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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

MAY 12 2004

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AZ CORP COMMISSION
DOCUMENT CONTROL

2004 MAY 12 P 4: 41

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In the Matter of the Application of OCMC,)
Inc. to Obtain a Certificate of Convenience)
and Necessity From One Call)
Communications, Inc. d/b/a Opticom to)
Provide Telecommunications Services as a)
Provider of Resold Interexchange Services)
and Alternative Operator Services Within)
the State of Arizona)
)
)

Docket No. T-04103A-02-0274

Docket No. T-02565A-02-0274

**VERIFIED RESPONSE TO STAFF
REPORT**

OCMC, Inc. ("OCMC"), through this filing, responds to the amended Staff Report dated April 26, 2004. Specifically, OCMC responds to Staff's recommended denial of OCMC's request for a waiver pursuant to ACC R14-2-1006. For the reasons set forth below, OCMC submits that a waiver is appropriate and should be granted.

1 **I. OCMC Has Provided Sufficient Information to Grant a Waiver Pursuant to**
2 **AAC R14-2-1006.**

3 In its request for a waiver, OCMC submitted detailed information regarding
4 the facilities that it will use to process zero minus calls and its zero minus call completion
5 procedures. In its amended Report, Staff sets forth the detailed information provided by
6 OCMC and specifically finds that “OCMC has the capability to process zero-minus calls
7 quickly and accurately.” Despite this finding, Staff concludes that, based on its reading of
8 AAC R14-2-1006, OCMC did not provide sufficient information for Staff to make a
9 recommendation regarding the waiver request. OCMC respectfully disagrees with Staff’s
10 assessment and submits that the information provided by OCMC is sufficient pursuant to
11 the waiver provisions of AAC R14-2-1006, as affirmed by past Commission actions.

12 During the rulemaking process in which AAC R14-2-1006 was approved,
13 the Commission described the waiver provision as follows: “This procedure will permit
14 the Commission to examine the AOS provider’s emergency call handling capability,
15 training procedures, and emergency telephone number database to insure that emergency
16 calls can be rapidly and accurately routed.” Decision No. 58421 App. B, at 23 (attached as
17 Exhibit “A”). As described above, this is the type of information that OCMC provided to
18 the Commission and upon which the Commission Staff based its finding that “OCMC has
19 the capability to process zero-minus calls quickly and accurately.” Accordingly, OCMC
20 submits that its filing has met the standards required by the Rule and should allow Staff to
21 make a proper assessment.

22 In addition, OCMC notes that One Call Communications, Inc. dba Opticom
23 (“Opticom”), the assets of which OCMC has purchased as part of this Docket, was granted
24 a waiver by the Commission in Decision No. 61274. In that Order, the Commission based
25 its decision, at least in part, on Staff’s finding that “the Company has provided the Staff
26 with the necessary data to clearly and convincingly demonstrate that it has the capability to

1 process zero-minus calls with equal quickness and accuracy as provided by the LEC.” In
2 this case, because OCMC is the successor to Opticom, it would be providing completion
3 of zero minus calls in the same manner as Opticom, except that the technology and
4 processes now in use by OCMC are superior to those approved for Opticom in Decision
5 No. 61274. This should only serve to further support a finding that a waiver is appropriate
6 for OCMC.

7
8 **II. Allowing OCMC to Complete Zero Minus Calls Is in the Public Interest**

9 As set forth above, OCMC believes that it has submitted adequate
10 information pursuant to AAC R14-2-1006. However, if it is determined that the Rule
11 requires OCMC to submit data regarding the LEC’s call completion processes, OCMC
12 submits that a waiver of that requirement pursuant to AAC R14-2-1014 is in the public
13 interest. In this case, if OCMC is not provided the waiver requested, it will lead to
14 disruption to its customers. As noted above, Opticom is currently allowed to complete
15 zero minus calls pursuant to Decision No. 61274. If a waiver is denied for OCMC, it will
16 be required to notify its customers that it can no longer complete those calls. This will
17 lead to disruption, including re-programming of systems to route calls to the LEC. In this
18 case, when there is no evidence that any of the customers are dissatisfied with the call
19 completion being provided, a change is not warranted. In addition, the denial of the
20 waiver will eliminate competition for the completion of zero minus calls and operator
21 services which currently exists and will provide customers with fewer choices. For the
22 reasons set forth above, OCMC has shown that it has the ability to process these calls
23 quickly and accurately. Therefore, if the Commission agrees that AAC R14-2-1006
24 requires that OCMC provide information to Staff regarding the LEC’s call completion,
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1 OCMC submits through this verified response that a waiver of that provision is in the
2 public interest.

3 **III. As a Last Resort, OCMC Should Be Given the Opportunity to Work With**
4 **Staff to Support Its Waiver Request**

5 In its amended Report, Staff notes that OCMC has not provided Staff with
6 sufficient information to make a comparison with the LEC. Because Qwest is not a party
7 to this proceeding, OCMC is not privy to Qwest's specific call routing procedures for zero
8 minus calls and is not privy to any statistics regarding the quickness or accuracy of
9 Qwest's processing of zero minus calls. OCMC expects that those calls are handled in a
10 manner approved by the Commission and has no reason to suspect that Qwest does not
11 process these calls in a quick and accurate manner. Despite OCMC's belief that it has
12 complied with the requirements of AAC R14-2-1006, if it is determined that additional
13 information is required and that a waiver pursuant to AAC R14-2-1014 is not in the public
14 interest, OCMC requests that it be given an opportunity to work further with the
15 Commission Staff to gather the information necessary to show that OCMC's call
16 completion procedures warrant a waiver pursuant to AAC R14-2-1006.

