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THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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2 COMMISSIONERS

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 MIKE GLEASON
6 KRISTIN K. MAYES

7 UTILITIES DIVISION STAFF

8 Complainant,
9 v.

10 LIVEWIRENET OF ARIZONA, LLC; THE
11 PHONE COMPANY MANAGEMENT GROUP, LLC; THE
12 PHONE COMPANY OF ARIZONA JOINT VENTURE
13 D/B/A THE PHONE COMPANY FO ARIZONA; ON
14 SYSTEMS TECHNOLOGY, LLC and its
15 principals, TIM WETHERALD, FRANK
16 TRICAMO AND DAVID STAFFORD JOHNSON; and
17 THE PHONE COMPANY OF ARIZONA, LLP and
18 its Members,

19 Respondents.

20 IN THE MATTER OF THE PHONE COMPANY OF
21 ARIZONA JOINT VENTURE d/b/a THE PHONE
22 COMPANY OF ARIZONA'S APPLICATION FOR
23 CERTIFICATE OF CONVENIENCE AND NECESSITY
24 TO PROVIDE INTRASTATE
25 TELECOMMUNICATIONS SERVICE AS A LOCAL
26 AND LONG DISTANCE RESELLER AND
ALTERNATIVE OPERATOR SERVICE.

IN THE MATTER OF THE APPLICATION OF THE
PHONE COMPANY MANAGEMENT GROUP, LLC
f/k/a LIVEWIRENET OF ARIZONA, LLC TO
DISCONTINUE LOCAL EXCHANGE SERVICE.

IN THE MATTER OF THE APPLICATION
OF THE PHONE COMPANY MANAGEMENT
GROUP, LLC FOR CANCELLATION OF
FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE SERVICES.

DOCKET NO. T-03889A-02-0796
DOCKET NO. T-04125A-02-0796

Arizona Corporation Commission
DOCKETED

APR - 8 2004

DOCKETED BY

DOCKET NO. T-04125A-02-0577

DOCKET NO. T-03889A-02-0578

DOCKET NO. T-03889A-03-0152

T-03889A-03-0202

CLOSING BRIEF OF RESPONDENT FRANK TRICAMO

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2 CLOSING BRIEF OF RESPONDENT FRANK TRICAMO

3 This Closing Brief is submitted on behalf of Frank Tricamo a respondent
4 in the above-captioned dockets. On Feb 4, 2004 Frank Tricamo, respondent
5 David Stafford Johnson, The Phone Company of Arizona, LLP (and all but 2 of
6 its partners) and the Arizona Corporation Commission's Utilities Division
7 Staff ("Staff") entered on a Stipulation Agreement ("Stipulation") for
8 dismissal in the Complaint, and amended Complaint, filed by staff in the
9 above-captioned dockets.

10 The Stipulation agrees that Frank Tricamo and the other parties to the
11 Stipulation had no wrongdoing and should be dismissed with prejudice in the
12 Complaints filed by Staff.

13 Mr. Tricamo pleads with the administrative law judge and the Commission
14 to approve this Stipulation because such approval would be in the public
15 interest. Mr. Tricamo would like to emphasize and re-emphasize his role in
16 these matters were limited if not excluded. Mr. Tricamo:

17
18 A: was *not* a party to the purchase of Livewirenet of Arizona, LLC.

19 b. was *not* aware of the details of the Livewirenet of Arizona
20 acquisition until the summer of 02.

21 c. was *not* a party to the formation of any company in Arizona.

22 d. was *not* involved in any contract negotiations between ON Systems
23 and Livewirenet of Arizona or ON Systems and The Phone Company of
24 Arizona, LLP.

25 e. was *not* aware of a DBA in Arizona.

26 f. was *not* involved in any advertising in any market including
Arizona.

1 f. was not aware of any of these dockets until June 13th 2003, and,
2 was unaware and unable to provide any help in the form of Data
3 requests when requested.

4 In the ON Systems Technology Operating Agreement it clearly defined the
5 roles and responsibilities. Although there were as many as 5 members there
6 was only one Manager. That manager was Tim Wetherald. Mr. Wetherald had the
7 Operating Agreement written this way so that he had sole control of ON
8 Systems Technology. This is what eventually led to the demise of ON Systems
9 Technologies and its subsidiaries. Even if Mr. Tricamo had realized something
10 was wrong in the way ON Systems was conducting business, there was nothing
11 the other members could have done as a majority. No other member was a
12 manager and therefore no other member including Mr. Tricamo had signatory
13 authority to right any wrong that was being committed. In summary Mr. Tricamo
14 was destined and doomed for the trial of these complaints even before the
15 Arizona CLEC was started.

16 When Mr. Tricamo was asked for cooperation from Staff, Mr. Tricamo
17 promptly and fully complied with information and testimony. Had Mr. Tricamo
18 been aware before June 13th 2003, he could have been/would of been greater
19 assistance. Therefore because of the statements stated within, the facts
20 brought out in this case, the Stipulation agreed upon and the cooperation
21 provided Mr. Tricamo feels it would be in the "Public Interest" to approve
22 the Stipulation and no longer hold Mr. Tricamo to these proceedings.

1 RESPECTFULLY submitted this 6th day of April, 2004.

3 Frank Tricamo

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A COPY of the foregoing was
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