

Decision No. C20-0802

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0374T

IN THE MATTER OF THE APPLICATION OF ARCADIAN INFRACOM 1, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) FOR THE PROVISION OF PART IV SERVICES IN THE STATE OF COLORADO (4 CCR 723-2-2103).

**DECISION GRANTING
APPLICATION WITH CONDITIONS**

Mailed Date: November 13, 2020
Adopted Date: October 14, 2020

I. BY THE COMMISSION

A. Statement

1. By this Decision, we grant, with conditions set forth below, the application of Arcadian Infracom 1, LLC. (AI 1 LLC) for a Certificate of Public Convenience and Necessity (CPCN) to provide Part IV services in Colorado, as discussed below.

B. Background

2. On September 3, 2020, AI 1 LLC filed an Application for a CPCN to provide Part IV services. AI 1 LLC is a subsidiary of Arcadian Infracom, Inc. Arcadian Infracom, Inc. is a fiber infrastructure provider that plans to provide dark fiber and wavelength services itself, and through subsidiaries like AI 1 LLC.

3. Arcadian Infracom Inc. already possesses a Part IV CPCN (*see* Proceeding No. 20A-0068T, Decision No. C20-0212 (issued April 7, 2020)). It is anticipated that AI 1 LLC will be principally involved with the Phase 1 route (roughly 1300 miles connecting Phoenix, Salt Lake City, and Denver) construction and operation. In addition to the currently planned Phase 1

fiber route that will be owned and operated by AI 1 LLC, for future routes through or in Colorado.

4. On September 9, 2020, notice of the Application was provided to all persons, firms or corporations, interested in or affected by the grant or denial of the request. Interventions were due on or before October 9, 2020. No interventions were received in this proceeding.

5. On September 28, 2020, AI 1 LLC filed a statement of willingness to provide financial assurance pursuant to a Commission Staff calculation based upon projected revenue. AI 1 LLC agrees to provide the Commission financial assurance in the form of a bond or a letter of credit in the amount of \$17,840 as a condition of obtaining its CPCN.

C. Discussion

6. No one has filed an intervention opposing the Application. We therefore find that the Application is unopposed and consider it without a formal hearing pursuant to § 40-6-109(5), C.R.S.

7. The Commission modified its Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR) 723-2 (Proceeding No. 16R-0453T, with an effective date of September 1, 2017). The modified rules allow providers offering Part IV services under § 40-15-401, C.R.S., to apply to the Commission to obtain a CPCN. No CPCN is required for services classified in Part IV of Article 15 of Title 40 of the Colorado Revised Statutes. Pursuant to § 40-15-503.5, C.R.S., and Commission Rule 2111, 4 CCR 723-2, the Commission may require an applicant requesting an operating authority to post a bond or provide other security as a condition of obtaining a Commission operating authority.

8. Due to the financial information provided by AI 1 LLC, we conclude that financial assurance for the issuance of a CPCN is necessary and appropriate in the form of either a bond or a letter of credit and shall be required to be posted with the Commission under the terms and conditions specified in the Attachments to this Decision. The issuance of a bond or letter of credit is consistent with previously issued Commission decisions granting CPCNs when financial fitness is an issue. Section 40-15-503.5, C.R.S., and Commission Rule 2111 allow the Commission to impose a bond or other security as a condition of obtaining an operating authority.

9. With the issuance of this authority, AI 1 LLC must: (1) file a bond or letter of credit consistent with the terms and conditions in the Attachments to this Decision; and (2) comply with all applicable statutory and regulatory requirements pursuant to Rule 2103(a)(XVI), 4 CCR 723-2.

II. ORDER

A. The Commission Orders That:

1. Arcadian Infracom 1, LLC is granted a Certificate of Public Convenience and Necessity (CPCN) to provide Part IV services on a statewide basis with the conditions included herein.

2. Arcadian Infracom 1, LLC is not required to create and provide tariffs to the Commission.

3. Arcadian Infracom 1, LLC shall not unjustly discriminate among customers in the same class of service, per Commission Rule 4 *Code of Colorado Regulations* 723-2-2103.

4. Before commencing operations under this CPCN to provide Part IV services, Arcadian Infracom 1, LLC shall file with the Commission, financial assurance in the form of a

bond or letter of credit consistent with the terms and conditions as described in the Attachments to this Decision.

5. If Arcadian Infracom 1, LLC fails to file financial assurance within one year from the Mailed Date of this Decision, this CPCN to provide Part IV services shall be deemed null and void without further action of the Commission. For good cause shown, and if a proper request is filed within one year of the Mailed Date of this Decision, the Commission may grant additional time within which to file financial assurance.

6. Consistent with terms and conditions established in previous Commission decisions, Arcadian Infracom 1, LLC will be required to contribute, as prescribed by statute, rule or order of the Commission, based on the entirety of its intrastate services regardless of the technology, to the Public Utilities Commission's Telecommunications Utilities Fund, the Colorado High Cost Support Mechanism, the Colorado Telephone Users Disabilities Fund, and other financial support mechanisms that may be created in the future by the Commission to implement § 4015-502(4) and (5), C.R.S.

7. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 14, 2020.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners