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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
JAMES M. IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

UTILITIES DIVISION STAFF,

Complainants,

vs.

LIVEWIRENET OF ARIZONA, LLC,

Respondents,

THE PHONE COMPANY MANAGEMENT

GROUP, LLC,
Respondents,

THE PHONE COMPANY OF ARIZONA JOINT
VENTURE d/b/a THE PHONE COMPANY OF
ARIZONA,

Respondents,

ON SYSTEMS TECHNOLOGY, LLC, and its
Principles, TIM WETHERALD, FRANK
TRICAMO and DAVID STAFFORD
JOHNSON

Respondents,

THE PHONE COMPANY OF ARIZONA, LLP,
and its members,

Respondents.

ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

2004 APR - 2 P 4: 58

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DOCKET NO. T-03889A-02-0796
T-04125A-02-0796
T-04125A-02-0577
T-03889A-03-0152
T-03889A-02-0578
T-03889A-03-0202

FINAL ARGUMENT IN SUPPORT
OF STIPULATION FOR
DISMISSAL

Arizona Corporation Commission
DOCKETED

APR - 2 2004

DOCKETED BY

1 COMES NOW, David Stafford Johnson ("Johnson"), who respectfully recommends that
2 the Arizona Corporation Commission approve the Stipulation for Dismissal dated February 24,
3 2004 by and among the Phone Company of Arizona, LLP, Frank Tricamo, David Stafford
4 Johnson and the Utilities Division Staff of the Arizona Corporation Commission.

5
6 1. The Staff of the Utilities Division of the Arizona Corporation Commission
7 ("Staff") brought its Complaint ("Complaint") against The Phone Company Management
8 Group, LLC, f/k/a LiveWireNet of Arizona, LLC ("PCMG"), On Systems Technology, LLC
9 ("On Systems"), and its principals, Tim Wetherald, Frank Tricamo, and David Stafford
10 Johnson, on October 21, 2002.

11 2. In its Complaint, as Amended, the Staff questioned the adequacy of PCMG's
12 service to its customers, its compliance with applicable laws, and financial viability, and asserts
13 four claims for relief. Johnson denied all allegations contained in Staff's Complaint, as
14 Amended, as they pertained to him.

15
16 3. Johnson participated in all pre-hearing conferences concerning the docketed
17 matters, in hearings before the ALJ which commenced on November 3, 2003, and later at a
18 reconvened hearing on February 24, 2004.

19
20 4. Johnson further agreed to speak with Staff in advance of the reconvened
21 February 24, 2004 hearing and fully cooperated with Staff by providing Staff a detailed account
22 of the matters before the ALJ and the Commission in the docketed matters, and by providing
23 Staff with all other information requested by Staff during those discussions.

24
25 5. As a result of Johnson's participation in the conferences and hearings
26 concerning these matters, his cooperation with Staff in providing a detailed account of all
matters before the ALJ and this Commission, and his cooperation in testifying before the ALJ,

1 in the docketed matters, Staff concluded that Johnson was not a participant in any wrongdoing
2 alleged in the Complaint, as Amended, and agreed to dismiss Johnson with prejudice from
3 these proceedings.

4
5 6. Johnson hereby recommends to the Commission approval of the Stipulation for
6 Dismissal because such approval is in the public interest. The Stipulation for Dismissal allowed
7 Staff to acquire detailed and substantive information concerning the matters before the ALJ and
8 the Commission in the docketed matters which resulted not only in expedited hearings
9 concerning these matters, but also in a far greater and more accurate understanding by Staff of
10 the facts underlying the Complaint, as Amended. Approval of the Stipulation for Dismissal
11 will further ensure the continued cooperation of Johnson in any ongoing investigation if
12 requested by Staff, thereby ensuring more efficient use of resources.

13 Approval of the Stipulation for Dismissal is also in the public interest since it is not in the
14 public interest to pursue remedies against individuals who are not responsible for the actions
15 which formed the basis for the Complaint, as Amended. Resources of the Commission should
16 be utilized to pursue remedies against individuals and companies who actually are responsible
17 for actions that harm the Arizona consumer, and it is in the public interest to ensure cooperation
18 from individuals who are not responsible for such actions, but are in a position to assist the
19 Commission in enforcing its rules and

20 11. Given that the Staff, based on testimony from Johnson and further discussions
21 with Johnson and information provided Johnson, has concluded that Johnson neither
22 participated in nor is aware of the events that give rise to this action, it is in the public interest
23 that the Stipulation for Dismissal be approved to ensure the continued cooperation of Johnson
24 in any further investigation required to be conducted by Staff in the matters, and in enforcing
25 any penalties assed by the Commission in these matters.

26

1 ORIGINAL and 13 copies of the foregoing
2 sent via U.S. Mail, postage prepaid, this
3 1st day of April, 2004 to:

4 Docket Control
5 ARIZONA CORPORATION COMMISSION
6 1200 West Washington Street
7 Phoenix, AZ 85007

8 COPY of the foregoing sent via U.S. mail,
9 postage prepaid, this 31th day of March , 2004:

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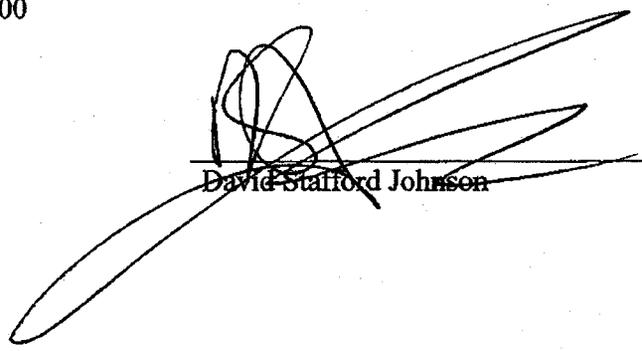
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