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NEW APPLICATION  
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PROFESSIONALS, INC.



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Judith A. Riley, J.D.

March 6, 2017

**Via UPS Overnight Delivery**

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

Arizona Corporation Commission

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MAR 07 2017

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RE: Application of TCO Network, Inc. for Rescission of Bond in Arizona Corporation  
Commission Decision No. 73133  
Docket No. T-20552A-17-0067 \_\_\_\_\_

Dear Commission:

Enclosed for filing please find the original and thirteen (13) copies of the Application for Rescission of Bond in Arizona Corporation Commission Decision No. 73133 submitted on behalf of TCO Network, Inc.

Please direct any questions you may have to my attention at 405-755-8177 x103 or by email at [mdean@telecompliance.net](mailto:mdean@telecompliance.net).

Respectfully Submitted,

Matt W. Dean  
Regulatory Agent to TCO Network, Inc.

**BEFORE THE ARIZONA CORPORATION COMMISSION**

**IN THE MATTER OF THE APPLICATION  
OF TCO NETWORK, INC. FOR  
RESCISSION OF BOND REQUIREMENT  
CONTAINED IN ARIZONA CORPORATION  
COMMISSION DECISION NO. 73133**

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**APPLICATION**

TCO Network, Inc. (hereinafter "TCO Network") requests rescission of the bond requirement included in Arizona Corporation Commission ("Commission") Decision No. 73133.

**BACKGROUND**

TCO Network is a provider of competitive resold long distance and resold local exchange telecommunications services in the State of Arizona. TCO Network was issued a Certificate of Convenience and Necessity to provide competitive resold long distance and resold local exchange telecommunications services by the Commission on May 1, 2012 (Decision NO. 73133). TCO Network does not serve residential customers.

When TCO Network was certificated by the Commission on May 1, 2017, that Order, ACC Decision 73133, required TCO Network to obtain and submit to the Commission a \$25,000 performance bond in order to protect the Company's resold local exchange customers. TCO Network has complied with its obligation to maintain the aforementioned performance bond and currently maintains a bond in the amount of \$25,000.

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

### **1. Record of Compliance**

TCO Network has been a certificated carrier in Arizona since 2012. Throughout this period, TCO Network 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 complaints against TCO Network have been resolved and closed with no formal litigation and without penalty to TCO Network. TCO Network is available to respond in a timely and responsive manner to any questions or concerns regarding customer service.

The bond that TCO Network has had on file with the Commission has never been drawn upon or requested. Obtaining and maintaining this bond created a significant expense for TCO Network and continues to do so. Moreover, it diverts monies that TCO Network 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 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 the 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 who requested or required customer deposits or advances. TCO Network does not request or require customer deposits or advances; therefore a bond is not necessary, given TCO Network’s history.

### **3. The Commission is Moving Towards Bonds Only When Necessary**

In October 2015, the Commission approved the CAN Communication Services’ application to be relieved of its bond requirement. The Commission concluded that it was in the public interest to approve the ACN application. *See* Decision No. 73518. 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 recommended no bond reflecting an appropriate reaction to changes in the competitive telecommunications market. Staff has recommended a “case by case” analysis for assessing the need for a bond. This makes sense. The Commission retains full authority to impose a bond if Staff is concerned about a company’s managerial or technical ability to provide services in Arizona. Companies like TCO Network, however, that have been providing service for years, show no history of customer complaints or problems, and have demonstrated their technical and managerial expertise, should not be required to post or maintain a bond.

### **4. Bond Documents**

If this application is approved, TCO Network requests that the bond documents be returned to the following TCO Network representative:

William F. Linsmeier  
TCO Network, Inc.  
13400 Bishops Lane, Suite 295  
Brookfield, WI 53005

## CONCLUSION

For the foregoing reasons, TCO Network respectfully requests an order cancelling the bond requirements in Decision No. 73133.

RESPECTFULLY SUBMITTED this 6<sup>th</sup> Day of March, 2017.

By:   
Matt W. Dean  
Consultant to TCO Network, Inc.  
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Oklahoma City, OK 73142  
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[mdean@telecompliance.net](mailto:mdean@telecompliance.net)

ORIGINAL and thirteen (13) copies of the foregoing  
Was filed this 6<sup>th</sup> Day of March 2017 with:

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