

**Before the
Navajo Nation Telecommunications Regulatory Commission**

In the Matter of
Application for Certificate of Convenience and
Necessity (CCN)

No. NNTRC-11-001

Comments of Table Top Telephone Company, Inc.

I. BACKGROUND

A. Company Background

Table Top Telephone Company, Inc. (“Table Top”) is a Nevada corporation engaged in the business of providing telecommunication services to less than 4,000 customers located in six exchanges located in Arizona: Aguila, Ajo, Bagdad, Inscription Canyon Ranch, Sanders, and Seligman. Table Top began operations in 1995, with the acquisition of five exchanges from US West Communications, Inc. (US West) (now “CenturyLink”). In 1998, Table Top began serving the Inscription Canyon Ranch Exchange, an area previously not served. Table Top’s rural service area covers 2,976 square miles in these six noncontiguous exchanges, with an average density of approximately 1.3 access lines per square mile.

Table Top holds a Certificate of Convenience and Necessity (“CCN”) from the Arizona Corporation Commission to provide service within its six exchanges. The Corporation Commission also regulates Table Top’s rates and conditions of service. Table Top may only charge the rates sets forth in its tariffs, which have been approved by the Corporation Commission.

The Corporation Commission classifies Table Top as an Incumbent Local Exchange Carrier (“ILEC”). As an Arizona ILEC, Table Top has a duty to serve customers. Put another way, Table Top must continue to invest in facilities to serve its present customers and must serve all customers within its Arizona CCN. This is an important difference between Table Top and a *competitive* local exchange carrier (“CLEC”) such as Cox, Verizon, AT&T, and Sprint. CLEC’s

1 have no duty to serve customers within their CCN and they are not required to maintain their
2 facilities or to make any investments in new facilities. Of particular importance, a CLEC may
3 simply decide to discontinue service to any or all of its service areas within its CCN.

4 Table Top is also considered to be a “Rural Telephone Company” as that term is defined
5 by the Federal Communications Commission and its enabling statutes.

6 **B. Service to Navajo Nation**

7 Table Top’s Sanders Exchange provides service to less than 600 customers in and around
8 Sanders, Arizona, including those customers on the Navajo Nation. The central office, including
9 switching facilities, is located in Sanders, outside the Navajo Nation. Table Top provides service
10 within the Navajo Nation in accordance with a 1996 Certificate of Authority granted by the
11 Nation’s Division of Regulatory Authority. There was no expiration date set for the Certificate.

12 **II. TABLE TOP’S COMMENTS**

13 The Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) has asked
14 for comments concerning its Rulemaking about company applications to the NNTRC for a
15 Certificate of Convenience and Necessity (“CCN”). Table Top appreciates that opportunity to
16 provide these comments.

17 **A. Table Top Already Holds a CCN**

18 Table Top first notes that it already holds a CCN. As noted above, Table Top has been
19 serving the Navajo Nation customers since 1995, when it acquired the Sanders Exchange from
20 US West. US West had provided service to the Navajo Nation through the Sanders Exchange for
21 many years before 1995. That service was presumably authorized by Navajo Nation authorities.
22 Then, in 1996 Table Top received its present Certificate of Authority. For these reasons, Table
23 Top believes that its CCN is grandfathered and it need not apply for a new CCN.

24 **B. Comments on CCN Procedure**

25 Table Top recommends that the NNTRC add a fifth CCN category for Rural Telephone
26 Companies that are already serving the Navajo Nation pursuant to a CCN granted by the Arizona

1 Corporation Commission. This would be similar to the proposed category of “Public Interest
2 Companies,” but with reduced filing requirements.

3 Table Top is a “public service corporation” as that term is defined in the Arizona
4 Constitution, Article 15, § 2. As a public service corporation, it is already subject to extensive
5 regulation by the Corporation Commission. The Corporation Commission sets Table Top’s rates
6 for all its customers including those in the Navajo Nation. It regulates Table Top’s service and
7 will resolve any customer complaints concerning service or other issues.

8 A public service corporation is “affected with the public interest.”¹ As such, Table Top is
9 serving the “public interest” of the Navajo Nation. Therefore, the NNTRC should find that
10 Table Top is already serving the public interest, and should be entitled to the Navajo Nation’s
11 “*established public interest rate structure* for all telecommunications rights-of-way, joint use and
12 co-location permits, and leases.”²

13 Table Top has concerns with several proposed requirements for public interest
14 organizations, most of all with the following section:

15 The [annual] report would include, but not be limited to, identification of revenue
16 generated from customers on the Navajo Nation, revenue by specific
17 infrastructure located on the Navajo Nation, identification of unserved/
18 underserved areas within the PIO’s territory on the Navajo Nation and goals for
19 penetration and service of such areas, and feasibility and sustainability planning.

20 Table Top is already required to file an annual report to the Arizona Corporation
21 Commission, which contains much of the information that would be of interest to the NNTRC.
22 It would be burdensome for such a small company to prepare and provide this additional
23 information. More problematic is the requirement to track “revenue by specific infrastructure
24 located on the Navajo Nation.” For example, each Sanders customer is served by the switches
25 and other facilities located inside the Central Office and outside the Nation. It is meaningless to
26 suggest that any particular infrastructure generates revenue. Table Top invests in the

¹ *Nebbia v. New York*, 291 U.S. 502 (1934).

² NNTRC Report dated August 27, 2012, page 9.

1 infrastructure needed to serve its customers. Based on the number of customers, the Corporation
2 Commission then sets rates to allow Table Top to recover its aggregate prudent investments.

3 Table Top finances the bulk of its infrastructure improvements through loans from the
4 Rural Utilities Service (“RUS”), a program of the Rural Economic and Community Development
5 agency, which is one of six basic mission areas of the US Department of Agriculture (USDA).
6 The RUS already requires that Table Top’s new investment be provided in a “culturally sensitive
7 manner.” Further, Table Top also has to satisfy existing Arizona and federal environmental,
8 historical, and cultural regulations. Satisfying these stringent requirements can add as much as a
9 year or more to the time required for construction of new infrastructure such as high-speed, fiber-
10 optic backbone. There is no reason to make it even more difficult to invest in new facilities.

11 **C. Table Top’s Recommendations**

12 Table Top asks the NNTRC to include a fifth CCN category for Rural Telephone
13 Companies that are already subject to rate regulation by a state regulatory commission such as
14 the Arizona Corporation Commission. These companies would be entitled to the Navajo
15 Nation’s “*established public interest rate structure* for all telecommunications rights-of-way,
16 joint use and co-location permits, and leases.”

17 Table Top asks the NNTRC to avoid even more regulation for Rural Telephone
18 Companies. The RTCs are already subject to extensive state and federal regulation and
19 supervision. Adding yet another layer of regulation for these companies would be burdensome
20 and expensive, and could lead to inconsistent regulation. Table Top has long been providing
21 excellent service to its customers in the Navajo Nation. The NNTRC Report does not suggest
22 any issues with the RTCs or specifically with Table Top. As the old saying goes, “if it ain’t
23 broke, don’t fix it.”

24 If the NNTRC determines that it should impose any additional requirements on the RTCs,
25 they should be limited to the following:

