

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

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IN THE MATTER OF THE JOINT APPLICATION)
OF COX ARIZONA TELECOM, LLC AND)
QWEST CORPORATION d/b/a CENTURYLINK)
QC TO REVISE THE COMMISSION'S)
TELECOMMUNICATIONS TARIFF RULES.)

DOCKET NO.

JOINT APPLICATION

T-03471A-17-0116

T-01051B-17-0116

Cox Arizona Telcom, LLC ("Cox") and Qwest Corporation d/b/a CenturyLink QC ("Applicants") request that the Commission initiate a rulemaking to revise the Commission's telecommunications tariff rules to reflect new legislation signed by the Governor on March 27, 2017 (S.B. 1217). The new legislation pertains to the process of pricing of competitive telecommunications services and impacts certain provisions set forth in A.A.C. R14-2-501 et seq. and A.A.C. R14-2-1101 et seq.¹

HISTORICAL BACKGROUND

The Commission's current telecommunications tariff rules were adopted decades ago under very different market conditions and, as a result, many of those rules are simply outdated. The "R14-2-500" series of rules were adopted in 1982 - the same year AT&T was broken up into a long-distance company and separate regional bell companies with local monopolies. The Commission's "R14-2-500 series" rules are a creature of this historic world of monopoly, traditional rate-of-return regulation and the absence of customer choice. Today's telecommunications world is completely different. Now "long distance" is largely irrelevant as a separate service and local phone monopolies

¹ The tariff rules impacted by the new legislation are Arizona Administrative Code R14-2-504(B), R14-2-510(F), R14-2-1110 and R14-2-1115(C).

1 ended two decades ago. Traditional “land line” phone service is rapidly becoming a niche product
2 and continuing to fall in subscribership.

3 The “R14-2-1100 series” rules are more modern in comparison to the R14-2-500 series rules,
4 but are still archaic in a market where the majority of voice communications occur over technologies
5 that are not regulated by the ACC. They were adopted in 1995 - at the very dawn of local phone
6 competition - before the wide availability of cell phones, VOIP technology and advanced video
7 services like “Facetime” which have provided consumers with numerous unregulated
8 telecommunications options for their calling needs. Thus, the R14-2-1100 series tariff rules are also
9 out-of-date and outmoded.

10 **LEGISLATIVE REFORM**

11 The Legislature has now recognized this changed landscape. It recently passed - and the
12 Governor signed - S.B. 1217, a broad deregulatory reform of telecommunications rates.² This new
13 law provides that “Just and reasonable rates for retail telecommunications services that have been
14 classified as competitive by the Commission do not need to be based on the rate of return evaluation
15 traditionally used in establishing rates for noncompetitive telecommunications services.” A.R.S. §
16 40-250(D), as amended by S.B. 1217 § 1. Further, “Notwithstanding any provision of this chapter
17 and this section to the contrary, maximum rates, terms of service or standards of service for retail
18 telecommunication services classified as competitive may be established or changed on forty
19 calendar days’ notice to affected customers and the commission. The maximum rates, terms of
20 service or standards of service are effective within forty days after the notice unless the commission
21 suspends the effective date.” *Id.* The Commission also may not deny or modify the newly filed rates
22 “until after the commission holds a hearing and finds and determines that such action does not unduly
23 burden or disadvantage the entity in a manner that is not competitively neutral in relation to other
24 telecommunications providers competing in this state regardless of the technology used and the
25 regulatory classification of the other providers.” *Id.* Finally, the Legislature has directed that “state

26
27 ² The Legislature has broad authority to set “rules and regulations to govern proceedings” before the
Commission. Arizona Constitution, Article 15, Section 6.

1 regulation of telecommunications providers” must be “competitively neutral in relation to all
2 telecommunications providers competing in this state.” *Id.*

3 In short, the Legislature has recognized the current, highly competitive telecommunications
4 marketplace, and has expressed concern about the regulatory burden on regulated providers as
5 opposed to unregulated technologies such as cell phones, VOIP and video communication services.

