

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

OPEN MEETING ITEM



0000167989

ARIZONA CORPORATION COMMISSION

RECEIVED

ORIGINAL

2015 DEC 28 P 2:59

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: DECEMBER 28, 2015

DOCKET NO.: T-02063A-14-0207

TO ALL PARTIES:

Enclosed please find the recommendation of Assistant Chief Administrative Law Judge Teena Jibilian. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA TELEPHONE COMPANY  
(DEREGULATE VOICE MAIL SERVICES)

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:

JANUARY 6, 2016

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:

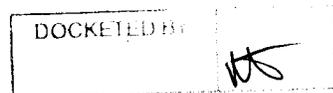
JANUARY 12, 2016

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

DEC 28 2015



JODI JERICH  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

[www.cc.state.az.us](http://www.cc.state.az.us)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

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

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

DOCKET NO. T-02063A-14-0207

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

DATE OF HEARING: September 30, 2015  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Teena Jibilian  
APPEARANCES: Craig A. Marks, PLC, on behalf of Applicant Arizona Telephone Company; and  
Ms. Maureen Scott, Senior Staff Counsel, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

**Procedural History**

1. On June 25, 2014, Arizona Telephone Company ("Arizona Telephone") filed with the Arizona Corporation Commission ("Commission") an application seeking authority to offer deregulated voice mail services to its customers.
2. On April 30, 2015, a Procedural Order was issued setting a hearing and associated procedural deadlines in this matter.

1           3.       On May 14, 2015, at Arizona Telephone's request, a telephonic procedural conference  
2 was convened. Arizona Telephone and the Commission's Utilities Division ("Staff") appeared through  
3 counsel. Arizona Telephone stated that the publication deadlines set forth in the April 30, 2015,  
4 Procedural Order did not allow sufficient time for Arizona Telephone to comply, and requested that  
5 the hearing schedule be extended for approximately 60 days. Arizona Telephone and Staff agreed that  
6 it would be reasonable to schedule the hearing on the application in the latter part of September, with  
7 associated changes to the procedural deadlines set by the April 30, 2015 Procedural Order.

8           4.       On May 15, 2015, by Procedural Order, the hearing in the above-captioned matter was  
9 continued to September 30, 2015.

10          5.       On August 28, 2015, Staff filed its Staff Report recommending approval of the  
11 application.

12          6.       On September 30, 2015, a hearing on the application was convened before a duly  
13 authorized Administrative Law Judge of the Commission. Arizona Telephone and Staff appeared  
14 through counsel, presented testimony and evidence through witnesses, and were provided an  
15 opportunity to cross examine witnesses. No members of the public appeared to provide public  
16 comment.

17          7.       On September 30, 2015, Arizona Telephone filed a Proof of Notice to which was  
18 attached receipts indicating payment for publication of notice in the *Arizona Daily Sun* and *Palo Verde*  
19 *Valley Times* on July 29, 2015, and for U.S. Postal Service mailings to each Arizona Telephone  
20 customer on July 29, 2015.

21          8.       On October 2, 2015, Arizona Telephone filed a Supplemental Proof of Notice to which  
22 was attached a copy of the notice required by the April 30, 2015 Procedural Order issued in this docket.

23          9.       Following the parties' submission of evidence, the matter was taken under advisement  
24 pending the submission of a Recommended Opinion and Order.

25 **Arizona Telephone**

26          10.       Arizona Telephone is an Arizona public service corporation engaged in the business of  
27 providing telephone service to the public in portions of Coconino, Gila, Pima, Maricopa and Yuma  
28 counties. Arizona Telephone serves ten exchanges in Arizona located in or around Sasabe, Hyder,

1 Harquahala, Tonto Basin, Roosevelt, Blue Ridge, Mormon Lake, Greenhaven, Marble Canyon and  
2 Supai.

3 11. Arizona Telephone's current rates were authorized in Decision No. 74771 (October 24,  
4 2014), based on a test year ended June 30, 2013.

5 12. Arizona Telephone has approximately 1,900 access lines.

6 **Application**

7 13. The application requests authority to offer deregulated voice mail services to its  
8 customers.

9 14. Arizona Telephone does not presently offer voice mail services to its customers.

