

ORIGINAL



0000168838

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

RECEIVED

2016 MAR -4 P 3:27

Application for a Certificate of Convenience and Necessity to Provide Resold Interexchange Service and for Determination that Services of the Applicant are Competitive

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Applicant: Dial World Communications, LLC
Docket No. T-20921A-14-0390

On November 14, 2014, Dial World Communications, LLC ("DWC" or "Applicant") filed an Application for a Certificate of Convenience and Necessity ("CC&N") to provide resold long distance services in Arizona.

On September 15, 2015, Applicant filed an amendment to the Application to update information contained in Sections A-11, A-12 and A-18 of the Application. On September 16, 2015, Applicant filed supporting documentation referenced in its September 15, 2015 amendment that had been omitted.

Staff's review of this Application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange telecommunications services. Staff's review considers the Applicant's technical and financial capabilities, and whether the Applicant's proposed rates will be just and reasonable.

REVIEW OF APPLICANT INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- The necessary information has been filed to process this Application, and the Applicant has authority to transact business in the State of Arizona.
- The Applicant has published legal notice of the Application in all counties where service will be provided. On December 19, 2014, Applicant filed its Proof of Publication of Notice for statewide notice.

REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- The Applicant is currently providing service in Arizona.
- The Applicant is currently providing service in other states.
- The Applicant is a switchless reseller.

Arizona Corporation Commission
DOCKETED

MAR 04 2016

DOCKETED BY *[Signature]*

In the event the Applicant experiences financial difficulty, end users can access other interexchange service providers.

The Applicant stated in response in its September 15, 2015 amendment to its Application that it is currently approved to provide and is providing resold interexchange service in eleven jurisdictions.¹ Staff contacted each the eleven (11) jurisdictions to verify that the Applicant has obtained authority to provide resold interexchange telecommunications services in the respective jurisdiction. All of the jurisdictions verified the Company was authorized to provide resold long distance in the respective jurisdictions.

According to the Applicant's response to Staff Data Request STF 1.3, the Applicant's two executives have an average of 24 years of experience in the telecommunications service industry. In Arizona, Dial World Communications, LLC intends to resell the telecommunications services of PhoenixSoft.

The Consumer Services Section of the Utilities Division reports zero complaints, inquires, or opinions against DWC in Arizona from January 1, 2011 to June 17, 2015. Consumer Services also has reported that DWC is in good standing with the Corporations Division of the Commission. Based on the above information, Staff has determined that the Applicant has sufficient technical capabilities to provide resold interexchange telecommunications services in Arizona.

If the Applicant experiences financial difficulty, there should be minimal impact to its customers because there are many companies that provide resold interexchange telecommunications service or customers may choose a facilities-based provider. If customers want interexchange service from a different provider immediately, customers are able to dial a 101XXXXXX (dial around) access code. In the longer term, customers may permanently switch to another company.

REVIEW OF FINANCIAL INFORMATION

The Applicant is required to have a performance bond to provide resold interexchange service in the State of Arizona.

The Applicant provided unaudited financial statements for the twelve months ending December 31, 2013 and twelve months ending December 31, 2014. The unaudited financial statements ending December 31, 2013, list total assets of \$590,760; total equity of \$40,603 and a net income of \$150,743. The unaudited financial statements ending December 31, 2014, list total assets of \$151,084; total negative equity of \$9,390; and a net income of \$71,417.

If the Applicant experiences financial difficulty, there should be minimal impact to its customers because there are many companies that provide resold interexchange telecommunications service or customers may choose a facilities-based provider. If customers want interexchange

¹ California, Florida, Hawaii, Illinois, Indiana, Michigan, New York, Oklahoma, Pennsylvania, Texas and Wisconsin.

service from a different provider immediately, customers are able to dial a 101XXXXXX (dial around) access code. In the longer term, customers may permanently switch to another company.

Section (A-11) of the Application requires the Applicant to indicate if it or any of its officers, directors, partners or managers have been or are currently involved in any formal or informal complaint proceedings pending before any State or Federal Regulatory Commission, administrative agency, or law enforcement agency. In its initial Application, DWC indicated it was authorized to provide resold long distance services in North Carolina. When verifying DWC's status with the North Carolina Utilities Commission ("NCUC"), Staff learned the NCUC had cancelled the DWC's authority to provide telecommunications services in NCUC Order on October 5, 2011² for failure to file the required utility reports and pay the required regulatory fee. When Staff informed the Applicant of the cancellation, it stated it was not aware of the action, only that it had not paid its regulatory fee in a timely fashion and had since remedied the situation. However, in its amendment to the Application, filed in the docket on September 15, 2015, DWC states it received notification from the North Carolina Utilities Commission of cancellation of its certificate to provide long distance services in state in October 2011. DWC further states that subsequent to receiving notice of its regulatory noncompliance, it filed the Regulatory Fee Report, but did not include an application for reinstatement, which resulted in the cancellation notice. DWC states it is in the process of reapplying for long distance telecommunications authority in North Carolina. Accordingly, in its amendment, Applicant removed the jurisdiction from its list of States where it has received approval to offer telecommunications services similar to those it intends to offer in Arizona in response to the requirement in Section (A-18) of the Application.