6 The current tariff rules are exactly this type of inconsistent regulatory burden that applies to
7 some technologies but not others. Further, the current telecommunications rules do not reflect the
8 provision of the new law allowing changes—including increases in maximum rates—to go into effect
9 on 40 days’ notice, unless suspended by the Commission. Further, the period of suspension may be
10 no more than 30 days, and if the Commission does not act within that timeframe, the changes are
11 approved. *Id.* The current rules do not reflect these statutory requirements.

12 **PROPOSED RULE REVISIONS**

13 A redline of the proposed revisions is attached as Exhibit A. The proposed revisions may be
14 summarized as follows:

15

Rule	Revision
R14-2-504(B)	Adds a new provision for telecommunications providers whose services have been designated as competitive, with provisions reflecting the 40 day notice procedure in the new statute.
R14-2-510(F)	Updates effective date of revisions to match new statute.
R14-2-1110	Substantial rewrite of rule to conform to new statute regarding 40 day notice period, and 30 day suspension period, and related provisions for new tariffs to automatically take effect.
R14-2-1115(C)	Rule updated to reflect procedural requirements of new statute.

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1 **REQUEST FOR EXPEDITED RULEMAKING**

2 Governor Ducey has announced a statewide program to eliminate outdated or unneeded rules,
3 with the goal of eliminating 500 regulations by the end of the year, through the Governor's
4 www.redtape.az.gov website. The tariff rules - a product of a different age - are exactly the type of
5 rules that should be updated to eliminate antiquated regulatory requirements that are now in conflict
6 with statute. The Applicants believe that this rulemaking can be done on an accelerated timeline
7 similar to the filing to amend A.A.C. R14-2-802(A) of the "Affiliated Interest Rules" that was
8 completed by the Commission in 2016. See Decision No. 75611 (June 27, 2016).

9 The Applicants request that the Commission instruct the Utilities Division Staff to file with
10 the office of the Secretary of State, for publication in the Arizona Administrative Register, (1) a
11 Notice of Rulemaking Docket Opening and (2) a Notice of Proposed Rulemaking including Exhibit
12 A.

13 The Applicants further request that the Commission direct the Hearing Division to hold oral
14 proceedings to receive public comment on the Notice of Proposed Rulemaking.

15 Finally, the Applicants request that the Commission establish any additional procedural
16 deadlines and requirements as may be necessary and consistent with the Administrative Procedures
17 Act and prior Commission rulemaking proceedings.

18 RESPECTFULLY SUBMITTED this 21st day of April, 2017.

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20 SNELL & WILMER L.L.P.

21
22 By 

23 Michael W. Patten
24 Timothy J. Sabo
25 One Arizona Center
26 400 East Van Buren Street
27 Phoenix, Arizona 85004

Attorneys for Cox Arizona Telcom, LLC

and

QWEST CORPORATION dba CENTURYLINK QC

By _____
Norman G. Curtright
Associate General Counsel
20 E. Thomas Rd., 1st Floor
Phoenix, Arizona 85012

Original and 13 copies of the foregoing
filed this this 21st day of April, 2017, with:

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

Copies of the foregoing hand-delivered/mailed
this 21st day of April, 2017, to the following:

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

Andy Kvesic
Director, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Elijah Abinah
Acting Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

By 

1 EXHIBIT A

2 TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
3 SECURITIES REGULATION

4 CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

5 ARTICLE 5. TELEPHONE UTILITIES

6 **R14-2-504. Minimum customer information requirements**

7 A. No change.

8 B. Information required due to changes in tariffs

9 1. Each utility shall transmit to affected customers by the most economic means
10 available a concise summary of any change in the utility's tariffs affecting those
11 customers.

12 2. This information shall be transmitted to the affected customer within 60 days of the
13 effective date of the change, except as provided for in subsection 3.

