

ORIGINAL

OPEN MEETING ITEM



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



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ARIZONA CORPORATION COMMISSION

2015 AUG 25 A 11: 38

AZ CORP COMMISSION
DOCKET CONTROL

DATE: AUGUST 25, 2015

DOCKET NO.: T-04109A-15-0041

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sasha Paternoster. The recommendation has been filed in the form of an Order on:

CYPRESS COMMUNICATION OPERATING COMPANY, LLC
(CANCEL 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:

SEPTEMBER 3, 2015

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:

SEPTEMBER 8, 2015 AND SEPTEMBER 9, 2015

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

AUG 25 2015

DOCKETED BY	
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JODI JERICH
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 SUSAN BITTER SMITH - Chairman
4 BOB STUMP
5 BOB BURNS
6 DOUG LITTLE
7 TOM FORESE

8 IN THE MATTER OF THE APPLICATION OF
9 CYPRESS COMMUNICATION OPERATING
10 COMPANY, LLC FOR APPROVAL TO
11 DECERTIFY AND DISCONTINUE OFFERING
12 ITS SERVICES IN ARIZONA AND
13 CANCELLATION OF ITS CERTIFICATE OF
14 CONVENIENCE AND NECESSITY.

DOCKET NO. T-04109A-15-0041

DECISION NO. _____

ORDER

15 Open Meeting
16 September 8 and 9, 2015
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 * * * * *

20 Having considered the entire record herein and being fully advised in the premises, the
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 FINDINGS OF FACT

23 1. On April 21, 2004, the Commission issued Decision No. 66938 granting Cypress
24 Communication Operating Company, LLC ("Cypress") a Certificate of Convenience and Necessity
25 ("CC&N") to provide competitive facilities-based local exchange and long distance
26 telecommunications services within the State of Arizona.

27 2. On February 17, 2015, Cypress filed with the Commission an Application to cancel its
28 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.

3. 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.
6
7

8 CHAIRMAN _____ COMMISSIONER _____

9
10 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

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 _____ day of _____ 2015.

17 _____
18 JODI JERICH
19 EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____
22 SP:ru

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

4 Nadine Ezzie
5 Deputy General Counsel
6 Cypress Communication Operating Company, LLC
7 75 Erieview Plaza, Suite 400
8 Cleveland, OH 44114

9 Janice Alward, Chief Counsel
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, AZ 85007

14 Thomas Broderick, Director
15 Utilities Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, AZ 85007
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