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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

- SUSAN BITTER SMITH - Chairman
- BOB STUMP
- BOB BURNS
- DOUG LITTLE
- TOM FORESE

Arizona Corporation Commission

DOCKETED

SEP 16 2015

DOCKETED BY	
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IN THE MATTER OF THE APPLICATION OF  
 CYPRESS COMMUNICATION OPERATING  
 COMPANY, LLC FOR APPROVAL TO  
 DECERTIFY AND DISCONTINUE OFFERING  
 ITS SERVICES IN ARIZONA AND  
 CANCELLATION OF ITS CERTIFICATE OF  
 CONVENIENCE AND NECESSITY.

DOCKET NO. T-04109A-15-0041

DECISION NO. 75274

ORDER

Open Meeting  
 September 8 and 9, 2015  
 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

- On April 21, 2004, the Commission issued Decision No. 66938 granting Cypress Communication Operating Company, LLC ("Cypress") a Certificate of Convenience and Necessity ("CC&N") to provide competitive facilities-based local exchange and long distance telecommunications services within the State of Arizona.
- On February 17, 2015, Cypress filed with the Commission an Application to cancel its CC&N to provide competitive facilities-based local exchange and long distance telecommunications services. Cypress holds a CC&N to provide resold local exchange and interexchange telecommunications services that it seeks to have canceled in Docket No. T-04109A-15-0101.
- On March 11, 2015, the Commission's Utilities Division ("Staff") sent a letter to Cypress requesting additional information via a First Set of Data Requests. The letter was not docketed until April 14, 2015.

1           4.       On March 16, 2015, Staff sent a letter to Cypress including additional data requests for  
2 Cypress' response. This letter was not docketed until April 14, 2015.

3           5.       On April 15, 2015, Cypress filed its responses to Staff's First and Second Set of Data  
4 Requests.

5           6.       On July 28, 2015, Staff filed a Staff Report in this matter recommending approval of  
6 Cypress' application to cancel its CC&N.

7           7.       According to Staff, Cypress stated it is ceasing operations due to changing market  
8 conditions. Cypress submitted copies of the two customer notices it mailed on or about February 2,  
9 2015 and February 27, 2015, notifying customers of Cypress' intention to discontinue providing  
10 services by April 1, 2015 and March 31, 2015, respectively.

11          8.       The Staff Report indicated Cypress had six business customers remaining in Arizona  
12 but that Cypress has requested a waiver of the legal notice requirement based on the two customer  
13 notices that had already been mailed.

14          9.       In response to Staff's Data Requests, Cypress stated it has approximately \$7,666.17 in  
15 customer deposits in Arizona that it will refund to customers within 90 days of termination of service.  
16 Cypress also asserted it will waive all existing termination liabilities and penalties for existing  
17 customers.

18          10.      Although Decision No. 66938 required Cypress to procure a performance bond in the  
19 amount of \$200,000, there is no bond currently in place. According to Cypress, Broadvox, Inc.  
20 ("Broadvox") acquired Cypress in 2011 and that Broadvox was never apprised of the bond  
21 requirement.

22          11.      According to the Commission's Consumer Services Section, zero complaints or  
23 opinions were filed against Cypress from January 1, 2012 to March 2, 2015, and Cypress is in good  
24 standing with the Corporations Division.

25          12.      The Staff Report indicated Cypress has no affiliates in Arizona and that there are other  
26 carriers in Arizona that provide similar services to that of Cypress.

27          13.      Staff recommends approval of Cypress' application to cancel its CC&N to provide  
28 competitive facilities-based local exchange and long distance telecommunications services and

1 cancellation of Cypress' tariff that is on file with the Commission. Staff also recommends granting  
2 Cypress' request to waive the publication notice requirements of A.A.C. R14-2-1107, because  
3 Cypress has a limited number of remaining customers in Arizona, Cypress sent two customer notices  
4 advising customers of the discontinuance of its services, and most of Cypress' customers have  
5 already been transferred.

6 14. Staff further recommends that the cancellation of Cypress' CC&N not become  
7 effective until all customer deposits have been returned to Cypress' customers and that Cypress be  
8 required to file an affidavit in this docket notifying the Commission that all customer deposits have  
9 been returned.

10 15. Per Cypress' responses to Staff's Data Requests, Cypress intends to return the  
11 customer deposits it still retains within 90 days of terminating service. Therefore, it is appropriate to  
12 require Cypress to file an affidavit attesting that all deposits were returned to its customers within 90  
13 days from the effective date of the Decision in this docket.

14 16. Staff's recommendations, as modified herein, are reasonable and should be adopted.

15 **CONCLUSIONS OF LAW**

16 1. Cypress Communication Operating Company, LLC is a public service corporation  
17 within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

18 2. The Commission has jurisdiction over Cypress Communication Operating Company,  
19 LLC and the subject matter of the application.

20 3. Upon meeting the conditions set forth herein, the cancellation of Cypress  
21 Communication Operating Company, LLC's CC&N is in the public interest.

22 4. For the reasons stated herein, Cypress Communication Operating Company, LLC  
23 should be granted a waiver of the notice and publication requirements of A.A.C. R14-2-1107.

24 5. Staff's recommendations, as modified herein, are reasonable and should be adopted.

25 **ORDER**

26 IT IS THEREFORE ORDERED that the application of Cypress Communication Operating  
27 Company, LLC for the cancellation of its Certificate of Convenience and Necessity to provide  
28 competitive facilities-based local exchange and long distance telecommunications services within the

1 State of Arizona shall be, and is hereby, conditionally approved, pending Cypress Communication  
2 Operating Company, LLC filing an affidavit in this docket, within 90 days of the effective date of this  
3 Decision, attesting that all customer deposits have been returned.

4 IT IS FURTHER ORDERED that, upon completion of the conditions set forth above, Cypress  
5 Communication Operating Company, LLC's Certificate of Convenience and Necessity and  
6 telecommunications services tariff on file with the Commission is hereby canceled.

7 IT IS FURTHER ORDERED that Cypress Communication Operating Company, LLC is  
8 hereby granted a waiver of the notice requirement in A.A.C. R14-2-1107.

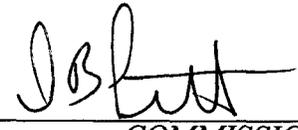
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1 IT IS FURTHER ORDERED that Cypress Communication Operating Company, LLC shall  
2 file with Docket Control, within 90 days of the effective date of this Decision, an affidavit attesting  
3 that all customer deposits have been returned to its remaining customers.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

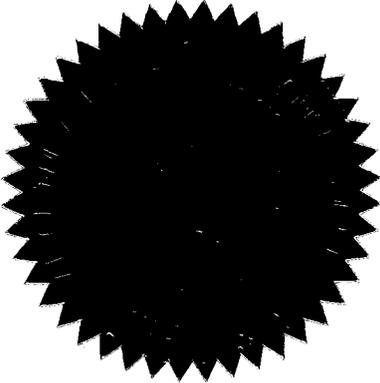
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CHAIRMAN

  
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10 COMMISSIONER

  
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11  
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 16<sup>th</sup> day of September 2015.

  
17  
18 JODI JERICH  
19 EXECUTIVE DIRECTOR

20 DISSENT \_\_\_\_\_

21 DISSENT \_\_\_\_\_

22 SP:ru

1 SERVICE LIST FOR: T-04109A-15-0041  
2 DOCKET NO.: CYPRESS COMMUNICATION OPERATING  
3 COMPANY, LLC

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