14 2.3. For Telecommunications Companies whose services have been classified as
15 competitive pursuant to A.A.C. R14-2-1108, the information pertaining to tariff
16 changes shall be transmitted to the affected customers at least 40 days prior to the
17 effective date of the change.

18 **R14-2-510. Administrative and Hearing Requirements**

19 A. No change.

20 B. No change

21 C. No change

22 D. No change

23 E. No change

24 F. Filing of rules and regulations

25 1. Each utility shall file with the Commission tariffs which are in compliance with the
26 rules and regulations promulgated by the Arizona Corporation Commission within
27 120 days of the adoption of such rules by the Commission.

2. Any proposed changes to the tariffs on file with the Commission shall be
accompanied by a statement of justification supporting the proposed change in tariff.

- 1 3. Any proposed change to the tariffs on file with the Commission shall not be effective
2 until reviewed and approved by the Commission, except as provided for by law and as
3 set forth in R14-2-1110 for Competitive Telecom Carriers.

4 ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES

5 **R14-2-1110. Competitive Telecommunications Services -- Procedures for Rate Change**

- 6 A. Telecommunications companies governed by this Article may apply to the Commission for an increase
7 in any maximum tariffed rate for a competitive service using the procedures set forth below. All
8 applications and supporting information shall be submitted with 10 copies and filed with Docket Control
9 Center.
10 B. 1. In order to increase the maximum tariffed rate for a competitive telecommunications service, a
11 Telecommunications Company shall provide concurrent written notice to the Commission and all
12 affected customers. the applicant shall submit an application to the Commission containing the following
13 information: The increase shall become effective no later than 40 days following such notice unless the
14 Commission suspends the effective date. Any period of suspension may not be longer than thirty days
15 after the end of the forty day notice period. At the end of the suspension period, the requested maximum
16 rates are effective unless the Commission has already acted on the request. The notice to the
17 Commission shall include the following information:
18 1. ~~A statement setting forth the reasons for which a rate increase is required;~~
19 2. A schedule of current rates and proposed rates and the additional revenues to be derived from the
20 proposed rates;
21 3. An affidavit verifying that appropriate notice of the proposed rate increase has been provided to
22 customers of the service;
23 4. The Commission or staff may request any additional information in support of the application
24 notice.
25 CB. The Commission may, at its discretion, act on the requested maximum tariffed rate increase with or
26 without an evidentiary hearing; in an expeditious manner. An order denying or modifying the filing
27 under this Section shall not be ordered until after the Commission holds a hearing and finds and
 determines that such action does not unduly burden or disadvantage the entity in a manner that is not
 competitively neutral in relation to other telecommunications providers competing in this state
 regardless of the technology used and the regulatory classification of the other providers.

21 **R14-2-1115. Administrative Requirements**

- 22 A. No change.
23 B. No change
24 C. Filing of Tariffs, Price Levels, and Contracts. Each telecommunications company
25 governed by this Article shall file with the Commission current tariffs, price levels, and
26 contracts that comply with the provisions of this Article and with all Commission
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rules, orders, and all other requirements imposed by the laws of the state of Arizona.

1. Current tariffs for competitive services shall be maintained on file with the Commission pursuant to the requirements of A.R.S. § 40-365

a. Tariffs for terms and conditions and service standards may be established or changed on forty calendars days` notice to the Commission and to affected customers, unless the Commission suspends the effective date

b. An order denying or modifying a filing pursuant this subsection shall not be ordered until after the Commission holds a hearing and finds and determines that such action does not unduly burden or disadvantage the entity in a manner that is not competitively neutral in relation to other telecommunications providers competing in this state regardless of the technology used and the regulatory classification of the other providers

c. Any period of suspension may not be longer than thirty days after the end of the forty day notice period. At the end of the suspension period, the requested terms of service or standards of service are effective unless the Commission has already acted on the request.

2. No Change

3. No Change.

4. No change.