

# ShawPittman

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## NEW APPLICATION



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October 12, 2000

AZ CORP COMMISSION  
DOCUMENT CONTROL

**By Federal Express**

Docket Control Center  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

DOCKET NO. T-03466A-00-0811

**Re: Comm South Companies, Inc. Application and Petition for  
Certificate of Convenience and Necessity to Provide Intrastate  
Telecommunications Services as an Interexchange Reseller**

Dear Sir or Madam:

On behalf of Comm South Companies, Inc., we enclose for filing an original and 10 copies of Comm South's Application and Petition for Certificate of Convenience and Necessity to Provide intrastate Telecommunications Services as an Interexchange Reseller in Arizona.

Please date-stamp the "Receipt" copy of the enclosed filing and return it to us in the self-addressed, stamped envelope enclosed. Please contact either of the undersigned should you have any questions.

Sincerely,

Glenn S. Richards  
Susan M. Hafeli  
Counsel for Comm South Companies, Inc.

Enclosures

# NEW APPLICATION FORM

# ORIGINAL

## ARIZONA CORPORATION COMMISSION

### Application and Petition for Certificate of Convenience and Necessity to Provide Intrastate Telecommunications Services as an Interexchange Reseller

Mail original plus 10 copies of completed application to:

Docket Control Center  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007-2927

If you have current applications pending in Arizona as an Interexchange reseller, AOS provider, or as the provider of other telecommunication services:

Type of Service: Not applicable.  
Docket No.: \_\_\_\_\_ Date: \_\_\_\_\_  
Type of Service: \_\_\_\_\_ Date Docketed: \_\_\_\_\_  
Docket No.: \_\_\_\_\_ Date: \_\_\_\_\_

For Docket Control Only:  
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AZ CORP COMMISSION  
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DOCKET NO. T-03466A-00-0811

Docket No.: \_\_\_\_\_

Date Docketed: \_\_\_\_\_

#### A. Company and Telecommunications Service Information

(A-1) The name, address, and telephone number of the applicant (company):

Comm South Companies, Inc.  
2909 N. Buckner Boulevard, Suite 800  
Dallas, Texas 75228  
Tel.: 972-690-9955  
Fax: 972-690-9959

(A-2) If doing business (dba) under a name other than the applicant (company) name listed above, specify:

Not applicable.

(A-3) The name, address, telephone number, and facsimile number of the management contact:

Larry Long  
2909 N. Buckner Boulevard, Suite 800  
Dallas, Texas 75228  
Tel.: 972-690-9955  
Fax: 972-690-9959

*Application and Petition for Competitive Reseller CC&N*

(A-4) The name, address, telephone number, facsimile number and email address of the Attorney, if any, representing the applicant:

Glenn S. Richards  
Shaw Pittman  
2300 N Street, NW  
Washington, DC 20037-1128  
(202) 454-7016 (phone)  
(202) 663-8007 (fax)  
glenn.richards@shawpittman.com

(A-5) What type of legal entity is the applicant?

- Sole proprietorship
- Partnership            \_\_\_ limited,            \_\_\_ general,            \_\_\_ Arizona,            \_\_\_ Foreign
- Limited liability company
- Corporation:            \_\_\_ "S",            \_\_\_ "C",            \_\_\_ non-profit,            \_\_\_ Arizona,            X Foreign
- Other, specify:

(A-6) Include "Attachment A." Attachment A must list names of all owners, partners, limited liability company managers, or corporation officers and directors (specify), and indicate percentages of ownership

(A-7) 1. Is your company currently reselling telecommunication service in Arizona? If yes, provide the date of the approximate date that you began reselling service in Arizona.    **No**

2. If the answer to 1. is "yes", identify the types of telecommunications services you resell; whether operator services are provided or resold and whether they are provided or resold to traffic aggregators (as defined in A.A.C. Rule R14-2-1001(3), a copy of which is attached); the number of customers in Arizona for each type of service; and the total number of intrastate minutes resold in the latest 12 month period for which data are available. Note: The Commission rules require that a separate CC&N, issued under Article 10, be obtained in order to provide operator services to traffic aggregators.    **Not applicable.**

3. If the answer to 1. is "no", when does your company plan to begin reselling service in Arizona?

**Applicant intends to commence service upon certification and commission approval of all necessary filings.**

(A-8) Include "Attachment B." Attachment B, your proposed tariff, must include proposed rates and charges for each service to be provided, state the tariff (maximum) rate as well as the price to be charged, and state other terms and conditions, including deposits, that will apply to provision of the service(s) by your company.

The Commission provides pricing flexibility by allowing competitive telecommunications service companies to price their services at levels equal to or below the tariff (maximum) rates. The prices to be charged by the company are filed with the Commission in the form of price lists. Note: Price list rate changes that result in rates that are lower than the tariff rate are effective upon concurrent notice to the Commission (See Rule R14-2-1109(B)(2)). See Rule R14-2-1110 for the procedures to make price list changes that result in rates that are higher than the tariff rate.

*Application and Petition for Competitive Reseller CC&N*

(A-9) The geographic market to be served is:



statewide



other, describe and provide a map depicting the area.

Petitioner is authorized by registration, certification or (where appropriate) on a deregulated basis, to provide interexchange telecommunications services in Delaware, the District of Columbia, Idaho, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Montana, New Jersey, New York, North Dakota, Rhode Island, Texas, Utah, Virginia, Wisconsin, and Wyoming. Applicant has not yet begun to provide long-distance services in any state.

Petitioner is authorized to provide resold local exchange services in Arizona. See T-03466A-97-0636. In addition, Petitioner is authorized by registration, certification or (where appropriate) on a deregulated basis, to provide facilities-based and/or local exchange services in Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. Additionally, through its wholly-owned subsidiaries Georgia Comm South, Inc., E-Z Tel, Inc. and Comm South Companies of Virginia, Inc., Applicant is authorized to provide resold local service in Georgia, North Carolina and South Carolina, and Virginia, respectfully.

(A-11) Provide the name, address, and telephone number of the company's complaint contact person.

Larry Long  
2909 N. Buckner Boulevard, Suite 800  
Dallas, Texas 75228  
Tel.: 972-690-9955 or 1-800-936-5223 (toll-free)  
Fax: 972-690-9959

(A-12) Provide a list of states in which you have sought authority to resell telecommunications services and in which the state granted the authority with major changes and conditions or did not grant your application for those services. For each state listed, provide a copy of the commission's decision modifying or denying your application for authority to provide telecommunications services.

None

(A-13) Has the company been granted to provide or resell telecommunications services in any state where subsequently the authority was revoked? If "yes", provide copies of the State Regulatory Commission's decision revoking its authority.

Yes. See Exhibit E.

(A-14) Has the company been or is the company currently involved in any formal complaint proceedings before any State or Federal Regulatory Commission? If "yes", in which states is the company involved in proceedings and what is the substance of these complaints. Also, provide copies of commission orders that have resolved any of these complaints.

Yes. See Exhibit E.

*Application and Petition for Competitive Reseller CC&N*

(A-15) Has the applicant been involved in any civil or criminal investigations related to the delivery of telecommunications services within the last five years? If "yes", in which states has the applicant been involved in investigations and why is the applicant being investigated?

No

(A-16) Has the applicant had judgment entered against it in any civil matter or been convicted of criminal acts related to the delivery of telecommunications services within the last five years? If yes, list the states where judgment or conviction was entered and provide a copy of the court order.

No

**B. Technical Information**

(B-1) If your company is a switchless reseller, provide the name of the company or companies whose services you resell and skip to question (B-2). If you are not a switchless reseller, complete the remainder of this section.

As an initial matter, Applicant will provide long distance services on a resale basis. Applicant will resell the long distance services of Sprint. Accordingly, Sprint will determine the facilities and equipment that will be used, the points at which the facilities and/or equipment will connect to the local exchange network, and the type of access service that will be used to connect to the local exchange network.

At some point in the future, Applicant may purchase a switch that will be located near its headquarters in Dallas, Texas, from which its customer long distance traffic may be back-hauled. However, Applicant will not own, control, operate, or manage any telecommunications facilities in the State of Arizona for the provision of its services.

