

NEW APPLICATION



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January 16, 2004

AZ CORP COMMISSION  
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Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

Arizona Corporation Commission  
**DOCKETED**

JAN 20 2004

T-03479A-04-0038

DOCKETED BY 

**Re: Application Of Evercom Systems, Inc. Pursuant To Section 40-285  
Of The Arizona Revised Statutes – Docket No. T-03479A-04 –  
Request For Expedited Treatment**

Dear Sir or Madam:

Enclosed are an original and thirteen (13) copies of an Application by Evercom Systems, Inc. (“ESI”), an authorized COPT service provider, pursuant to Section 40-285 of the Arizona Revised Statutes. On December 16, 2003, in Decision No, 66639, ESI received Commission approval under Section 40-285 to encumber its assets in the State of Arizona as a part of a refinancing in an amount up to \$57.5 million.<sup>1</sup> In this Application, ESI is merely seeking to increase the total amount of the encumbrance by \$2 million to a total of \$59.5 million. In light of the recent approval and previous approval of an encumbrance of substantially more that \$59.5 million, ESI is requesting expedited approval of this Application..

An extra copy of the Application is enclosed to be stamped “filed” or “received” and returned in the enclosed, stamped, self-addressed envelope.

Should there be any questions on this matter, please contact the undersigned counsel.

Sincerely,

Paul C. Besozzi  
Counsel to Evercom Systems, Inc.

<sup>1</sup> In Decision No. 64741, dated April 17, 2002, the Commission previously-approved a similarly-structured encumbrance in the amount of \$72.5 million.

**STATE OF ARIZONA  
CORPORATION COMMISSION**

\_\_\_\_\_  
In The Matter Of The Application Of )

**EVERCOM SYSTEMS, INC.** )

**DOCKET NO.T-03479A-03-\_\_\_\_\_**

Under Section 40-285 Of The Arizona Revised )  
Statutes For Approval To Encumber Assets )  
Used In The Provision Of Customer Owned Pay )  
Telephone Services In Arizona )  
\_\_\_\_\_ )

**APPLICATION UNDER SECTION 40-285 OF  
ARIZONA REVISED STATUTES**

**I. INTRODUCTION AND REQUEST FOR EXPEDITED APPROVAL**

Evercom Systems, Inc. (“ESI”), by its undersigned counsel and pursuant to Section 40-285 of the Arizona Revised Statutes, hereby requests Commission approval, to the extent required, to grant a further encumbrance of its Arizona assets through a security interest. Those assets are used in connection with ESI’s provision of Customer Owned Pay Telephone (“COPT”) services at correctional facilities in Arizona pursuant to its Certificate of Convenience and Necessity (“CCN”) authorized in Docket No. T-03479A (see Decision No. 60924). The additional security interest is in the amount of \$2 million and is being granted in connection with an amendment to the encumbering credit facility already approved by this Commission in Decision No. 66639 docketed on December 18, 2003 in Docket No. T-03479A-03-0622.

As noted above, ESI has a CCN to provide COPT Service in the State of Arizona under

regulatory procedures prescribed by the Commission.<sup>1</sup> ESI provides these services at correctional facilities in Arizona and forty-three (43) other jurisdictions, offering local, intrastate, interstate and international calling services to inmates in more than 2000 correctional facilities nationwide.

In Decision No. 66639, the Commission approved an encumbrance of ESI's assets in Arizona of up to \$57.5 million, consisting of a revolving credit facility component with a maximum amount of \$25.5 million and term loan component of up to \$32 million, secured by all of ESI's national assets including its Arizona assets. A copy of that decision is attached as Exhibit 1 hereto.<sup>2</sup>

In view of the fact of (a) the Commission's recent prior approval of an encumbrance based on the same credit facilities and (b) prior approval of an encumbrance of a significantly greater amount in Decision 64741, ESI is requesting expedited approval of this latest Application.

In support of this Application, Applicant states as follows:

## II. THE APPLICANT

ESI is a privately-held company incorporated under the laws of the State of Delaware. Its principal offices are located at 8201 Tristar Drive, Irving, Texas 75063. Applicant is a wholly-

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<sup>1</sup> The Commission originally granted the CCN to Invision Telecom, Inc. in Decision No. 59585 on March 20, 1996. The Commission subsequently approved the transfer of the CCN to Talton Invision, Inc. by Decision No. 60924 on May 22, 1998. Talton Invision, Inc. subsequently changed its name to Evercom Systems, Inc., which is included on the Utilities Division list of regulated COPTs as of December 4, 2001.

<sup>2</sup> The Commission had previously approved, in Decision No. 64741, an encumbrance of up to \$72.5 million pursuant similarly-structured credit facilities. The financing which was the subject of Decision No. 66639 was used to repay the balance and replace those credit facilities.

owned subsidiary of Evercom, Inc. ("Evercom"), also a Delaware corporation. As noted above, ESI is authorized to provide COPT services in the State of Arizona. ESI also is authorized to provide inmate calling services in forty-two (42) other states and the District of Columbia pursuant to certification, registration or tariff requirements, or on a deregulated basis.

Information concerning ESI's legal, technical, managerial and financial qualifications to provide service was submitted with its applications for a CCN with the Commission as noted above and is, therefore, a matter of public record. Applicant respectfully requests that the Commission take administrative notice of that information and incorporate it herein by reference.

