

Arizona Corporation Commission

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OCT 13 2015



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Transcript Exhibit(s)

Docket #(s): T-01072A-14-0208

Exhibit #: A-1, B-1

AZ CORP COMMISSION DOCKET CONTROL

2015 OCT 13 P 3 34

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH



IN THE MATTER OF THE APPLICATION OF
SOUTHWESTERN TELEPHONE COMPANY,
AN ARIZONA CORPORATION, TO
DEREGULATE VOICE MAIL SERVICES

DOCKET NO. T-01072A-14-
**APPLICATION TO DEREGULATE
VOICE MAIL SERVICES**

1 Southwestern Telephone Company ("Southwestern Telephone") hereby applies with the
2 Arizona Corporation Commission ("Commission") to deregulate voice mail services provided by
3 Southwestern Telephone, and for the withdrawal of the filed tariffs applicable to such services.

4 A.R.S. § 40-281(E) provides:

5 When the commission determines after notice and hearing that any product or
6 service of a telecommunications corporation is neither essential nor integral to the
7 public service rendered by such corporation, it shall declare that such product or
8 service is not subject to regulation by the commission.

9 Voice mail services are "neither essential nor integral to public service rendered by"
10 Southwestern Telephone. The company's regulated public service provision of basic telephone
11 service can be and is provided to residential and business customers with or without voice mail
12 services.¹

13 Further Southwestern Telephone's voice mail services do not constitute "transmitting
14 messages or furnishing public telegraph or telephone service" under Article 15, § 2 of the
15 Arizona Constitution. Rather than transmit messages or furnish telephone service, voice mail
16 permits (1) callers to record their transmitted message and (2) recipients (subscribers) to store
17 and retrieve the recorded message. Thus, voice mail service is totally independent of basic
18 telephone service.

19 Unregulated voice mail services are provided by independent voice mail providers,
20 competitive local exchange carriers, and cellular carriers and marketers. Customers may also

¹ See *Mountain States Telephone and Telegraph Co. v. Arizona Corporation Commission*, 132 Ariz. 109, 644 P.2d 263 (App. 1982).

1 purchase answering machines rather than purchase voice mail from Southwestern Telephone.
2 Because of the huge variety of competitive offerings, it is in the public interest to allow
3 Southwestern Telephone to respond to its competitors' offerings and market its voice mail
4 services without the burden of regulation.

5 Voice mail services are currently not a popular tariff service from Southwestern
6 Telephone. Currently, penetration averages less than five percent for the company's Salome and
7 Quartzite exchanges. Southwestern Telephone would like to be able to market voice mail
8 services to its remaining customers currently not taking the current tariffed offering. To assure
9 that present subscribers are not harmed, Southwest Telephone agrees to grandfather all current
10 voice mail subscribers at current rates.

11 Southwestern Telephone's application is supported by Commission precedent. Qwest's
12 voice mail service was deregulated by the Commission in Decision No. 68604 (Docket Number
13 T-01051 B-03-0454) at 11, and Section 21 of the attached Settlement Agreement.

14 **Requested Relief:** Southwestern Telephone asks the Commission to deregulate its voice
15 mail services and approve withdrawal of the filed tariffs applicable to such services.

16 Respectfully submitted on June 25, 2014.

17
18 /s/Craig A. Marks

19 Craig A. Marks

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Original and 13 copies **filed**
on June 25, 2014, with:

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



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EXHIBIT
5-1
ADMITTED

MEMORANDUM

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TO: Docket Control
FROM: Thomas M. Broderick
Director
Utilities Division

Thomas M. Broderick

2015 AUG 28 A 8:47

AZ CORP COMMISSION
DOCKET CONTROL

DATE: August 28, 2015

ORIGINAL

RE: IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN TELEPHONE COMPANY FILING FOR APPROVAL TO DEREGULATE VOICE MAIL SERVICES. (DOCKET NO. T-01072A-14-0208)

Attached is the Staff Report for the above Application requesting approval to deregulate Southwestern Telephone Company's provision of voice mail services.

Staff is recommending approval of the Application with conditions.

TMB:LLM:nr/MAS

Originator: Lori Morrison

Attachment: Original and Thirteen copies

Arizona Corporation Commission
DOCKETED

AUG 28 2015

DOCKETED BY *[Signature]*

SERVICE LIST FOR: SOUTHWESTERN TELEPHONE COMPANY
DOCKET NO.: T-01072A-14-0208

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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

SOUTHWESTERN TELEPHONE COMPANY

DOCKET NO. T-01072A-14-0208

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN TELEPHONE
COMPANY FILING FOR APPROVAL TO DEREGULATE VOICE MAIL SERVICES

AUGUST 28, 2015

STAFF ACKNOWLEDGMENT

The Staff Report for Southwestern Telephone Company, Docket No. T-01072A-14-0208, was the responsibility of the Utilities Division Staff listed below. Lori Morrison was responsible for the review and analysis of Southwestern Telephone Company's Application requesting approval to deregulate its provision of voice mail services.

Lori Morrison
Utilities Consultant

Application

On June 25, 2014, Southwestern Telephone Company ("SWTC" or "the Company") filed an Application with the Arizona Corporation Commission ("Commission") to deregulate the voice mail services it offers to its Arizona customers.

Statute and Requirements

Arizona Revised Statute ("A.R.S.") § 40-281(E) states:

When the Commission determines after notice and hearing that any product or service of a telecommunications corporation is neither essential nor integral to the public service rendered by such corporation, it shall declare that such product or service is not subject to regulation by the commission.

In its Application, SWTC states that voice mail services are neither essential nor integral to the public service rendered by SWTC and it currently provisions public basic telephone service to residential and business customers with or without voice mail services. SWTC states the provision of voice mail service does not constitute "transmitting messages or furnishing public telegraph or telephone service" under Article 15, § 2 of the Arizona Constitution because instead of transmitting messages or furnishing telephone service, voice mail permits (1) callers to record their transmitted messages and (2) recipients (subscribers) to store and retrieve the recorded messages. Therefore, the Company states that voice mail service is totally independent of basic telephone service.

In addition, SWTC states that unregulated voice mail services are currently available through independent voice mail providers, competitive local exchange carriers, and cellular carriers and marketers. Further, customers may also purchase answering machines rather than purchase voice mail services. SWTC believes that given the multitude of voice mail alternatives available to customers, the Commission should allow it to offer deregulated voice mail services, on a deregulated basis, to its customers without the burden of regulation.

Current Voice Mail Customers

In its Application, SWTC states that less than five percent of its Salome and Quartzite exchange customers subscribe to its tariffed voice mail service. SWTC currently provides voice mail services to 22 residential customers and 18 business customers. The Company would like to be able to market voice mail services to its remaining customers on a deregulated basis. To assure that present subscribers are not harmed, SWTC agrees to grandfather all current voice mail subscribers at current rates.

Staff Analysis and Recommendation

In Decision No. 68604, dated March 23, 2006, the Commission approved a Settlement Agreement in Docket No. T-01051B-03-0454, et al., in which the parties agreed that Qwest

Corporation had met the criteria for deregulation of voice mail service. In its Direct Testimony¹ in that docket, Staff analyzed voice messaging service and concluded that voice messaging services is not essential and integral to basic telephone service, that it is a discrete and separable from the public switched telephone network and that it is subject to private contracts.

Given the above, Staff recommends SWTC's application be approved. Finally, SWTC has stated that it intends to grandfather its existing voicemail customers at current rates. SWTC is free to do this if it so chooses. However, since Staff is recommending that the Company be allowed to provide the service on a deregulated basis, there is no need to tariff the service in the future.

¹ November 18, 2004, Direct Testimony of Matthew Rowell at p. 46, l. 22 through p. 51, l. 25, filed in Docket Nos. T-01051B-03-0454 and T-00000D-00-0672.