

NEW APPLICATION



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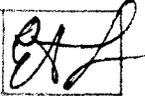
BEFORE THE ARIZONA CORPORATION COM

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Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION)
OF MERCURY VOICE & DATA, LLC TO) DOCKET NOS. T-20613A-15-0082
RESCIND BOND REQUIREMENT)
CONTAINED IN ACC DECISION NO.)
71480.)
_____)

ORIGINAL

APPLICATION

Mercury Voice & Data, LLC ("Mercury" or "Applicant") requests rescission of the bond requirement contained in Arizona Corporation Commission ("Commission") Decision No. 71480.

BACKGROUND

Mercury was certified to provide competitive resold and facilities-based local exchange and competitive resold and facilities-based long distance telecommunications services in Arizona on February 3, 2010. See Decision 71480. When Mercury was certified in 2010, the Commission required Mercury to procure and provide to the Commission a performance bond or an irrevocable sight draft letter of credit equal to \$225,000. Mercury complied with this request and delivered a \$235,000 bond to the Commission. This bond has been renewed each year in compliance with Commission Decision 71480.

Mercury has complied with Commission regulations and orders since becoming certified. The Commissioner has never drawn against the bond provided by Mercury, and no customer complaint brought into question Mercury's reliability or conduct as a public service corporation. Mercury's certification occurred during a period where it was the general policy of the Commission to require a bond or a letter of credit without a specific inquiry into the compliance record of the company. Mercury has shown itself to be a reliable and responsive public service corporation. The bond is not needed to ensure Mercury's compliance with Commission orders. Mercury respectfully asks that the Commission issue an order relieving Mercury of its bond obligation.

ANALYSIS

"In 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." A.A.C. R14-2-1105(D). Mercury is subject to the Arizona Competitive Telecommunications Services Rules, A.A.C. R14-2-1101-1115, and must comply with all rules applicable to the provision of intrastate telecommunications services under the terms of its certification. Decision No. 71480, p. 10, para. 45(a). While the Commission may require a performance bond prior to certification, for the reasons set forth below continuing this requirement for Mercury, an established competitive telecommunications company, is unnecessary and costly.

1. Excellent Compliance

Mercury has been a certified carrier in Arizona since 2010. Through-out this period Mercury has complied with the requirements of its certification, including filing annual reports, paying annual assessments for funding the ACC, RUCO (A.R.S. §40-401; §40-401.01) and

Arizona universal service. Any complaints against Mercury have been resolved and closed with no formal litigation, and without penalty to Mercury. Mercury is available to respond in a timely and responsive manner to any questions or concerns regarding customer service.

The letters of credit Mercury has on file with the Commission has never been drawn upon or requested. Obtaining and maintaining a bond creates a significant expense for Mercury and will continue to do so. Moreover, purchasing the bond diverts monies that Mercury could use to grow its network or improve its systems.

2. The Bond-LOC Requirement Is Not Necessary or Reasonable.

The Commission “*may* require . . . the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers.” A.A.C. R14-2-1105(D) (emphasis added). This rule was invoked by the Commission, as early as 2000, to protect consumers in the event a telecommunications carrier declared bankruptcy or abandoned service. *See, e.g.,* Decision No. 62751 (2000) (*Eschelon Telecom of Arizona CC&N Application*). At that time, many providers were new to Arizona and few carriers had invested in equipment and facilities. The new competitive local exchange carriers (“CLECs”) did not have demonstrable operating histories, nor could they offer track records of customer satisfaction. During this period, a bond requirement was the vehicle selected by Commission Staff to protect consumers in the event a provider could not meet its legal obligations. Bonds or letters of credit were one way for the Commission to protect consumers from companies with little or no assets or few ties to Arizona.

Now, fifteen years later, the market is very different. Indeed, customer deposits and advances are no more at risk with an established, facilities-based CLEC like Mercury than they are with Qwest Corporation or Cox, which operate in competition with facilities-based CLECs but carry no performance bonds benefiting the Commission. Mercury has established through its

operating history that customer deposits are not at risk. Therefore, a bond is not necessary or reasonable.

3. The Commission is Moving Towards Requiring Bond Only If Necessary

The Commission has issued orders in many proceedings eliminating bond-LOC requirements for competitive carrier requirements. *See e.g.* Broadvox-CLEC (Decision No. 74410), Gila Local Exchange Carrier, Inc. (Docket No. T-03943A-14-0013), tw telecom of arizona llc, and XO Communications Services, LLC (Docket No. T-04302A-14-0115); CenturyLink Communications Company, LLC (T-02811B-14-0211). Likewise, the Commission has approved a carrier certification request without requiring a bond of the applicant. *See* TNCI Operating Company, LLC T-20882A-13-0108. In recommending approval of the TNCI certification application, Staff recommended no bond reflecting an appropriate reaction to changes in the competitive telecom market. Staff has recommended a “case by case” analysis for assessing the need for a bond. This makes sense. The Commission retains full authority to impose a bond/LOC if Staff is concerned about a company’s managerial or technical ability to provide service in Arizona. Companies like Mercury, however, that have been providing service for years, show no history of unresolved customer complaints or problems, and have demonstrated their technical and managerial expertise to provide service, should not be required to post a bond or letter of credit.

4. Bond Documents

If this application is approved, Mercury requests that the bond document be returned to the following Mercury representative:

Mr. Laszlo S. Lerant
Mercury Voice & Data, LLC d/b/a Suddenlink
520 Maryville Centre Drive, Suite 300
St. Louis, Missouri 63141
(314) 315-9607

RESPECTFULLY SUBMITTED this 6th day of March 2015

By: 
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Attorney for: Mercury Voice & Data, LLC

ORIGINAL and thirteen (13) copies of the foregoing
filed this 6th day of March 2015 with:

Docket Control
Arizona Corporation Commission
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