In addition, in Docket No. T-03479A-03-0622, ESI submitted, subject to the terms of a Protective Agreement, detailed consolidated financial information for year-end 2002 and the six months ended June 30, 2003. Further, ESI submitted further financial information regarding the impact of the credit facilities which were the basis for the approved encumbrance on ESI. There has been no material change in ESI's financial condition since the submission of that information, except the lowering of its going forward interest expenses pursuant to those replacement credit facilities. ESI respectfully requests that the Commission also take administrative notice of that previously-filed data to the extent necessary to act on this application.

### **III. DESIGNATED CONTACTS**

Questions or correspondence concerning this Application should be directed to Applicant's attorney of record:

Paul C. Besozzi  
Patton Boggs LLP  
2550 M Street, N.W.  
Washington, D.C. 20037  
(202) 457-5292 (Telephone)  
(202) 457-6315 (Facsimile)  
Email address: pbesozzi@pattonboggs.com

with a copy to:

Jennifer P. Gaines  
General Counsel  
Evercom Systems, Inc.  
8201 Tristar Drive  
Irving, Texas 75063  
(972) 953-4812 (Telephone)  
(972) 953-4289 (Facsimile)  
Email Address: jgaines@evercom.net

#### **IV. DESCRIPTION OF TRANSACTION**

As described in Docket No. T-03479A-03-0622, ESI entered a credit agreement and other customary loan documents among ESI, as borrower, its immediate parent, Evercom, and certain affiliates as credit parties and guarantors, General Electric Capital Corporation (“GE Capital”), as agent and lender, and certain other lenders. The credit agreement established a revolving credit facility in the amount of up to \$25.5 million to refinance, replace and repay existing indebtedness under certain existing senior credit facilities of ESI, to provide working capital financing for its nationwide operations and to provide funds for other general corporate purposes. In addition, the credit agreement provided for term loans in the amount of up \$32 million for the same purposes. The total principal amount of the revolving credit and term loans is a maximum of \$57.5 million. The maximum term of both loans is sixty (60) months, by which time all indebtedness must be paid. The debt is secured by a security interest in the assets of ESI (e.g.,

equipment, accounts receivable) and a pledge of ESI's stock.<sup>3</sup> Pursuant thereto GE Capital, as agent for the lenders, is entitled to make the necessary UCC filings in Arizona to perfect its security interest. As noted above, this credit facility replaced similarly-structured facilities approved by the Commission in Decision No. 64741, but at lower interest rates.

The parties have amended the credit agreement to increase by \$2 million to \$34 million the total amount of the term loans permitted thereunder. The amendment was agreed to in connection with ESI's acquisition of certain intellectual property assets which ESI believes may enhance the ability of ESI to provide inmate calling services in Arizona and the other 43 jurisdictions in which it provides such services.

This transaction does not involve a transfer of the Applicant's CCN; nor does it involve a modification to the Applicant's management or rates, terms and conditions of service to the confinement facilities that it serves in Arizona. The transaction therefore will be seamless and transparent to the confinement facility administrators and inmate customers. Accordingly, Applicant respectfully requests Commission approval, to the extent required, to grant the security interest in its Arizona assets in connection with the credit facility described herein.

#### **V. PUBLIC INTEREST CONSIDERATIONS**

The transaction described herein is necessary and appropriate, is consistent with the performance by Applicant of its services to the public, will not impair the ability of Applicant to perform such services, will promote a lawful objective within the corporate purposes of Applicant and is expected to save the Applicant debt service expenses going forward.

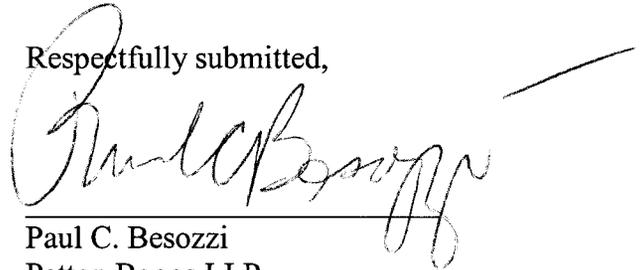
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<sup>3</sup> As noted in Decision 66639, the value of ESI's assets in the State of Arizona constitute approximately one percent (1%) of the value of all of its assets used in the provision of its services nationwide.

VI. CONCLUSION

**WHEREFORE**, for the reasons stated above, Applicant respectfully submits that the public interest, convenience, and necessity will be furthered by Commission approval of Applicant's grant of the security interest with the financing arrangements described herein. As indicated above, in light of the facts that (a) the Commission has already very recently approved the encumbrance of ESI's assets pursuant to the same credit agreement in Decision No. 66639 , (b) the Commission has previously approved an encumbrance of a much higher amount in Decision No. 64741, ESI respectfully requests expedited approval of its Application.

Respectfully submitted,

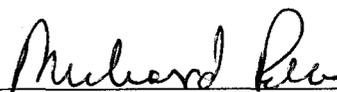


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E-mail address: pbesozzi@pattonboggs.com

Dated: January 14, 2004

**VERIFICATION**

I, Richard Falcone, am the Chief Executive Officer of Evercom Systems, Inc. and I am authorized to make this verification on its behalf I have read the foregoing Application and know the contents thereof. I have signed this Verification on behalf of Evercom Systems, Inc. and hereby affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge information and belief.



Name: Richard Falcone  
Title: Chief Executive Officer

Dated: January 14<sup>A</sup> 2004