Include "Attachment C." Attachment C should provide the following information: A diagram of the applicant's basic call network used to complete Arizona intrastate telecommunications traffic. This diagram should show how a typical call is routed in both its originating and terminating ends (i.e. show the access network and call completion network).

Also include on the diagram the carrier(s) used for each major network component and indicate if the carrier is facilities-based or not. If the carrier is not facilities-used, indicate who owns the facilities (within the State of Arizona) that are used to originate and terminate the applicant's intrastate telecommunications traffic (i.e. provide a list of the Arizona facilities-based long distance carriers whose facilities are used to complete the applicant's intrastate traffic).

(B-2) Will your customers be able to access alternative toll service providers or resellers via 1+ or 10XXX access, if your system becomes non-operational?

Yes

**C. Financial Information**

(C-1) Include "Attachment D." Attachment D must include a copy of your Company's balance sheet, income statement, audit report (if audited) and all related notes to these financial statements for the two most recent years your Company has been in business.

Applicant is financially qualified to provide resold interexchange telecommunications services in the State. Copies of Applicant's most recent unaudited financial statements are enclosed herewith as Attachment D.

(C-2) If your Company does not have financial statements for the two most recent years, please give the date your Company began operations.  
Not applicable

(C-3) If the balance sheets you submit do not have retained earnings accounts, please provide this account information on a separate sheet.  
Not applicable

(C-4) If your Company is a subsidiary, please provide your Parent Company's financial statements, in addition to your Company's financial statements.  
Comm South is a wholly-owned subsidiary of Topp Telecom, Inc. ("Topp"), a Texas Corporation. Copies of Topp's most recent financial statements are attached hereto as Attachment D.

(C-5) If your Company intends to rely on the financial resources of its Parent Company, please provide a written statement from your Parent Company attesting that it will provide complete financial backing if your Company experiences a net loss or a business failure and that it will guarantee re-payment of customer's advances, prepayments or deposits held by your Company if, for some reason, your Company can not provide service or repay the deposits.  
Not applicable.

(C-6) Will your customers be required to (or have the option to ) pay advances, prepayments, or deposits for any of your products or services.

YES  X (If yes, provide an explanation of how and when these customer advances prepayments or deposits will be applied or reference the terms and conditions section of your Company's tariffs with this explanation. If this information is not explained in the tariff of this application, please provide it on a separate sheet.)

Comm South does not require or collect deposits from customers. However, Comm South intends to provide intrastate, interexchange telecommunications services on a prepaid basis. The services proposed by the Applicant are as follows:

*Prepaid Long Distance Service*, which provides an outbound voice grade communications service for calls charged to a customer's account, authorized for service by providing payment by an approved credit card, cash, or approved check. The Customer may increase the available minutes of use by making additional payments.

*Prepaid Phone Card Service*, which provides an outbound voice grade communications service for calls charged to a Prepaid Card. Prepaid Card Service is accessed using a toll-free number printed on the card.

NO\_\_\_ (Note: If at a later date, your Company decides it wants to offer or require customer advances, prepayments or deposits, it must submit financial statements as part of the tariff amendment process.)

Application and Petition for Competitive Reseller CC&N

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations related to the regulation of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona State law including the Arizona Corporation Commission Rules and Regulations. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and petition is true and correct.

Larry Long  
(Signature of Authorized Representative)

9-5-00  
(Date)

Larry Long  
(Printed Name of Authorized Representative)

President  
(Title)

SUBSCRIBED AND SWORN to before me this 5th day of September 2000.



Linda Kincy Goodall  
NOTARY PUBLIC

My Commission Expires: 8-27-2004

*Application and Petition for Competitive Reseller CC&N*

ATTACHMENT A  
Corporate Officers and Directors

*Application and Petition for Competitive Reseller CC&N*

Officers and Directors  
Comm South Companies, Inc.

<b>DIRECTORS</b>		
<b>Name</b>	<b>Title</b>	<b>Address</b>
F. J. Pollak	Chief Executive Officer/ Chairman of the Board	c/o Topp Telecom, Inc. 8390 N. W. 25th Street Miami, Florida 33122
Richard B. Salzman	Sr. Vice President – General Counsel/Director	c/o Topp Telecom, Inc. 8390 N. W. 25th Street Miami, Florida 33122
Gustavo Blanco	Acting Chief Financial Officer	c/o Topp Telecom, Inc. 8390 N. W. 25th Street Miami, Florida 33122

<b>OFFICERS</b>		
<b>Name</b>	<b>Title</b>	<b>Address</b>
F. J. Pollak	Chief Executive Officer	c/o Topp Telecom, Inc. 8390 N. W. 25th Street Miami, Florida 33122
Larry Long	President	Comm South Companies, Inc. 2909 N. Buckner Boulevard Suite 800 Dallas, Texas 75228
Richard B. Salzman	Secretary	c/o Topp Telecom, Inc. 8390 N. W. 25th Street Miami, Florida 33122
Tom Wilkins	Assistant Secretary	Comm South Companies, Inc. 2909 N. Buckner Boulevard Suite 800 Dallas, Texas 75228

*Application and Petition for Competitive Reseller CC&N*

**ATTACHMENT B**

**Proposed Tariff**

TITLE SHEET

ARIZONA TELECOMMUNICATIONS TARIFF

This Tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services provided by Comm South Companies, Inc. (hereinafter "Carrier") with principal offices at 2909 N. Buckner Boulevard, Suite 800, Dallas, Texas 75228. This Tariff applies to services furnished within the State of Arizona. This Tariff is on file with the Arizona Corporation Commission, and copies may be inspected, during normal business hours, at Carrier's principal place of business.

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Issued:

Effective:

By:  
Larry Long, President  
Comm South Companies, Inc.  
2909 N. Buckner Boulevard, Suite 800  
Dallas, Texas 75228  
(972) 690-9955

## INTEREXCHANGE SERVICES TARIFF

## CHECK SHEET

Sheets of this Tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets, as named below, comprise all changes from the original Tariff that are currently in effect as of the date on the bottom of this sheet.

PAGE	NUMBER OF REVISION (except as indicated)	EFFECTIVE DATE
1	Original	
2	Original	
3	Original	
4	Original	
5	Original	
6	Original	
7	Original	
8	Original	
9	Original	
10	Original	
11	Original	
12	Original	
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16	Original	
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19	Original	
20	Original	
21	Original	
22	Original	
23	Original	

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INTEREXCHANGE SERVICES TARIFF

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TABLE OF CONTENTS

	Sheet
TITLE SHEET .....	Original Title Sheet
CHECK SHEET .....	1
TABLE OF CONTENTS .....	2
EXPLANATION OF SYMBOLS .....	3
TARIFF FORMAT .....	4
SECTION 1 - DEFINITIONS .....	5
SECTION 2 - RULES AND REGULATIONS .....	6
SECTION 3 - DESCRIPTION OF SERVICES .....	19
SECTION 4 - RATES AND CHARGES - MAXIMUM RATE .....	22
SECTION 5 - RATES AND CHARGES - PRICE LIST .....	23

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INTEREXCHANGE SERVICES TARIFF

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EXPLANATION OF SYMBOLS

The following symbols shall be used in this Tariff for the purposes indicated below:

- C - To signify changed regulation
- D - To signify deleted or discontinued rate or regulation
- I - To signify increased rate
- M - To signify a move in location of text
- N - To signify new rate or regulation
- R - To signify reduced rate
- T - To signify a change in text but no change in rate or regulation

---

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Effective:

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Larry Long, President  
Comm South Companies, Inc.  
2909 N. Buckner Boulevard, Suite 800  
Dallas, Texas 75228  
(972) 690-9955

## INTEREXCHANGE SERVICES TARIFF

## TARIFF FORMAT

- A. **Sheet Numbering** - Sheet numbers appear in the upper-right corner of the sheet. Sheets are numbered sequentially. However, new sheets are occasionally added to the Tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between Sheets 14 and 15 would be 14.1.
- B. **Sheet Revision Numbers** - Revision numbers also appear in the upper-right corner of the sheet. These numbers are used to determine the most current sheet version on file with the Commission. For example, the 4th revised Sheet 14 cancels the third revised Sheet 14. Because of various suspension periods, deferrals, etc. the Commission follows in their Tariff approval process, the most current sheet number on file with the Commission is not always the Tariff page in effect. Consult the Check Sheet for the sheet currently in effect.
- C. **Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level of coding.
- 2.
  - 2.1.
  - 2.1.1.
  - 2.1.1.A.
  - 2.1.1.A.1.
  - 2.1.1.A.1.(a)
  - 2.1.1.A.1.(a).I
  - 2.1.1.A.1.(a).I.(i)
  - 2.1.1.A.1.(a).I.(i)(1)
- D. **Check Sheets** - When a Tariff filing is made with the Commission, an updated check sheet accompanies the Tariff filing. The check sheet lists the sheets contained in the Tariff, with a cross reference to the current revision number. When new sheets are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this sheet if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some sheets). The Tariff user should refer to the latest check sheet to find out if a particular sheet is the most current sheet on file with the Commission.