Additionally, in its September 15, 2015 amendment, DWC states that its service authority with the Public Utility Commission of Texas ("PUCT") was revoked in May 2011. DWC's authority to transact business in the state was also forfeited by the Texas Secretary of State because DWC was not in good standing with the Texas Public Comptroller. To remedy these deficiencies, DWC states it retroactively filed Franchise Tax Reports with the Texas Public Comptroller. Once the tax deficiencies were remedied, the DWC's authority to do business in Texas was reinstated. Applicant then filed a new application for authority to provide interexchange authority in Texas, which was granted in May 2015.

Other than the incidents discussed above, Staff found no additional instances of any civil or criminal investigations, judgments levied by any administrative or regulatory agency, or criminal convictions within the last ten (10) years involving the Applicant or any of its officers, directors or managers.

Section (A-12) of the Application requires the Applicant to indicate if it or any of its officers, directors, partners or managers have been or are currently involved in any civil or criminal investigations, nor have judgments been entered in any civil matter, judgments levied by any administrative or regulatory agency, nor been convicted of any criminal acts in the past ten (10) years. When Staff contacted the California Public Utilities Commission ("CPUC") to verify DWC's status to provide telecommunications services in California, Staff learned from the California Safety

² NCUC provided Staff with a copy of the Order from Docket No. P-100, Sub 166, et al., October 5, 2011 Order.

& Enforcement Division ("SED") that DWC was providing its prepaid calling card services in California without authority. SED stated DWC subsequently applied for CA PUC authority and SED protested its application based on its operating without authority and failure to pay applicable surcharges and fees. DWC and SED reached a settlement agreement in which DWC was assessed a \$65,000 penalty and the agreement was approved by the CPUC. DWC was granted a Certificate of Public Convenience and Necessity on June 15, 2015, subject to the terms and conditions settlement agreement. In its September 15, 2015 amendment, DWC included a discussion of the events in California, stating that it was granted a Certificate of Public Convenience & Necessity effective June 11, 2015 and that it has since paid on all unremitted surcharges and fees, and has and continues to comply with the terms of the settlement agreement and CPUC order granting authority to DWC. On September 16, 2015, submitted a document in the docket titled "Supporting Documentation to A.12" which includes the CPUC Final Order under Proceeding A.13-09-018. Staff has confirmed with the CA PUC that DWC is currently on track with paying all agreed to penalties, fines, past due surcharges and user fees.

Aside for the instance discussed above, Staff found no additional instances of any civil or criminal investigations, judgments levied by any administrative or regulatory agency, or criminal convictions within the last ten (10) years involving the Applicant or any of its officers, directors or managers.

When asked by Staff what DWC has done to ensure that the above situations do not reoccur, DWC stated it has now retained the managed compliance services of a third-party compliance reporting service provider.³

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

- The Applicant has filed a proposed tariff with the Commission.**
- The Applicant has filed sufficient information with the Commission to make a fair value determination.**

A proposed tariff was included in the Application filed November 14, 2014. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to several long distance carriers operating in Arizona and comparable to the rates the Applicant charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by the

³ Email to Staff from VPillai, September 15, 2015.

Applicant, the fair value rate base information provided should not be given substantial weight in this analysis.

COMPETITIVE SERVICES' RATES AND CHARGES

Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with Arizona Administrative Code ("A.A.C.") R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

Minimum and Maximum Rates

A.A.C. R14-2-1109 (A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Application for a Certificate of Convenience and Necessity to offer intrastate interexchange services as a reseller and the Applicant's petition to classify its intrastate

interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange services, Staff recommends approval of the Application. In addition, Staff further recommends that:

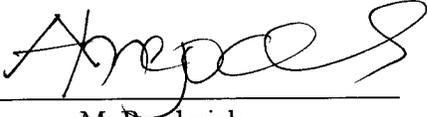
1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. The Applicant should be ordered to file with the Commission tariffs which state that it does not require deposits from its customers;
6. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
7. The Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;
8. The Applicant should be ordered to participate in and contribute to the Arizona Universal Service Fund, as required by the Commission;
9. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's name address or telephone number;
10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;
11. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariff. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
12. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate;

13. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to several long distance carriers operating in Arizona and comparable to the rates the Applicant charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value rate base information provided should not be given substantial weight in this analysis;
14. If the Applicant desires to provide telecommunications services other than resold interexchange services, Staff recommends that the Applicant be required to file an Application with the Commission; and
15. In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107.

Staff recommends that the CC&N granted to the Applicant be considered Null and Void after due process if the Applicant fails to meet the conditions stated below:

1. The Applicant shall docket conforming tariffs in accordance with the Decision within 365 days from the date of an Order in this matter or 90 days prior to providing service, which ever comes first.
2. The Applicant shall notify the Commission as a compliance filing within 30 days of the first customer being served.

Additionally, Staff recommends approval of this Application without a hearing pursuant to A.R.S. § 40-282.



for

Thomas M. Broderick
Director
Utilities Division

Date: 3/4/16

Originator: Lori Morrison

SERVICE LIST FOR: DIAL WORLD COMMUNICATIONS, LLC
DOCKET NO. T-20921A-14-0390

Ms. Vineetha Pillai, Esq.
Marashlian & Donahue, LLC
1420 Spring Hill Rd. Suite 401
McLean, Virginia 22102

Ms. Janice Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Dwight Nodes
Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007