

NEW APPLICATION



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August 4, 2015
Via Overnight Delivery

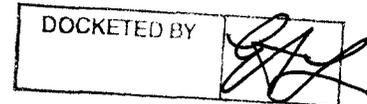
Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

T-03835A-15-0283

Arizona Corporation Commission
DOCKETED

AUG 05 2015

RE: ACN Communication Services, Inc.
Application for Rescission of Bond Requirement



Docket Control:

Enclosed for filing please find the original and thirteen (13) copies of the Application for Rescission of Bond Requirement ("Application") submitted on behalf of ACN Communication Services, Inc. "Company"). The Company respectfully requests the earliest possible effective date for this Application.

Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, stamped envelope provided for that purpose.

Any questions you may have regarding this filing should be directed to my attention at 407-740-3031 or via email to sthomas@tminc.com. Thank you for your assistance in this matter.

Sincerely,

Sharon Thomas
Consultant to ACN Communication Services, Inc.

ORIGINAL

cc: Legal Department - ACN Comm Serv
file: ACN Comm Serv - Arizona - Other
tms: AZx1503

Enclosure
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BEFORE THE ARIZONA CORPORATION COMMISSION

In the Matter of the Application of)
ACN Communication Services, Inc.)
For Rescission of Bond Requirement) Docket No.: _____
Contained In Arizona Corporation)
Commission Decision No. 66618)

APPLICATION

ACN Communication Services, Inc. ("ACN" or "Applicant") requests rescission of the bond requirement included in Arizona Corporation Commission ("Commission") Decision No. 66618.

BACKGROUND

ACN is a provider of facilities-based and resold local exchange and resold interexchange telecommunication services to business and residential customers within the state of Arizona. ACN was certified by the Commission to provide facilities-based and resold local exchange telecommunication services on December 10, 2003 (Decision No. 66618).

When ACN was certified by the Commission on December 10, 2003, ACC Decision 66618 required ACN to obtain and submit to the Commission a performance bond for \$125,000 to cover customer advances, deposits and/or prepayments collected from ACN's customers. ACN has complied with its obligation to maintain the aforementioned performance bond and currently maintains a bond in the amount of \$125,000.

ACN's compliance with Commission regulations and orders was never at issue. The bond in place has never been invoked, and no customer complaint has brought into question ACN's conduct as a public service corporation. During this period, it was the general policy of the Commission to require a bond without a specific inquiry into the record of the company. Because ACN has a record of good performance and the bond is not needed to ensure ACN's compliance with Commission orders, ACN respectfully asks that the Commission issue an order relieving ACN 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). ACN 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. ACC Decision No. 61373, p.4, para. 19(j)(1999). While the Commission may require a performance bond prior to certification, continuing this requirement for ACN, an established competitive telecommunications company, is unnecessary and costly for the reasons set forth below.

1. Record of Compliance

ACN has been a certified carrier in Arizona since 2003. Throughout this period ACN has complied with the requirements of its certification, including filing annual reports, paying annual assessments for funding the ACC and RUCO (A.R.S. §40-401; §40-401.01), and funding Arizona universal service. Any Arizona customer complaints against ACN have been resolved and closed with no formal litigation and without penalty to ACN. ACN is available to respond in a timely and responsive manner to any questions or concerns regarding customer service.

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

2. The Bond 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 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 ACN than they are with Qwest Corporation, which operates in competition with facilities-based CLECs but carries no performance bond benefiting the Commission. ACN 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 or reasonable given ACN's history.

3. The Commission is Moving Towards Bonds Only When Necessary

Recently the Commission approved the XO Communications Services, LLC's application to be relieved of its bond requirement. The Commission concluded that it was in the public interest to approve the XO application, and noted that the Commission has "recently been relieving telecommunications providers of the obligation of a bond requirement." *See* Decision No. 74490. Likewise, the Commission has recently 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, Staff did not recommend a bond, reflective of changes in the competitive telecom market. Staff has recommended a "case by case" analysis for assessing the need for a bond. The Commission retains full

authority to impose a bond if Staff is concerned about a company's managerial or technical ability to provide service in Arizona. Companies like ACN, however, that have been providing service for years, show no history of customer complaints or problems, and have demonstrated their technical and managerial expertise to provide service, should not be required to post or maintain a bond.

4. Bond Documents

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

Legal Department
Attn.: Meredith Ginter
ACN Communication Services, Inc.
1000 Progress Place
Concord, NC 28025-2449

CONCLUSION

For the foregoing reasons, ACN respectfully requests an order cancelling the bond requirement in Decision No. 66618.

RESPECTFULLY SUBMITTED this 4th day of August, 2015.

By:



Sharon Thomas
Consultant to ACN Communication Services, Inc.
2600 Maitland Center Parkway, Suite 300
Maitland FL 32751
Phone: (407) 740-3031
sthomas@tminc.com

ORIGINAL and thirteen (13) copies of the foregoing was filed this 4th day August, 2015 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