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INTEREXCHANGE SERVICES TARIFF

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SECTION 1 - DEFINITIONS

**Application for Service** - A standard order form which includes all pertinent billing, technical, and other descriptive information which will enable Carrier to provide telecommunication service as required.

**Carrier** - Comm South Companies, Inc., unless the context indicates otherwise.

**Commission** - Arizona Corporation Commission, unless context indicates otherwise.

**Customer** - Any person, firm, corporation, or other entity which orders or uses service and is responsible for the payment of rates and charges and compliance with Tariff regulations.

**Disconnection** - The disconnection of a circuit, dedicated access line, or port connection being used for existing service.

**ICB** - Individual case basis, i.e., a service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of Customer's situation.

**LATA**: A local access and transport area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192 for the provision and administration of communications services.

**Premises** - The space designated by Customer as its place or places of business for termination of service (whether for its own communications needs or for its resale customers). In the case of a non-profit sharing group, this term includes space at each sharer's place or places of business, as well as space at Customer's place of business.

**Service or Services** - The services covered by this Tariff shall include only the State of Arizona.

**Tariff** - This Tariff containing the descriptions, regulations and rates applicable to the furnishing of service and facilities for telecommunications services provided by Carrier, unless the context indicates otherwise.

**Terminal Equipment** - Telecommunications devices, apparatus, and their associated wiring, such as teleprinters, telephone, and data sets.

---

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INTEREXCHANGE SERVICES TARIFF

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SECTION 2 - RULES AND REGULATIONS

2.1 UNDERTAKING OF CARRIER

2.1.1 Scope

Carrier is a resale common carrier providing intrastate telecommunications services to Customers within the State of Arizona for their direct transmission and reception of voice, data, and other types of telecommunications. Service is available 24 hours a day, seven days a week, throughout the state.

Carrier is responsible under this Tariff only for the services and facilities provided herein. Should Customers use such services and facilities to obtain access to services offered by other providers, Carrier assumes no responsibility for such other service.

2.1.2 Shortage of Equipment or Facilities

- A. Carrier reserves the right to limit or allocate the use of existing facilities, or of additional facilities offered by Carrier when necessary because of lack of facilities or due to some other cause beyond Carrier's control.
- B. The furnishing of service under this Tariff is subject to availability on a continuing basis of all necessary facilities from providers to Carrier for resale.

2.2 TERMS AND CONDITIONS

- 2.2.1 Another telephone company must not interfere with the right of any person or entity to obtain service directly from Carrier.
- 2.2.2 Customer has no property right to the telephone number or any other call number designation associated with services furnished by Carrier. Carrier reserves the right to change such numbers, or the central office designation associated with such numbers, or both, assigned to Customer, whenever Carrier deems it necessary to do so in the conduct of its business.
- 2.2.3 Neither Carrier nor Customer may assign or transfer its rights or duties in connection with the services and facilities provided by Carrier without the written consent of the other party, except that Carrier may assign its rights and duties (a) to any subsidiary, parent company or affiliate of Carrier; (b) pursuant to any sale or transfer or substantially all the assets of Carrier; or (c) pursuant to any financing, merger or reorganization of Carrier.

---

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INTEREXCHANGE SERVICES TARIFF

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## 2.2 TERMS AND CONDITIONS (continued)

## 2.2.4 Use of Service

Service may not be used for any unlawful purposes or for any purpose for which any payment or other compensation is received by Customer, except when Customer is a duly authorized and regulated common carrier. This provision does not prohibit an arrangement between Customer, authorized user, or joint user to share the cost of the service as long as the arrangement generates no profit for any participant in the arrangement.

## A. Minimum Service Period

The minimum period of service is one month (30 days), unless otherwise stated in this Tariff.

B. At the expiration of any term specified in a Customer Service Agreement, or in any extension thereof, service shall continue on a month to month basis at the then current rates unless terminated by either party upon 30 days' written notice. Any termination shall not relieve Customer of its obligation to pay any charges incurred under the Agreement and this Tariff prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the Agreement shall survive such termination.

## 2.3 LIMITATIONS OF SERVICE

2.3.1 Carrier offers service to all those who desire to purchase service from Carrier consistent with all provisions of this Tariff. Customers or subscribers interested in Carrier's services shall file a service application with Carrier which fully satisfies Carrier and identifies the services required.

2.3.2 Service is offered subject to the availability on a continuing basis of all necessary facilities and/or equipment from other telecommunications providers to Carrier for resale and subject to the provisions of this Tariff. Carrier reserves the right not to provide service to or from a location where legally prohibited or the necessary facilities or equipment are not available.

2.3.3 Carrier reserves the right to discontinue furnishing service, upon a written notice, when necessitated by conditions beyond its control, or when Customer is using the service in violation of any provision in this Tariff, the rules and regulations of the Commission, or the law.

2.3.4 Title to all facilities provided by Carrier under these regulations remains with Carrier. Prior written permission from Carrier is required before any assignment or transfer. All regulations and conditions contained in this Tariff shall apply to all such permitted assignees or transferees, as well as all conditions for service.

---

Issued:

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By:  
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## INTEREXCHANGE SERVICES TARIFF

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**2.4 LIABILITIES OF CARRIER**

- 2.4.1 The liability of Carrier for any damages arising out of the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, errors, or defects in any service, facility, or transmission provided under the Tariff, or representations by Carrier, or use of these services or damages arising out of the failure to furnish the service whether caused by acts or omission shall not exceed an amount equivalent to the proportionate charge to Customer for the period of service or the facility provided during which such mistake, omission, interruption, delay, error, or defect occurs. For the purpose of computing this amount, a month is considered to have 30 days. The extension of such allowances for interruption shall be the sole remedy of Customer and the sole liability of Carrier for any direct, indirect, incidental, special, consequential, special, exemplary or punitive damages, or for any lost profits, even if advised of the possibility of the same, as a result of any Company service, equipment or facilities, or the acts or omissions or negligence of Carrier's employees or agents.
- 2.4.2 Carrier's liability for willful misconduct, if established as a result of judicial or administrative proceedings, is not limited by this Tariff. With respect to any other claim or suit, by a Customer or by others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair, interruption or restoration of any service or facilities offered under this Tariff, and subject to the provisions of this Section, Carrier's liability, if any, shall be limited as provided herein.
- 2.4.3 The entire liability of the Company for any claim, loss, damage or expense from any cause whatsoever shall in no event exceed sums actually paid to the Company by Customer for the specific services giving rise to the claim, and no action or proceeding against the Company shall be commenced more than one year after the service is rendered.
- 2.4.4 Carrier shall not be liable for any claim of loss, expense, or damage, due to any interruption, delay, error, omission, or other defect in service, facility, or transmission provided under this Tariff, if caused by any person or entity other than Carrier, any malfunction of any service or facility provided by any other carrier, act of God, fire, war, civil disturbance, act of government, or by any other cause beyond Carrier's control.
- 2.4.5 Carrier shall not be liable for any act or omission of any other company or companies furnishing a portion of the service, or for damages associated with service, channels, or equipment which it does not furnish, or for damages which result from the operation of Customer-provided systems, equipment, facilities or services which are interconnected with Carrier's services.
- 2.4.6 Carrier shall not be liable for any defacement of or damage to Customer premises resulting from the furnishing of services of equipment on such premises or the installation or removal thereof, unless such defacement or damage is caused by gross negligence or willful misconduct of Carrier's agents or employees. No agents or employees of other participating carriers shall be deemed to be agents or employees of Carrier.

---

Issued:

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By:  
Larry Long, President  
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(972) 690-9955

## INTEREXCHANGE SERVICES TARIFF

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**2.4 LIABILITIES OF CARRIER (continued)**

- 2.4.7 Carrier shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; and law, order, regulation, direction, action or request of the United States government or of any other government, including state and local governments having or claiming jurisdiction over Carrier, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more these federal, state, or local governments, or of any military authority; preemption of existing service in compliance with national emergencies; insurrections; riots; wars; unavailability of rights-of-way or materials, or strikes, lockouts, work stoppages, or other labor difficulties.
- 2.4.8 Carrier shall not be liable for any act or omission of any entity furnishing Carrier or Carrier's Customers facilities or equipment used for or with the services Carrier's offers or for the acts or omissions of other common carriers or warehousemen.
- 2.4.9 Carrier shall not be liable for any act or omission of any other company or companies furnishing a portion of the service, or for damages or losses associated with service, channels, or equipment which it does not furnish, or for damages or losses which result from the operation of Customer-provided systems, equipment, facilities or services.
- 2.4.10 Carrier shall not be liable for and shall be fully indemnified, held harmless, and defended by Customer or others authorized by it to use the Service against any claim of loss, expense, or damage, including indirect, special, or consequential damage for:
- A. defamation, libel, slander, invasion of privacy, infringement of copyright or patent, unauthorized use of any trademark, trade name, or service mark, unfair competition, interference with or misappropriation, or violation of any contract, proprietary or creative right, or any other injury to any person, property, or entity arising from the material, data, information, or content revealed to, transmitted, processed, handled, or used by Carrier under this Tariff;
  - B. all other claims arising out of any act or omission of Customer or others, in connection with any service provided by Carrier pursuant to this Tariff;
  - C. connecting, combining, or adapting Carrier's facilities with Customer's apparatus or systems;
  - D. any act or omission of Customer or others, in connection with any service provided by Carrier pursuant to this Tariff; or

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INTEREXCHANGE SERVICES TARIFF

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2.4 LIABILITIES OF CARRIER (continued)

2.4.10 (continued)

E. any personal injury or death of any person or for any loss of or damage to Customer's premises or any other property, whether owned by Customer or others, caused directly or indirectly by the installation, maintenance, location, condition, operation, failure, presence, use, or removal of equipment or wiring provided by Carrier, if not caused by gross negligence of Carrier.

2.4.11 Customer shall indemnify and hold Carrier harmless from any and all loss, claims, demands, suits or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, condition, location or use of any installation provided by Carrier. Carrier reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this section as a condition precedent to such installations.

2.4.12 Carrier shall not be liable for any damages, including usage charges, that Customer may incur as a result of the unauthorized use of its Authorization Code(s) by others. The unauthorized use of Customer Authorization Code(s) includes, but is not limited to, the placement of calls using Customer's Authorization Code(s) without the authorization of Customer. Customer shall be fully liable for all such usage charges.

2.4.13 No agent or employee of any other carrier shall be deemed to be an agent or employee of Carrier.

2.4.14 CARRIER MAKES NO WARRANTY REGARDING THE PROVISION OF SERVICE PURSUANT TO THIS TARIFF, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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## INTEREXCHANGE SERVICES TARIFF

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**2.5 RESPONSIBILITIES OF CUSTOMER**

2.5.1 Customer assumes general responsibilities in connection with the provisions and use of Carrier's service. When facilities, equipment, and/or communications systems provided by others are connected to Carrier's facilities, Customer assumes additional responsibilities. Customer is responsible for the following:

- A. Customer is responsible for placing orders for service, paying all charges for service rendered by Carrier and complying with Carrier's regulations governing the service. Customer is also responsible for assuring that its users comply with regulations.
- B. When placing an order for service, Customer must provide:
  - 1. the name(s) and address(es) of the person(s) responsible for the payment of service charges; and
  - 2. the name(s), telephone number(s), and address(es) of Customer contact person(s).
- C. Customer must pay Carrier for the replacement or repair of Carrier's equipment when the damage results from:
  - 1. the negligence or willful act of Customer or user;
  - 2. improper use of service; or
  - 3. any use of equipment or service provided by others.

**2.5.2 Availability of Service for Maintenance, Testing, and Adjustment**

Upon reasonable notice, the facilities provided by Carrier shall be made available to Carrier for such tests and adjustments as may be necessary to maintain them in satisfactory condition. No interruption allowance will be granted for the time during which such tests and adjustments are made.

**2.5.3 Cancellation by Customer**

- A. Customer may cancel service any time after meeting the minimum service period. Termination charges will apply if Customer cancels prior to the expiration of a one-year or multi-year service agreement. Such termination charge will be equal to one month's usage as projected in Carrier's proposal for service, or the actual average monthly usage to date, whichever is higher, plus the monthly account charge for the remainder of the contract period.

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**2.5 RESPONSIBILITIES OF CUSTOMER (continued)****2.5.3 Cancellation by Customer (continued)**

- B. If Customer orders service requiring special facilities dedicated to Customer's use and then cancels the order before the service begins, before completion of the minimum service period, or before completion of some other period mutually agreed upon by Customer and Carrier, a charge will be made to Customer for the nonrecoverable portions of expenditures or liabilities incurred expressly on behalf of Customer by Carrier and not fully reimbursed by installation and monthly charges. If, based on the order, any construction has either begun or been completed, but no service provided, the nonrecoverable cost of such construction shall be borne by Customer. Such charge will be determined on a case-by-case basis.

**2.5.4 Payment and Charges for Service**

- A. Payment for Service is made in advance by Customer at the time any of Carrier's prepaid services are initially purchased or are replenished.
- B. Customer is responsible for payment of all charges for service furnished to Customer or Authorized Users, including, but not limited to all calls originated at Customer's number(s); received at Customer's number(s); billed to Customer's number(s) via third-party billing; incurred at the specific request of Customer; or placed using a calling card issued to Customer. If an entity other than Carrier imposes charges on Carrier, in addition to its own internal costs, in connection with a service for which a Carrier Non-Recurring Charge is specified, those charges may be passed on to Customer. The initial billing may include the account set-up charge where applicable. Charges based on actual usage during a month will be billed monthly in arrears. All fixed monthly and nonrecurring charges for services ordered will be billed monthly in advance.
- C. The security of Customer's Authorization Code(s) is the responsibility of Customer. All calls placed using Customer's Authorization Code(s) shall be deducted from Customer's account.
- D. Customers may pay for service by credit card, an authorized payment agent, or check.
- E. Customer is liable for all costs associated with collecting past due charges, including all attorneys' fees.

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INTEREXCHANGE SERVICES TARIFF

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## 2.6 RESPONSIBILITIES OF CARRIER

## 2.6.1 Disconnection of Service by Carrier

Disconnection of service shall be governed by the policies and practices of the Arizona Corporation Commission, in accordance with Arizona Admin. Code R14-2-509.

- A. Upon nonpayment of any amounts owing to the Company, the Company may, by giving requisite prior written notice to the Customer, discontinue or suspend service without incurring any liability.
- B. Upon violation of any of the other material terms or conditions for furnishing service, the Company may by giving requisite prior written notice to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- C. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company may, by notice to the Customer, discontinue or suspend service without incurring any liability.
- D. Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, failing to discharge an involuntary petition within the time permitted by law, or abandonment of service, the Company may, with prior notice to the customer, discontinue or suspend service without incurring any liability.
- E. Upon any governmental prohibition, or required alteration of the services to be provided or any violation of any applicable law or regulation, the Company may, with prior notice to the customer, discontinue or suspend service without incurring any liability.
- F. The Company may discontinue the furnishing of any and/or all service(s) to a Customer, without incurring any liability:
  - 1. Immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or services. The Company may discontinue service pursuant to Section 2.8.3.F.1(a)-(d) if:
    - (a) The Customer provides false information to the Company regarding the Customer's identity, address, past or current use of common carrier communications services, or its planned use of the Company's service(s); or

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2.8 RESPONSIBILITY OF CARRIER (Cont'd)

2.8.3 Disconnection of Service by Company (Cont'd)

F. (Cont'd)

1. (Cont'd)

(b) The Customer uses, or attempts to use, service with the intent to avoid the payment, either in whole or in part, of the tariffed charges for the service by:

I. Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this tariff; or

II. Using tricks, schemes, false or invalid numbers, false credit devices, electronic devices; or

III. Any other fraudulent means or devices; or

© Use of service in such a manner as to interfere with the service of other users; or

(d) Use of service for unlawful purposes.

2. After sending the Customer requisite prior written notice of noncompliance with any provision of this tariff if the noncompliance is not corrected within the notice period; or

The suspension or discontinuance of service(s) by Carrier pursuant to this Section does not relieve Customer of any obligation to pay Carrier for charges due and owing for service(s) furnished during the time of or up to suspension or discontinuance. Upon Carrier's discontinuance of service to Customer under this Section, all applicable charges shall become due. This is in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff.

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## INTEREXCHANGE SERVICES TARIFF

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**2.6 RESPONSIBILITIES OF CARRIER (continued)****2.6.2 Credit Upon Cancellation**

Where Carrier cancels a service and the final service period is less than the monthly billing period, a credit will be issued for any amounts billed in advance, prorated at 1/30th of the monthly recurring charge for each day after the service was discontinued. This credit will be issued to Customer or applied against the balance remaining on Customer's account.

**2.6.3 Disputed Bills**

Customer shall notify Carrier of any disputed items on a bill within 30 days. Carrier will make a prompt and reasonable investigation of each complaint including complaints regarding service requests or problems, whether made in writing, in person, or by telephone. If Customer and Carrier are unable to resolve the dispute to their mutual satisfaction, Customer may file a complaint with the Arizona Corporation Commission.

- A. The date of the dispute shall be the date Carrier receives sufficient documentation to enable it to investigate the dispute. The date of the resolution is the date Carrier completes its investigation and notifies Customer of the disposition of the dispute.

**2.7 INTERRUPTION OF SERVICE**

Credit allowance for interruption of service which is not due to the negligence of Customer or to the failure of channels, equipment, and/or communications systems provided by Customer and other carriers are subject to the general liability provisions set forth in Section 2.4 herein. It shall be the obligation of Customer to notify Carrier immediately of any interruption in service for which a credit allowance is desired by Customer. Before giving such notice, Customer shall ascertain that the trouble is not being caused by any action or omission of Customer within his or her control, or is not in wiring or equipment, if any, furnished by Customer and connected to Carrier's terminal.

**2.7.1 Credit Allowances**

- A. Credit for failure of service or equipment will be allowed only when failure is caused by or occurs in facilities or equipment owned, provided and billed for, by Carrier.
- B. Credit allowances for failure of service or equipment starts when Customer notifies Carrier of the failure or when Carrier becomes aware of the failure and ceases when the operation has been restored and an attempt has been made to notify Customer.
- C. Customer shall notify Carrier of failures of service or equipment and make reasonable attempts to ascertain that the failure is not caused by Customer provided facilities, any act or omission of Customer, or in wiring or equipment connected to the terminal.

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INTEREXCHANGE SERVICES TARIFF

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## 2.7 INTERRUPTION OF SERVICE (continued)

## 2.7.1 Credit Allowances (continued)

- D. Only those portions of the service or equipment disabled will be credited. No credit allowances will be made for:
1. interruptions of service resulting from Carrier performing routine maintenance;
  2. interruptions of service for implementation of a Customer order for a change in the service;
  3. interruptions caused by negligence of Customer or his authorized user; or
  4. interruptions of service because of the failure of service or equipment provided by Customer, authorized user, or other carriers.

## 2.7.2 Calculation of Credit Allowances

Pursuant to limitations set forth in Section 2.7.1, when service is interrupted the credit allowance will be computed on the following basis:

- A. No credit shall be allowed for an interruption of less than two hours.
- B. Customer shall be credited for an interruption of two hours or more for as long as the interruption continues.
- C. When a minimum usage charge is applicable and Customer fails to meet the minimum usage charge because of a service interruption, a credit shall be applied against that minimum usage charge in the following manner. For each period of two hours that the interruption continues the credit shall equal 1/360th of the monthly minimum charge. Note: in this instance a fractional period of more than one hour shall be treated as a two hour period.
- D. If notice of a dispute as to charges is not received in writing by Carrier within 30 days after billing is received by Customer, the invoice shall be considered correct and binding on Customer, unless extraordinary circumstances are demonstrated.

## 2.8 RESTORATION OF SERVICE

The use and restoration of service in emergencies shall be in accordance with the priority system specified in Part 64, Subpart D of the Rules and Regulations of the Federal Communications Commission. Restoration of service will be subject to all installation charges.

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## 2.9 TAXES AND SURCHARGES

Customer is responsible for payment of any sales, use, gross receipts, excise, or other local, state, or federal taxes, however designated (excluding taxes on Carrier's net income) imposed on or based upon the provision, sale, or use of Carrier's services. It shall be the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

2.9.1 All state and local taxes are listed as separate line items on the Customer's bill and are not included in the quoted rate(s). Other taxes, charges and regulatory assessments may be identified in the aggregate on the Customer's bill and are not included in the quoted rate.

2.9.2 Such taxes, charges, and assessments shall be billed to the Customer receiving service within the territorial limits of such State, county, city or other taxing authority. Such billing shall allocate the tax, charge, and/or assessment among Customers uniformly on the basis of each Customer's monthly charges for the types of service made subject to such tax, charge, and/or assessment.

2.9.3 Rates and charges for Carrier's prepaid services, as stated in Carrier's rate schedule, do not include federal excise tax or those state and local taxes which are required to be paid at the point of sale. The tariffed rate does include those state and local taxes which are required to be paid on the usage of the underlying telecommunications service when that service originates and terminates within a particular tax jurisdiction.

2.9.4 Carrier reserves the right to charge Customer an amount sufficient to recover any governmental assessments, fees, licenses or other similar taxes or fees imposed upon Carrier. Any surcharge or fee other than taxes will be filed for Commission approval.

## 2.10 APPLICATION OF CHARGES

The charges for service are those in effect for the period that service is furnished. If the charge for a period covered by a bill changes after the bill has been rendered, the bill will be adjusted to reflect the new charges.

## 2.11 FRACTIONAL CHARGES

Charges for a fractional part of a month are calculated by counting the number of days remaining in the billing period after service is furnished and dividing that number of days by 30 days (the billing period). The result is then multiplied by the applicable monthly service charge to arrive at the appropriate fractional monthly service charge.

## 2.12 DEPOSITS

Carrier does not require or collect deposits from Customers.

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INTEREXCHANGE SERVICES TARIFF

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2.13 START OF BILLING

For billing purposes, the start of service is the day following acceptance by Customer of Carrier's service or equipment. The end of service date is the last day of the minimum notification of cancellation or any portion of the last day, after receipt by Carrier of notification of cancellation as described in Section 2.5.2 of this Tariff.

2.14 INTERCONNECTION

2.14.1 Service furnished by Carrier may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to the technical limitation established by Carrier. Service furnished by Carrier is not part of a joint undertaking with such other carriers. Any special interface equipment or facilities necessary to achieve compatibility between the facilities of Carrier and other participating carriers shall be provided at Customer's expense.

2.14.2 Interconnection with the facilities or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs. Customer is responsible for taking all necessary legal steps for interconnecting its customers provided terminal equipment of communications systems with Carriers' facilities. Customer shall secure all licenses, permits, rights-of-way, and other arrangements necessary for such interconnections.

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(972) 690-9955

## INTEREXCHANGE SERVICES TARIFF

## SECTION 3 - DESCRIPTION OF SERVICES

## 3.1 TIMING OF CALLS

## 3.1.1 When Billing Charges Begin and Terminate for Phone Calls

Customer's long distance usage charge is based on the actual usage of Carrier's network. Usage begins when the called party picks up the receiver (i.e., when two-way communication, often referred to as "conversation time," is possible). When the called party picks up is determined by hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. When software answer supervision is employed, up to 60 seconds of ringing is allowed before it is billed as a usage of the network. A call is terminated when the calling or called party hangs up.

## 3.1.2 Billing Increments

Unless otherwise specified in this Tariff, the minimum call duration for billing purposes is one minute for a connected call. Unless otherwise specified in this Tariff, calls are billed in one minute increments thereafter. Billing will be rounded to the nearest penny for each call.

## 3.2 CALCULATION OF DISTANCE

Usage charges for all mileage-sensitive products are based on the airline distance between rate centers associated with the originating and terminating points of the call. The airline mileage between rate centers is determined by applying the formula below to the vertical and horizontal coordinates associated with the rate centers involved. Carrier's rates are neither distance- nor time-of-day-sensitive. Formula:

$$\sqrt{\frac{(V1 - V2)^2 + (H1 - H2)^2}{10}}$$

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## 3.3 SERVICE OFFERINGS

## 3.3.1 Prepaid Long Distance Service

Prepaid Long Distance Service provides an outbound voice grade communications service for calls charged to the Customer's account. The Service allows Customers to place direct-dialed interexchange calls to terminating locations from their home telephone. All calls must be charged against an account that has a sufficient available balance. At the point in which only 30 seconds of service remain, an audible signal will be given to the user to alert them only so much time is left for long distance service. The Customer may increase the available minutes of use by making additional incremental payments.

## 3.3.2 Prepaid Card Service

Prepaid Card Service provides an outbound voice grade communications service for calls charged to a Prepaid Card. Prepaid Card Service allows Customers to place direct-dialed interexchange calls to terminating locations by dialing a Customer-provided access number and a Customer-provided authorization number.

All calls must be charged against an Prepaid Card that has a sufficient available balance. The Customer will be notified in advance of the exhaustion of the card via an interactive voice prompt.

The following types of calls may not be completed with the Prepaid Card Service:

- Calls to 700 numbers
- Calls to toll free numbers
- Calls to 900 numbers
- Directory Assistance calls
- All Operator Service calls
- Busy Line Verification and Interrupt Service
- Calls requiring the quotation of time and charges
- Air-to-Ground calls

Except as may be specifically referenced therein, calls made using Prepaid Card Services are not included in any other Carrier services or promotions.

The number of available Prepaid Cards is subject to technical limitations. Such cards will be offered to Customers on a first come, first served basis. Prepaid Cards are available in various unit denominations as determined by the Carrier. Prepaid Cards will be sold at prices rounded to the nearest cent. The Prepaid Card Service rate does not include federal excise tax or those state and local taxes which are required to be paid at the point of sale. The tariffed rate does include those state and local taxes which are required to be paid on the usage of the underlying telecommunications service when that service originates and terminates within a particular tax jurisdiction.

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## 3.3 SERVICE OFFERINGS (Cont'd)

## 3.3.3 Directory Assistance Service

Directory Assistance Service is available for domestic calling only to Customers who dial 1+ (NPA) + 555-1212 from lines presubscribed to Carrier. Up to two requests for numbers may be made on each call to Directory Assistance. A charge will apply whether or not the Directory Assistance bureau furnishes the requested telephone number(s). Directory Assistance Service is provided only where facilities and billing capabilities permit.

## 3.4 SPECIAL PRICING ARRANGEMENTS - INDIVIDUAL CASE BASIS (ICB)

In lieu of the rates otherwise set forth in this Tariff, rates and charges, including installation, special construction, and recurring charges, may be established at negotiated rates on an ICB, taking into account such factors as the nature of the facilities and services, the costs of construction and operation, the volume of traffic commitment, and the length of service commitment by the Customer, as long as the rates and charges are not less than Carrier's costs of providing the service. Such arrangements shall be considered special pricing arrangements, the terms of which will be set forth in individual contracts or Customer term agreements. Specialized pricing arrangement rates or charges will be made available to similarly-situated Customers on comparable terms and conditions. Upon reasonable request, Carrier will make the terms of these contracts available to the Commission and its staff for review on a confidential and proprietary basis. The rates will be made a part of this Tariff.

## 3.5 PROMOTIONS

Carrier may, from time to time, engage in national and/or intrastate promotional offerings or trials, designed to attract new Customers, to stimulate Customer usage, to test potential new services, and/or to increase existing Customer awareness of Carrier services. These offerings may be limited to certain services, dates, times of day and/or locations determined by Carrier. National offerings, the terms of which are set forth in the applicable interstate tariffs governing such programs, may include without limitations, discounts, redeemable points, or cash rewards to Customers. The Commission will be notified prior to the effective date of promotions. To the extent that these programs extend to intrastate services, the terms of these national offerings are incorporated by reference, herein.

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## INTEREXCHANGE SERVICES TARIFF

## SECTION 4 - RATES AND CHARGES

## Maximum Rates

## 4.1 SERVICE OFFERINGS

## 4.1.1 Prepaid Long Distance Service

Price Per Unit (measured in one minute increments)	\$ .30
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## 4.1.2 Prepaid Card Service

Price Per Unit (measured in one minute increments)	\$ .50
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## 4.1.3 Directory Assistance Service

Rate per directory assistance call:	\$3.00
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## 4.2 OPERATOR SERVICE CHARGES

	Call Placement Charge Or Connection Fee
Station-to-Station	\$6.00
Person-to-Person	\$8.00
Collect Station-to-Station	\$6.00
Collect Person-to-Person	\$8.00
Third-Party Billing	
Station-to-Station	\$6.00
Person-to-Person	\$8.00
Operator-Dialed Surcharge	\$2.30

## 4.3 RETURNED CHECK CHARGES

Carrier will bill Customer a maximum one-time charge of \$50.00 if Customer's check for payment of service is returned for insufficient or uncollected funds, closed accounts, or any other insufficiency or discrepancy necessitating return of the check at the discretion of the drawee bank or other financial institution.

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## INTEREXCHANGE SERVICES TARIFF

## SECTION 5 - RATES AND CHARGES

## Price List

## 5.1 SERVICE OFFERINGS

## 5.1.1 Prepaid Long Distance Service

Price Per Unit (measured in one minute increments)	\$ .15
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## 5.1.2 Prepaid Card Service

Price Per Unit (measured in one minute increments)	\$ .25
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## 5.1.3 Directory Assistance Service

Rate per directory assistance call:	\$1.50
-------------------------------------	--------

## 5.2 OPERATOR SERVICE CHARGES

Call Placement Charge  
Or Connection Fee

Station-to-Station	\$3.95
--------------------	--------

Person-to-Person	\$4.90
------------------	--------

Collect Station-to-Station	\$3.95
----------------------------	--------

Collect Person-to-Person	\$4.90
--------------------------	--------

## Third-Party Billing

Station-to-Station	\$3.95
--------------------	--------

Person-to-Person	\$4.90
------------------	--------

Operator-Dialed Surcharge	\$1.15
---------------------------	--------

## 5.3 RETURNED CHECK CHARGES

Carrier will bill Customer a one-time charge of \$25.00 if Customer's check for payment of service is returned for insufficient or uncollected funds, closed accounts, or any other insufficiency or discrepancy necessitating return of the check at the discretion of the drawee bank or other financial institution.

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*Application and Petition for Competitive Reseller CC&N*

ATTACHMENT C

Network Diagram

**NETWORK DIAGRAM**

Applicant will not own, control, operate or manage telecommunications facilities within the State of Arizona. Rather, Applicant's underlying carrier (Sprint) will determine the facilities and equipment that will be used, the points at which the facilities and/or equipment will connect to the local exchange network, and the type of access service that will be used to connect to the local exchange network. Accordingly, Applicant has not provided a diagram of the basic call network used to complete Arizona intrastate telecommunications traffic.