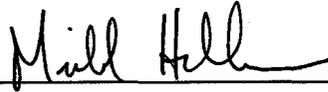
17 **IV. Conclusion**

18 For the reasons set forth above, OCMC submits that it has complied with
19 AAC R14-2-1006 and that a waiver is appropriate and should be granted. In the
20 alternative, if it is determined that AAC R14-2-1006 requires that OCMC submit
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1 additional information, OCMC requests that a waiver of that requirement be granted
2 pursuant to AAC R14-2-1014 to allow OCMC to complete zero minus calls.

3
4 DATED this 12th day of May, 2004.

5 LEWIS AND ROCA LLP

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7 

8 Thomas H. Campbell
9 Michael T. Hallam
10 40 N. Central Avenue
11 Phoenix, Arizona 85004

12 Attorneys for OCMC, Inc.
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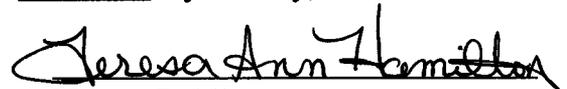
VERIFICATION

1
2 STATE OF Indiana)
3) ss.
4 COUNTY OF Hamilton)

5 I, Ann C. Bernard, am General Counsel of OCMC, Inc. I hereby certify that the facts
6 stated in the above Response to Staff Report are true and accurate to the best of my
7 knowledge and belief.

8 
9 Ann C. Bernard

10
11 Subscribed and sworn to before me this 11th day of May, 2004.

12 
13 Notary Public

14 My Commission Expires:

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16 December 21, 2008



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ORIGINAL and fifteen (15) copies
of the foregoing filed this 12th day of
May, 2004, with:

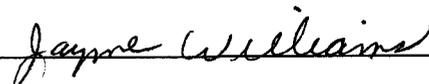
The Arizona Corporation Commission
Utilities Division – Docket Control
1200 W. Washington Street
Phoenix, Arizona 85007

COPIES of the foregoing
hand-delivered this 12th day of
May, 2004, to:

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EXHIBIT A

1 rule.

2 Issue: A.A.C. R14-2-1006(A) requires that AOS providers
3 immediately route to the LEC all zero minus ("0-") calls. An
4 emergency call placed by dialing zero followed by no additional digits
5 is referred to as a zero minus call. Staff's recommendation that all
6 "0-" calls be routed to the LEC is based upon a concern for public
7 safety which requires that emergency calls be placed rapidly and
8 correctly.

9 Both International Telecharge and Capital argue that the rule is
10 unfounded since AOS providers may have emergency call handling systems
11 superior to the LEC. The companies further assert that most "0-"
12 calls are non-emergency, interLATA long distance calls which are a
13 critical source of revenue to AOS providers.

14 Citizens suggests that the word "originating" be inserted before
15 the word LEC in this provision. Citizens believes that the
16 modification would clarify that the call must be passed off to the LEC
17 in whose service area the call originated. Staff agrees with
18 Citizens' suggestion that the provision be amended to clarify that the
19 zero minus calls be transferred to the "originating" LEC.

20 Evaluation: The proposed rule requiring zero minus calls to be
21 transferred to the LEC by AOS providers is consistent with the
22 regulatory requirement concerning public safety adopted by the
23 Commission in Decision No. 57339. We believe that the safety of the
24 public in life threatening situations is of paramount concern and
25 should not be compromised by any negative financial impact the rule
26 might have on an AOS company's operator assisted business. The public
27 must remain confident that if a zero minus call is placed during an
28 emergency situation it will be handled with the speed and accuracy

1 which the LEC is capable of consistently providing.

2 The concerns of AOS providers are addressed by the rules without
3 compromise to public safety by providing a waiver procedure in Section
4 (B) of this rule. An AOS provider may obtain a waiver to the
5 prohibition against handling zero minus calls if it can "clearly and
6 convincingly" demonstrate that it has the capability to process such
7 calls with equal quickness and accuracy as provided by the LEC. This
8 procedure will permit the Commission to examine the AOS provider's
9 emergency call handling capability, training procedures, and emergency
10 telephone number database to insure that emergency calls can be
11 rapidly and accurately routed. In fact, this waiver procedure can be
12 accomplished simultaneously with the application for a CC&N.

13 Resolution: A.A.C. R14-2-1006(A) should be amended by
14 inserting the word "originating" in the second line of the provision
15 between the words "the" and "LEC."

16 RULE A.A.C. R14-2-1007 BILLING AND COLLECTION

17 Summary of Rule: This proposed rule explains the minimum
18 information required by A.A.C. R14-2-508(B) which must be contained on
19 the provider's monthly bill and itemizes the billing procedures with
20 which each AOS applicant must comply. The rule would prohibit an LEC
21 from processing billing for any intraLATA calls carried by the AOS
22 provider where the required compensation has not been paid to the LEC.
23 The disconnection of local service for non-payment of AOS charges
24 would only be permitted in accordance with the procedures set forth in
25 A.A.C. R14-2-509.

26 I. R14-2-1007(C)

27 Issue: Proposed rule R14-2-1007(C) states that "the LEC will
28 not process billing for any intraLATA calls carried by the AOS