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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

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AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

MAR 26 2004

DOCKETED BY

DOCKET NO. T-04103A-02-0274
T-02565A-02-0274

IN THE MATTER OF THE APPLICATION OF
OCMC, INC. TO OBTAIN A CERTIFICATE OF
CONVENIENCE AND NECESSITY FROM ONE
CALL COMMUNICATIONS, INC. DBA
OPTICOM TO PROVIDE
TELECOMMUNICATIONS SERVICES AS A
PROVIDER OF RESOLD INTEREXCHANGE
SERVICES AND ALTERNATIVE OPERATOR
SERVICES WITHIN THE STATE OF ARIZONA.

PROCEDURAL ORDER

BY THE COMMISSION:

On July 15, 2002, OCMC, Inc. ("OCMC" or "Applicant") submitted to the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold interexchange services and alternative operator services in the State of Arizona ("Application").¹

On June 24, 2002, OCMC published notice of its Application in *The Arizona Republic* notifying any interested parties of their right to intervene.

On September 20, 2002, the Commission's Utilities Division ("Staff") filed its Staff Report.

On September 24, 2002, Staff filed a Motion for Stay of Proceedings. In the Motion, Staff stated that the Federal Communications Commission ("FCC") issued a "Notice of Apparent Liability for Forfeiture" ("NAL"). Staff was unaware of this proceeding and requested that this proceeding be stayed so that Staff could conduct further discovery regarding the NAL. No objections to Staff's Motion were filed.

By Procedural Order dated October 15, 2002, Staff's Motion for Stay was granted and the time clock provisions of A.A.C. R14-2-510(E) were stayed to permit Staff additional time to conduct further discover.

¹ OCMC's original application filed on April 9, 2002 was amended on July 15, 2002 to include provision of AOS services.

1 On January 8, 2004, OCMC filed a Motion to Lift Stay and Notice of Substitution of Counsel.
2 In the Motion, OCMC states that it entered into a Consent Decree with the FCC, which resolves all
3 issues relating to the NAL and terminates the FCC's investigation. Additionally, OCMC's Motion
4 indicates that the FCC has consented to its acquisition of the assets of One Call Communications, Inc.
5 No objections to OCMC's Motion were filed.

6 By Procedural Order dated January 26, 2004, OCMC's Motion was granted, and Staff was
7 ordered to submit an Amended Staff Report, which provides its recommendation with regard to: (1)
8 approval of OCMC's Application in light of the information submitted in conjunction with OCMC's
9 Motion; (2) whether the transfer of assets from One Call Communications, Inc. to OCMC is subject
10 to the provisions of A.R.S. § 40-285; and (3) if the transfer is subject to that statutory provision,
11 whether the transfer should receive retroactive approval.

12 On February 25, 2004, Staff submitted its Amended Staff Report, which indicates that the sale
13 and transfer of assets from Opticom to OCMC is not subject to the provisions of A.R.S. § 40-285 as
14 no physical assets were transferred, yet Staff recommends retroactive approval of the sale and
15 transfer of assets for the same transaction.

16 On March 15, 2004, a Procedural Order was issued setting this matter for hearing to clarify
17 the extent to which the underlying transaction is subject to the provisions of A.R.S. § 40-285.

18 On or about March 16, 2004, a conference call with Michael Hallam, Timothy Sabo, and the
19 undersigned administrative law judge was held during which Mr. Hallam, as counsel for Applicant,
20 indicated that OCMC intends to pursue a waiver of the Commission's requirement with regard to
21 zero minus calls. Based on the fact that this matter had been set for hearing, Mr. Hallam indicated
22 that OCMC would address the issue at the hearing scheduled for April 6, 2004.

23 On March 23, 2004, Staff filed a Motion to Vacate Hearing, which indicates that Staff's
24 recommendation for retroactive approval was included in error and that A.R.S. § 40-285 approval is
25 not necessary given the lack of physical assets.

26 OCMC has not filed an objection to Staff's Motion.

27 IT IS THEREFORE ORDERED that the hearing scheduled for April 6, 2004 is vacated.

28 IT IS FURTHER ORDERED that OCMC shall file either its request to waive the

1 Commission's requirements with regard to zero minus calls or an indication that it no longer wishes
2 to pursue such a waiver on or before April 12, 2004.

3 IT IS FURTHER ORDERED that Staff shall file its response to OCMC's filing on or before
4 April 26, 2004.

5 IT IS FURTHER ORDERED that the time clock provisions of A.A.C. R14-20510(E) are
6 stayed from March 26, 2004 until April 26, 2004.

7 DATED this 20th day of March, 2004.

8 
9 _____
10 AMANDA POPE
ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered
12 this 26 day of March, 2004 to:

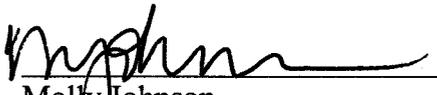
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