*Application and Petition for Competitive Reseller CC&N*

ATTACHMENT D  
Financial Statements

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	00 Yr
Revenue	\$ 8,124,716	\$ 8,434,286	\$ 9,091,273	\$ 8,914,921	\$ 8,655,533	\$ 8,248,340	111.40%
Local Service							
Service/Retail Credits	(107)	(182)	(49)	(200)	(823)	(186)	0.00%
Refunds	(59,988)	(77,278)	(88,901)	(68,874)	(74,187)	(65,883)	-0.80%
Bad Debts	(720,900)	(77,050)	(1,672,820)	(2,202,784)	(878,256)	(784,172)	-10.00%
Net Revenue	\$ 7,525,831	\$ 7,579,809	\$ 7,389,703	\$ 8,063,064	\$ 7,803,327	\$ 7,328,199	100.00%

Cost of Revenue	\$ 3,421,537	\$ 3,604,426	\$ 3,853,131	\$ 3,922,512	\$ 3,985,140	\$ 3,088,191	41.77%
Line Costs							
Total Cost of Revenue	\$ 3,421,537	\$ 3,604,426	\$ 3,853,131	\$ 3,922,512	\$ 3,985,140	\$ 3,088,191	41.77%
Gross Profit	\$ 4,104,294	\$ 4,015,383	\$ 3,536,572	\$ 4,140,552	\$ 3,818,187	\$ 4,240,008	58.23%

Operating Expenses	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	00 Yr
Sales & Marketing							
Advertising	\$ 132,755	\$ 125,684	\$ 156,566	\$ 208,431	\$ 92,570	\$ 149,307	2.07%
Agent Commission	\$ 11,437	\$ 20,885	\$ 21,163	\$ 41,404	\$ 25,536	\$ 22,207	0.30%
Travel	\$ 66,688	\$ 95,071	\$ 21,551	\$ 99,823	\$ 19,097	\$ 85,520	1.16%
Pricing	\$ 1,000	\$ 5,039	\$ (747)	\$ 55	\$ 272	\$ 0	0.00%
Promotions and other	\$ 76,268	\$ 74,074	\$ 62,688	\$ 75,419	\$ 78,318	\$ 94,250	1.27%
Salary/Marketing Salaries							
Total Sales & Marketing Costs	\$ 288,158	\$ 350,783	\$ 287,233	\$ 385,132	\$ 207,893	\$ 351,284	4.75%

Customer Service							
Customer Service Salaries	\$ 591,586	\$ 514,978	\$ 567,200	\$ 569,255	\$ 530,487	\$ 559,266	7.68%
Long Distance	\$ 245,488	\$ 234,781	\$ 324,513	\$ 195,510	\$ 194,038	\$ 77,484	1.05%
Customer Service Other	\$ 0	\$ 0	\$ 0	\$ 0	\$ 38,586	\$ 97,000	1.31%
Total Customer Service	\$ 837,074	\$ 749,759	\$ 891,713	\$ 764,765	\$ 764,083	\$ 733,770	9.87%

General & Administrative	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	00 Yr
Accounting & Legal Fees	\$ 26,872	\$ 69,912	\$ 61,832	\$ 81,787	\$ 30,088	\$ 39,391	0.53%
General & Administrative Salaries	\$ 140,888	\$ 167,047	\$ 156,487	\$ 184,949	\$ 168,546	\$ 140,175	4.60%
Consulting Fees / Service Techs	\$ 53,515	\$ 79,845	\$ 39,439	\$ 49,331	\$ 184,112	\$ 69,863	1.21%
Equipment Lease/Rental	\$ 4,015	\$ 6,295	\$ 6,125	\$ 5,776	\$ 8,399	\$ 12,840	0.17%
Employee Benefits	\$ 88,412	\$ 16,834	\$ 4,900	\$ 4,620	\$ 36,280	\$ 6,088	0.08%
Employee Health Insurance	\$ 37,961	\$ 44,768	\$ 32,848	\$ 27,805	\$ 32,094	\$ 23,657	0.32%
Bank Charges	\$ 10,702	\$ 9,732	\$ 14,245	\$ 12,919	\$ 11,870	\$ 12,926	0.17%
Insurance	\$ 594	\$ 6,735	\$ 6,235	\$ 7,895	\$ 8,670	\$ 6,147	0.08%
Total General & Administrative	\$ 354,967	\$ 401,413	\$ 367,886	\$ 468,296	\$ 461,866	\$ 366,526	5.11%

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00	001
Licensees & Permits	\$ 250	\$ 15	\$ 14,008	\$ 3,202	\$ 5,157	\$ 22,414	0.90%
Membership Dues, Subscrip. Sminars	\$ 3,464	\$ 10,650	\$ 3,415	\$ 2,702	\$ 10,414	\$ 5,875	0.01%
Merchandise	\$ (118)	\$ 468	\$ 8,747	\$ 4,223	\$ 83	\$ (11,869)	-0.16%
Office Expenses	\$ 21,231	\$ 26,991	\$ 36,847	\$ 50,468	\$ 57,325	\$ 36,045	0.49%
Office Rental	\$ 15,743	\$ 19,188	\$ 21,111	\$ 17,580	\$ 53,431	\$ 63,848	0.66%
Outside Services	\$ 47,285	\$ 31,206	\$ 32,073	\$ 85,829	\$ 160,772	\$ 112,229	1.52%
<b>Payroll Expenses</b>	\$ 73,987	\$ 70,955	\$ 73,279	\$ 66,963	\$ 75,508	\$ 77,813	0.97%
Postage & Delivery	\$ 121,819	\$ 11,998	\$ 170,780	\$ 42,248	\$ 122,817	\$ 198,041	2.66%
Systems Development	\$ 27,195	\$ 75,034	\$ 35,762	\$ 73,202	\$ 1,569	\$ 43,076	0.60%
Taxes (non-income Taxes)	\$ -	\$ 7,735	\$ (4,833)	\$ (42)	\$ 2,888	\$ 3,153	0.04%
Telephone	\$ 28,861	\$ 74,721	\$ 49,682	\$ 37,317	\$ 47,983	\$ 27,539	0.37%
Travel & Meals	\$ 9,561	\$ 11,039	\$ 2,247	\$ 22,071	\$ 4,754	\$ 4,885	0.07%
Utilities	\$ 4,495	\$ 4,398	\$ 7,378	\$ 740	\$ 7,287	\$ 471	0.01%
Dickensville Taken	\$ (5,769)	\$ (9,281)	\$ (12,577)	\$ (4,800)	\$ (9,376)	\$ (4,539)	-0.06%
<b>Total General &amp; Administrative Costs</b>	\$ 634,163	\$ 641,697	\$ 771,934	\$ 847,898	\$ 1,049,742	\$ 1,104,911	14.61%
<b>Directorial Acquisition</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0.00%
Promotional Expense	\$ 561,419	\$ 677,543	\$ 461,539	\$ 434,432	\$ 434,473	\$ 418,243	6.06%
Agent Sign-up Fee	\$ 416,291	\$ 532,140	\$ 206,174	\$ 770,728	\$ 374,731	\$ 489,931	8.75%
Net Install Cost	\$ 615,312	\$ 1,081,395	\$ 896,032	\$ 919,978	\$ 1,043,801	\$ 1,149,407	15.54%
Advertising	\$ 1,683,012	\$ 2,291,079	\$ 1,521,744	\$ 1,822,887	\$ 1,982,513	\$ 2,999,983	28.31%
<b>Total Acquisition Costs</b>	\$ 3,440,483	\$ 4,013,259	\$ 3,471,727	\$ 3,618,887	\$ 3,868,233	\$ 4,386,748	57.33%
<b>Total Operating Expenses</b>	\$ 475,094	\$ 815,222	\$ 199,841	\$ (158,031)	\$ 553,916	\$ 215,960	0.29%
<b>EBITDA</b>	\$ (545,020)	\$ (593,914)	\$ (534,116)	\$ (544,467)	\$ (594,257)	\$ (631,105)	-8.53%
(Non Operating Income/Expenses)	\$ (3,859)	\$ (3,821)	\$ (3,499)	\$ (3,545)	\$ (4,199)	\$ (2,678)	-0.04%
Depreciation	\$ 33,718	\$ 38,785	\$ 60,886	\$ 45,953	\$ 37,001	\$ 32,684	0.44%
Interest Expense	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0.00%
Interest Income	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0.00%
Other Income	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0.00%
Gain/(Loss) on Asset Disposal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0.00%
<b>Non Operating Income/(Expenses)</b>	\$ (515,101)	\$ (588,949)	\$ (485,787)	\$ (602,089)	\$ (591,441)	\$ (601,700)	-8.13%
<b>Income before Taxes</b>	\$ (60,887)	\$ 268,282	\$ (287,945)	\$ (364,641)	\$ 302,488	\$ (578,740)	-7.78%