10 15. Arizona Telephone asserts that voice mail services are not essential or integral to the  
11 public utility service it provides. Arizona Telephone further asserts that voice mail services would not  
12 constitute "transmitting messages or furnishing public telegraph or telephone service" under Article  
13 15, § 2 of the Arizona Constitution. Arizona Telephone states in its application that voice mail service  
14 is totally independent of basic telephone service. Arizona Telephone states that voice mail does not  
15 involve transmitting messages or furnishing telephone service, but rather permits callers to record a  
16 transmitted message and permits recipients to store and retrieve recorded messages.

17 16. Arizona Telephone states that unregulated voice mail services are currently available to  
18 its customers, provided by independent voice mail carriers, competitive local exchange carriers, and  
19 cellular carriers and marketers, and that in addition, customers can also purchase answering machines  
20 rather than purchase voice mail services.

21 17. Arizona Telephone asserts that due to the great variety of competitive offerings, it is in  
22 the public interest to allow Arizona Telephone to respond to its competitors' offerings by marketing  
23 unregulated voice mail services.

24 18. Arizona Telephone contends that its request is supported by Commission Decision No.  
25 68604, which granted authority for Qwest Corporation to provide deregulated voice mail services.

26 **Staff Report and Recommendations**

27 19. The Staff Report recommends approval of Arizona Telephone's request, based on the  
28 Commission's acceptance of Staff's analysis of the issue of voice messaging services in Docket No. T-

1 01051B-03-0454.

2 20. Staff's witness in Docket No. T-01051B-03-0454 analyzed the issue of voice messaging  
3 service and concluded that voice messaging service is not essential and integral to basic telephone  
4 service, but is discrete and separable from the public switched telephone network, and is subject to  
5 private contracts.<sup>1</sup>

6 **Conclusion**

7 21. The provision of voice mail services is neither essential nor integral to Arizona  
8 Telephone's provision of telecommunications services to its customers.

9 22. Staff's recommendation for approval of Arizona Telephone's request is reasonable and  
10 should be adopted.

11 **CONCLUSIONS OF LAW**

12 1. Arizona Telephone is a public service corporation within the meaning of Article 15 of  
13 the Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

14 2. The Commission has jurisdiction over Arizona Telephone and over the subject matter  
15 of this proceeding.

16 3. Notice of this proceeding was provided in accordance with law.

17 4. The provision of voice mail services is neither essential nor integral to Arizona  
18 Telephone's provision of telecommunications services to its customers, and pursuant to A.R.S. § 40-  
19 281(E), is not subject to regulation by the Commission.

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 \_\_\_\_\_  
27 <sup>1</sup> The Staff Report cites to the November 18, 2004 Direct Testimony of Matthew Rowell filed in Docket Nos. T-01051B-  
28 03-0454 at pp. 46-51. The parties to that docket reached a Settlement Agreement in which the parties agreed that Qwest  
Corporation had met the criteria for deregulation of voice mail service. That Settlement Agreement was approved by the  
Commission in Decision No. 68604 (March 23, 2006).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

IT IS THEREFORE ORDERED that the provision of voice mail services is neither essential nor integral to Arizona Telephone Company's provision of telecommunications services to its customers, and pursuant to A.R.S. § 40-281(E), is not subject to regulation by the Commission.

IT IS FURTHER ORDERED that because Arizona Telephone Company's provision of voice mail to its customers is not subject to regulation by the Commission, Arizona Telephone Company may provide unregulated voice mail service to its customers.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN		COMMISSIONER
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_  
TJ:ru(tv)

1 SERVICE LIST FOR:

ARIZONA TELEPHONE COMPANY

2 DOCKET NO.:

T-02063A-14-0207

3 Craig A. Marks  
4 CRAIG A. MARKS, PLC  
5 10645 N. Tatum Blvd., Suite 200-676  
6 Phoenix, AZ 85028  
7 Attorney for Arizona Telephone Company

8 Janice Alward, Chief Counsel  
9 Maureen Scott, Senior Staff Counsel  
10 Legal Division  
11 ARIZONA CORPORATION COMMISSION  
12 1200 W. Washington Street  
13 Phoenix, AZ 85007

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

19  
20  
21  
22  
23  
24  
25  
26  
27  
28