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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

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission
DOCKETED

APR 14 2003

DOCKETED BY *CR*

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,

Respondents,

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

Respondents.

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

MOTION TO WITHDRAW

1 COMES NOW, Shughart Thomson & Kilroy, P.C., counsel to The Phone
2 Company Management Group, LLC f/k/a LiveWireNet of Arizona, LLC, On Systems
3 Technology, LLC, and its principals, Tim Wetherald, Frank Tricamo and David
4 Stafford Johnson (collectively referred to as "PCMG"), and hereby requests permission
5 of the Arizona Corporation Commission ("Commission") to withdraw as counsel for
6 PCMG in the above-captioned case. In support of its opposition, the following is
7 respectfully submitted:

8 1. This proceeding commenced upon the Complaint of the Staff of the
9 Commission's Utilities Division, alleging that PCMG was not fit to hold a Certificate of
10 Convenience and Necessity ("CCN") issued by this Commission. The Commission held
11 a pre-hearing conference on January 7, 2003 to discuss procedural matters, and
12 thereafter held several procedural conferences to handle specific issues raised in pre-
13 hearing proceedings. The Commission set April 15, 2003, as the date for
14 commencement of the hearing in this proceeding.

15 2. On March 13, 2003, PCMG instructed its counsel to advise the
16 Commission that PCMG had entered into an agreement with USURF America, Inc.
17 ("USURF") to sell all of its assets to USURF, subject to approval of the Commission.
18 PCMG filed an Application for Commission approval of the transaction on March 11,
19 2003. Since that time, PCMG has instructed Mr. Michael L. Glaser, counsel for PCMG,
20 not to continue its representation of PCMG in this proceeding, and instructed counsel
21 not to prepare and file and prosecute its direct case in support of its position in response
22 to the Staff's Complaint, and to cease continuing all legal representation of it in
23 connection with the above-captioned matter. In fact, PCMG instructed Mr. Glaser to
24 file a Motion to Terminate Proceeding, which Mr. Glaser filed on behalf of PCMG on
25 April 2, 2003.

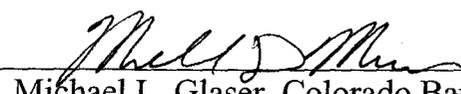
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1 3. The Commission scheduled a pre-hearing conference in this matter for
2 April 3, 2003, at which time Mr. Glaser intended to advise the Commission that PCMG
3 was no longer operating, that it had no significant assets, only contingent liabilities or
4 insignificant liabilities, and no resources to continue to prosecute its position in
5 response to the Complaint. Mr. Glaser was not able to attend the April 3, 2003 pre-
6 hearing conference, because of a family emergency. Moreover, the Commission's
7 April 3, 2003 pre-hearing conference was shortened, due to the lack of a court reporter.
8 Thus, the presiding judge in this proceeding rescheduled the April 3 pre-hearing
9 conference for April 10, 2003.

10 4. On April 10, 2003, Mr. Glaser brought PCMG's position to the attention
11 of the presiding judge, and informed the presiding judge that PCMG would not be going
12 forward with its direct case on April 15, 2003, and that PCMG had instructed Mr.
13 Glaser not to go forward with this representation of PCMG in the above-captioned
14 matter. Further, Mr. Glaser advised the presiding judge that he would be filing a
15 Motion to Withdraw based on these facts.

16 5. Accordingly, and in view of instructions Mr. Glaser received from
17 PCMG, as described in Mr. Glaser's Affidavit attached hereto as Exhibit A, Mr. Glaser
18 and his law firm, Shughart Thomson & Kilroy, P.C., respectfully request permission to
19 withdraw from this proceeding as counsel for PCMG.

20 DATED this 11th day of April, 2003.

21
22 By: 

23 Michael L. Glaser, Colorado Bar #13681
24 Michael D. Murphy, Colorado Bar #14236
25 Shughart Thomson & Kilroy, P.C.
26 1050 17th Street, Suite 2300
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AND

Marty Harper, Arizona Bar #003416
Kelly J. Flood, Arizona Bar #019772
Shughart Thomson & Kilroy, P.C.
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*Attorneys for The Phone Company
Management Group, LLC f/k/a
LiveWireNet of Arizona, LLC, On Systems
Technology, LLC, and its principals, Tim
Wetherald, Frank Tricamo and David
Stafford Johnson*

1 **ORIGINAL and 13 copies of the foregoing**
2 **sent via Federal Express this 11th day**
3 **of April, 2003 to:**

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

8 **COPY of the foregoing sent via Federal**
9 **Express, this 11th day of April, 2003:**

10 Maureen A. Scott, Esq.
11 Legal Division
12 ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
14 Phoenix, AZ 85007

15 Christopher Kempley, Chief Counsel
16 Legal Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, AZ 85007

20 Lyn Farmer, Chief Hearing Officer
21 Hearing Division
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, AZ 85007

25 Ernest Johnson, Director
26 Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

1 **COPY of the foregoing sent via U.S. mail,**
2 **postage prepaid, this 11th day of April, 2003:**

3 Tim Wetherald
4 3025 S. Parker Road, Suite 1000
5 Aurora, CO 80014

*On Systems Technology, LLC
The Phone Company of Arizona Joint Venture
The Phone Company of Arizona, LLP
The Phone Company Management Group, LLC
d/b/a The Phone Company Management
Group, LLC*

7 Timothy Berg
8 Theresa Dwyer
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10 3003 N. Central Avenue, Suite 2600
11 Phoenix, AZ 85003-2913

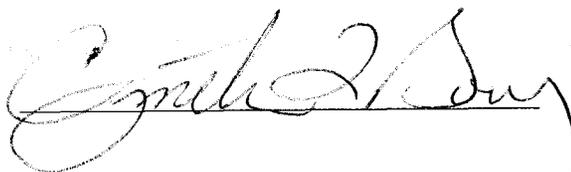
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11 Mark Brown
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Qwest Corporation

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18 Phoenix, AZ 85004

The Phone Company of Arizona



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AFFIDAVIT

PERSONALLY APPEARED before me, the undersigned officer, duly authorized to administer oaths, Michael L. Glaser, who, after being duly sworn, deposes and says that:

1. My name is Michael L. Glaser. I am over 18 years of age and am competent to testify about the manner set forth herein. I have personal knowledge of the matters set forth herein.

2. Mr. Timothy Wetherald, the managing member of On Systems Technology, LLC, which in turn is the managing member of the Phone Company Management Group, LLC ("PCMG"), the respondent in DOCKET NO. T-03889A-02-0796 and DOCKET NO. T-04125A-0796 has instructed SHUGART THOMSON & Kilroy ("STK") and I to withdraw from representing PCMG in the above-referenced dockets. Mr. Wetherald has advised me that PCMG's decision that STK and I withdraw from representing PCMG is based on PCMG's lack of resources to proceed in these dockets or to otherwise operate its business. Mr. Wetherald has further advised me that neither he, nor any other agent of PCMG, will be present at the hearing in the above-referenced dockets set for April 15, 2003.



Further affiant sayeth not.

Michael L. Glaser

Michael L. Glaser

STATE OF COLORADO)

CITY AND COUNTY IN DENVER))SS

)

On this 16th day of April, 2003, before me the undersigned, a Notary Public, in and for the County and State aforesaid, personally appeared, to me known to be the person who executed the foregoing instrument in my presence and acknowledged to me that he executed the same as free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Ramon R. Ruiz

NOTARY PUBLIC

My commission expires:

11-09-06

