



NEW APPLICATION



0000179778

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2017 MAY 17 P 12: 39

May 16, 2017
Via Overnight Delivery

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

T-20562A-17-0145

**RE: Bandwidth.com CLEC, LLC – T-20562A-17-
In the Matter of the Application of Bandwidth.com CLEC, LLC for Rescission of
Bond/ILOC Requirement Contained in Arizona Corporation Commission Decision Nos.
71117 and 72019**

Dear Sir or Madam:

Enclosed for filing please find the original and thirteen (13) copies of the Application for Rescission of Bond/ILOC Requirement submitted on behalf of Bandwidth.com CLEC, LLC.

Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, stamped envelope provided for that purpose.

Any questions you may have regarding this filing should be directed to my attention at 407-740-3031 or via email to Sthomas@tminc.com. Thank you for your assistance in this matter.

Sincerely,

Sharon Thomas
Consultant to Bandwidth.com CLEC, LLC

Arizona Corporation Commission

DOCKETED

MAY 17 2017

DOCKETED BY

cc: Lisa Jill Freeman - Bandwidth.com CLEC
tms: AZx1702

Enclosures
ST/sp

BEFORE THE ARIZONA CORPORATION COMMISSION

In the Matter of the Application of)
Bandwidth.com CLEC, LLC.)
For Rescission of Bond/ILOC Requirement) Docket No.: _____
Contained In Arizona Corporation)
Commission Decision Nos. 71117 and)
72019

APPLICATION

Bandwidth.com CLEC, LLC. (“Bandwidth.com CLEC” or “Applicant”) requests rescission of the requirement to maintain a bond or irrevocable sight draft letter of credit ("ILOC") that was imposed on the Applicant by Arizona Corporation Commission ("Commission") Decision No. 71117, as amended in Decision No.72019.

BACKGROUND

Bandwidth.com CLEC was issued a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold local exchange, resold long distance, facilities-based local exchange and facilities-based long distance telecommunication services on June 5, 2009 in Docket No. T-20562A-07-0615 (Decision No. 71117). In that docket, the Applicant was ordered to maintain a performance bond or irrevocable sight draft letter of credit equal to \$225,000. The Applicant subsequently requested and was granted approval to cancel its authority under its CC&N to provide facilities-based long distance and resold local exchange services, while retaining its authority to provide resold long distance and facilities-based local exchange services. (Docket No. T-20562A-10-0221, Decision No. 72019.) The Commission granted the Applicant's request in that proceeding to reduce its ILOC to \$100,000, to reflect the cancellation of the Applicant's authority to provide resold local exchange and facilities-based long distance telecommunications services in Arizona.

Bandwidth.com CLEC has complied with its obligation to maintain the aforementioned ILOC and currently maintains an ILOC in the amount of \$100,000. For the reasons set forth below, Bandwidth.com CLEC respectfully asks that the Commission issue an order relieving Bandwidth.com CLEC of its obligation to maintain a bond or ILOC.

ANALYSIS

Section R14-2-1105(D) of the Arizona Administrative Code provides that: "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." Bandwidth.com CLEC is subject to the Arizona Competitive Telecommunications Services Rules, A.A.C. R14-2-1101 through R14-2-1115, and must comply with all rules applicable to the provision of intrastate telecommunications services under the terms of its certification. While the Commission may and has required a performance bond or ILOC as a condition of certification, continuing this requirement for Bandwidth.com CLEC is unnecessary and imposes an unreasonable cost burden on the Applicant, as set forth below.

Bandwidth.com CLEC has been a certified telecommunications provider in Arizona since 2009. Throughout this period Bandwidth.com CLEC has complied with the requirements of its certification, including meeting required reporting obligations, maintaining tariffs, and maintaining the required ILOC. Bandwidth.com CLEC has not had a retail customer base in Arizona. It has never collected customer deposits or advanced payments from Arizona customers and does not intend to do so in the future. The bond requirement imposed on the Applicant as a condition of its certification was not imposed in accordance with the rationale established under the Commission's rules. Rather, it was imposed as part of a standard requirement applied to all applicants for CC&Ns at the time.

Bandwidth.com CLEC's compliance with Commission regulations and orders was never at issue when the ILOC obligation was imposed. During the time period when Bandwidth.com CLEC was initially granted a CC&N and when the CC&N was subsequently amended, it was the general policy of the Commission to require a bond or ILOC without a specific inquiry into the record of the company or its proposed operations in Arizona.

During the past few years, the Commission has changed its policy and has approved several applications from CC&N holders requesting relief from the bond requirement. For instance, in Decision No. 74490, it approved the application of XO Communications Services, LLC's to be relieved of its bond

requirement, finding such relief to be in the public interest and noting that the Commission has "recently been relieving telecommunications providers of the obligation of a bond requirement." Similarly, in Decision No. 75318, the Commission relieved ACN Communication Services, Inc. of its bond requirement after finding that it was in the public interest to do so.

Likewise, the Commission has during the past few years approved applications for CC&N's for telecommunications carriers without requiring a bond or ILOC of the applicant. For instance, based on its Staff's recommendation, the Commission did not require a bond of TNCI Operating Company, LLC when it issued that company a CC&N in Docket No. T-20882A-13-0108. Similarly, no bond was required of Voxbeam Telecommunications Inc. when it was issued a CC&N to provide facilities-based local exchange and resold long distance telecommunications services in Docket No. T-20900A-13-0423. In recent years, Staff has recommended a "case by case" analysis for assessing the need for a bond or ILOC. The Commission retains full authority to impose a bond if Staff is concerned about a company's managerial, financial, or technical ability to provide service in Arizona. A company such as Bandwidth.com CLEC, which has had no regulatory compliance or other issues that would suggest the need for a bond, should not be required to maintain a bond or ILOC, which imposes a significant cost on the Applicant with no associated benefit to Arizona consumers.

ILOC DOCUMENT RETURN

If this application is approved, Bandwidth.com CLEC requests that its ILOC be returned to the following Bandwidth.com CLEC representative:

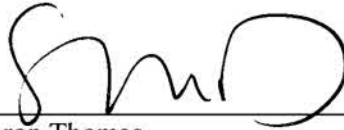
Lisa Jill Freeman
Vice President and Regulatory Compliance Officer
Bandwidth, com CLEC, LLC
900 Main Campus Drive
Suite 500
Raleigh, NC 27606

CONCLUSION

For the foregoing reasons, Bandwidth.com CLEC, LLC respectfully requests that the Commission issue an order rescinding the \$100,000 bond/ILOC requirement that was imposed on the Applicant in Decision No. 71117, as amended in Decision No.72019. In order to release the bond, it is sufficient for the Commission to include in an ordering paragraph language authorizing the Applicant to cancel, rescind, discontinue and be released from the performance bond or ILOC requirements set by Decision No. 71117, as amended in Decision No.72019, and authorizing cancellation of the bond effective with the date of the Order issued in this case.

RESPECTFULLY SUBMITTED this 16th day of May, 2017.

By:



Sharon Thomas
Consultant to Bandwidth.com CLEC, LLC.
151 Southhall Lane, Suite 450
Maitland FL 32751
Phone: (407) 740-3031
stthomas@tminc.com

ORIGINAL and thirteen (13) copies of the foregoing
was filed this 16th day of May, 2017.with:

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