

Decision No. C14-0520

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 12A-1299T

IN THE MATTER OF THE APPLICATION OF TELIAX INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES (4 CCR 723-2-2103).

**COMMISSION DECISION DENYING
MOTION FOR WAIVER**

Mailed Date: May 16, 2014

Adopted Date: May 14, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a request for waiver of a condition to provide financial assurance filed on behalf of Teliix, Inc. (Teliix or Company) on April 25, 2014. We shall construe this filing as a Motion for Waiver to File a Surety Bond (Motion).

2. In Decision No. C13-0173 (mailed February 7, 2013), the Commission granted Teliix's Application for a Certificate of Public Convenience and Necessity (CPCN) with conditions. That Decision stated:

If Teliix fails to file an Advice Letter and accompanying proposed tariff that is effective within one year from the Mailed Date of this Order, this CPCN to provide local exchange telecommunications services and LOR to provide emerging competitive telecommunications 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 Order, the Commission may grant Teliix additional time within which to file a tariff. [Per paragraph 9

of this Decision, Teliix is required to have an effective tariff on file no later than February 7, 2014.]

Concurrent with the filing of an Advice Letter and accompanying tariff, Teliix shall file a bond or letter of credit consistent with the terms and conditions attached to this Order.

Decision No. C13-0173, Ordering ¶¶ 9 and 10.

3. In Decision No. C14-0144 (mailed February 7, 2014), the Commission granted Teliix's Motion for Extension of Time to file its Advice Letter and Surety Bond. The Company was to timely file a tariff in order to have it effective by May 8, 2014, and also concurrently file a bond or letter of credit to address the financial assurance requirement of its CPCN.

4. In its pending Motion, the representative for Teliix states that while it acknowledges that it did agree to provide financial assurance as a condition of its CPCN, it has not been able to procure a bond at a price that it believes to be reasonable. The Company represents that it has contacted three insurance brokers and despite providing both business and personal financial information, was denied by two of these and while accepted by a third, the cost was determined to be prohibitive by Teliix.

5. Teliix further supports its Motion with an assertion that it does not require a CPCN to provide the service that it intends to sell, recovery of network costs from interconnected carriers. The reason that it seeks to retain its CPCN, it states, is to be able to discuss compensation with potential customers. The Company also asserts that it does not require any prepayments or deposits from retail customers. It also claims that for smaller providers, such as itself, a \$50,000 bond requirement results in a disproportionate barrier to entry when compared to larger carriers.

6. The Commission has required financial assurance in certain circumstances for telecommunications providers that have agreed to financial assurance due to their specific

circumstances in the application for a CPCN. The authority for the Commission to require financial assurance as a condition for obtaining telecommunications authority is contained in § 40-15-503.5, C.R.S. Teliix did receive a conditional CPCN in Decision No. C13-0173 that was based on the information that it provided in its original application for telecommunications authority.

7. The Commission has recognized that a \$50,000 level of financial assurance is sufficient to protect customers, administrative funds and charges, as well as obligations to any wholesale providers of service to holders of CPCNs regardless of the size of a company. The financial assurance requirement estimates a level of revenue that is not substantial in order to calculate the bond requirement. This calculation can be found in Attachment AA of Decision No. C13-0173. We are not persuaded by Teliix's reasons for requesting a variance of the requirement to provide financial assurance as a condition of its CPCN. The Commission finds good cause exists to deny the Motion and waive response time thereto.

II. ORDER

A. The Commission Orders That:

1. The Motion for Waiver to File a Surety Bond, filed by Teliix, Inc. is denied, and response time thereto is waived.
2. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.
3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 14, 2014.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAMELA J. PATTON

GLENN A. VAAD

Commissioners

CHAIRMAN JOSHUA B. EPEL
ABSENT.