cost of acquiring a new ISDLOC or
23 bond shortly before the bond requirement is rescinded by the Commission.

24 Complaints and Compliance

25 8. The Consumer Services Section of the Utilities Division reports that there have been
26 no complaints or opinions about Spectrotel for the period of January 1, 2011 to May 30, 2014.
27 According to the Corporations Division, Spectrotel is in good standing. The Compliance Section

28 . . .

1 reports that Spectrotel is currently out of compliance with Decision No. 73917 due to its performance
2 bond having expired on May 22, 2014 and no replacement has been received from Spectrotel.

3 **Staff Recommendations**

4 9. In allowing its bond to expire prior to the Commission relieving Spectrotel of the
5 bond requirement, the Applicant is out of compliance with Decision No. 73917. Allowing a company
6 to be relieved of the bond requirement while that company is out of compliance with Commission
7 requirements does not provide for a "level playing field" amongst other Arizona CLECs or incumbent
8 service providers who have kept their bond in effect while the Commission considers the request to
9 rescind the bond or ISDLOC requirement.

10 10. Staff therefore recommends that the Commission deny Spectrotel's request for a
11 rescission of its bond requirement.

12 11. Staff further recommends the Commission order the Applicant to procure a new bond
13 in the amount of \$135,000 and keep it current until December 31, 2015. If during that period of time
14 Spectrotel is in compliance with all Commission requirements, Staff recommends that the
15 requirements be rescinded, effective January 1, 2016, with no further order of the Commission.

16 12. However, the Commission has relieved telecommunications providers of the
17 obligation to maintain a performance bond or ISDLOC. Thus, in the alternative, should the
18 Commission decide to relieve Spectrotel of this requirement, Staff recommends that Spectrotel be put
19 on notice that any future events of non-compliance of Commission requirements will result in the
20 Commission initiating Show Cause action against Spectrotel.

21 13. Should the Commission grant this application, Spectrotel indicates in its Application
22 that the performance bond should be released and returned to the following name and address:

23 John Dempsey
24 Finance Manager
25 3535 State Highway 66
26 Ste 7, Bldg 7
27 Neptune, NJ 07753
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CONCLUSIONS OF LAW

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1. Spectrotel, Inc. is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over Spectrotel, Inc. and the subject matter in this filing.

3. The Commission, having reviewed the filing and Staff's Memorandum dated August 22, 2014, concludes that it is not in the public interest to approve the Spectrotel, Inc. Application as proposed and discussed herein.

ORDER

IT IS THEREFORE ORDERED that the Application of Spectrotel, Inc. to terminate the performance bond or irrevocable sight draft letter of credit requirement contained in Decision No. 73917 be and hereby is denied.

IT IS FURTHER ORDERED that Spectrotel, Inc. procure a new performance bond in the amount of \$135,000, file the original with the Commission Business Office within (10) ten days of the effective date of this Order and keep the bond current until December 31, 2015. Spectrotel, Inc. shall docket proof of such filing with the Commission.

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1 IT IS FURTHER ORDERED that as of January 1, 2016, by way of Commission Compliance
 2 filing in this docket, it is indicated Spectrotel, Inc. is in compliance with all Commission requirements,
 3 Spectrotel, Inc. may allow its bond to expire, be relieved of its bond requirement and shall file a
 4 notice with the Commission's Docket Control to that effect.

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

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BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

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COMMISSIONER

COMMISSIONER

COMMISSIONER

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

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 JODI JERICH
 EXECUTIVE DIRECTOR

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DISSENT: _____

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DISSENT: _____

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SMO:MAC:sms\BH

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1 SERVICE LIST FOR: Spectrotel, Inc.
2 DOCKET NO. T-20821A-14-0161

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4 Roska DeWulf & Patten, PLC
5 One Arizona Center
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10 Arizona Corporation Commission
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20 Arizona Corporation Commission
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