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

	Jan-04	Feb-03	Mar-03	Apr-03	May-03	Jun-03	001
Taxes on Income	\$ 0.00%	\$ 0.00%	\$ 0.00%	\$ 0.00%	\$ 0.00%	\$ 7.17%	\$ 11.27%
Net Income After Taxes	\$ (40,897)	\$ 260,282	\$ (227,946)	\$ (661,690)	\$ (280,949)	\$ (1,489,412)	\$ -92.65%

Assets	Jan-04	Feb-03	Mar-03	Apr-03	May-03	Jun-03
Investment Fund	\$ 701,727	\$ 1,109,585	\$ 1,951,171	\$ 2,859,457	\$ 2,896,346	\$ 2,894,909
Notes Receivable - Affiliates	\$ 8,334,818	\$ 1,173,741	\$ 7,165,551	\$ 4,461,351	\$ 3,781,251	\$ 3,181,951
Accounts Receivable	\$ 11,040,542	\$ 11,945,296	\$ 11,797,320	\$ 11,497,230	\$ 11,301,450	\$ 11,174,954
Employee Advances	\$ -	\$ -	\$ -	\$ 500	\$ 900	\$ 900
Allowance for Doubtful A/R	\$ (1,877,582)	\$ (1,375,218)	\$ (1,390,038)	\$ (9,311,071)	\$ (1,674,981)	\$ (1,650,989)
<b>Total Current Assets</b>	<b>\$ 15,798,777</b>	<b>\$ 11,149,591</b>	<b>\$ 10,838,028</b>	<b>\$ 16,141,669</b>	<b>\$ 15,724,910</b>	<b>\$ 13,601,971</b>

Property and Equipment	Jan-04	Feb-03	Mar-03	Apr-03	May-03	Jun-03
Furniture & Fixtures	\$ 331,286	\$ 331,246	\$ 332,283	\$ 444,852	\$ 632,134	\$ 784,287
Computer Equipment	\$ 1,581,172	\$ 2,014,515	\$ 2,215,656	\$ 2,226,961	\$ 2,931,647	\$ 3,489,411
Office Equipment	\$ 1,125,167	\$ 1,101,087	\$ 1,130,497	\$ 1,121,873	\$ 1,371,862	\$ 1,573,696
Store & Warehouse Equipment	\$ 689	\$ 969	\$ 968	\$ 968	\$ 968	\$ 968
Leasehold Improvements	\$ 463,644	\$ 463,644	\$ 463,644	\$ 1,331,977	\$ 1,331,977	\$ 1,571,738
Goodwill	\$ 68,724,364	\$ 70,085,520	\$ 68,564,430	\$ 68,195,608	\$ 87,006,913	\$ 69,002,024
Other Intangibles	\$ 4,141,726	\$ 2,401,087	\$ 4,283,330	\$ 4,210,667	\$ 4,140,000	\$ 4,063,333
Less Accumulated Depreciation	\$ (1,231,887)	\$ (1,368,405)	\$ (1,267,435)	\$ (1,462,414)	\$ (1,590,309)	\$ (1,721,656)
<b>Total Property and Equipment</b>	<b>\$ 74,147,311</b>	<b>\$ 71,940,933</b>	<b>\$ 74,634,576</b>	<b>\$ 74,717,493</b>	<b>\$ 76,135,983</b>	<b>\$ 77,479,184</b>

Note: Other Intangibles are shown net of their Accumulated Amortization amount

Other Assets	Jan-04	Feb-03	Mar-03	Apr-03	May-03	Jun-03
Other Receivables	\$ 407,481	\$ 417,531	\$ 407,531	\$ 402,039	\$ 402,039	\$ 402,039
Deposits	\$ 451,870	\$ 452,414	\$ 453,019	\$ 603,605	\$ 604,205	\$ 179,795
Notes Receivable	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Assets	\$ 141,087	\$ 688,447	\$ 1,266,431	\$ 680,599	\$ 325,633	\$ 379,426
Intercompany Elimination	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Other Assets</b>	<b>\$ 1,000,438</b>	<b>\$ 1,058,392</b>	<b>\$ 2,126,971</b>	<b>\$ 1,086,243</b>	<b>\$ 1,331,877</b>	<b>\$ 1,761,259</b>
<b>Total Assets</b>	<b>\$ 59,648,608</b>	<b>\$ 61,199,618</b>	<b>\$ 65,797,576</b>	<b>\$ 64,805,405</b>	<b>\$ 63,601,890</b>	<b>\$ 63,347,914</b>

COMM SOUTH COMPANIES, INC  
FINANCIAL STATEMENTS

1-427 P. 05/05 P. 000

Liabilities and Capital	Jan-00	Feb-00	Mar-00	Apr-00	May-00	Jun-00
<b>Current Liabilities</b>						
Accounts Payable	\$ 5,481,988	\$ 8,288,205	\$ 6,643,006	\$ 6,613,052	\$ 6,578,486	\$ 6,088,175
APR Installation	\$ 285,042	\$ 285,974	\$ 324,783	\$ 300,728	\$ 245,127	\$ 177,801
Payroll Liab. Payable	\$ 58,103	\$ 71,055	\$ 88,082	\$ 80,275	\$ 138,275	\$ 48,358
Accrued Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Accrued Bill Costs	\$ 1,621,850	\$ 1,621,930	\$ 1,407,014	\$ 1,312,194	\$ 1,733,643	\$ 1,794,388
Sales Tax Payable	\$ 321,284	\$ 365,751	\$ 485,983	\$ 304,385	\$ 124,159	\$ 13,731
Taxes Payable	\$ 2,918,183	\$ 3,332,431	\$ 3,782,911	\$ 4,065,387	\$ 3,820,771	\$ 4,567,878
Deferred Revenue	\$ 7,851,778	\$ 8,587,671	\$ 8,830,381	\$ 8,358,422	\$ 7,717,987	\$ 7,494,748
Current Portion of Notes Payable	\$ 184,517	\$ 201,886	\$ 202,211	\$ 202,559	\$ 188,558	\$ 203,703
<b>Total Current Liabilities</b>	\$ 18,829,845	\$ 20,845,863	\$ 21,546,471	\$ 21,231,422	\$ 20,611,806	\$ 20,776,888
<b>Long-Term Liabilities</b>						
Loan - Bear One	\$ 247,000	\$ 215,111	\$ 201,667	\$ 188,222	\$ 174,778	\$ 161,333
Loan - Bank One Leasing	\$ 71,563	\$ 64,632	\$ 50,973	\$ 57,387	\$ 53,771	\$ 50,127
Loan - Automobiles	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Leas - Current Portion	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Notes Payable - Shareholders	\$ 74,745,082	\$ 74,745,082	\$ 74,745,082	\$ 74,745,082	\$ 74,745,082	\$ 76,353,755
<b>Total Long-Term Liabilities</b>	\$ 75,059,645	\$ 74,924,725	\$ 75,007,722	\$ 74,990,691	\$ 74,973,631	\$ 75,968,715
<b>Total Liabilities</b>	\$ 93,889,490	\$ 95,670,588	\$ 96,554,193	\$ 96,222,113	\$ 95,585,437	\$ 96,745,603
<b>Capital</b>						
Common Stock	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000
Retained Earnings	\$ (700,857)	\$ (1700,857)	\$ (700,857)	\$ (800,857)	\$ (700,857)	\$ (700,857)
Net Income	\$ (40,087)	\$ 278,185	\$ (61,761)	\$ (122,851)	\$ (163,100)	\$ (2,392,742)
<b>Total Capital</b>	\$ (739,944)	\$ (472,672)	\$ (761,618)	\$ (1,422,708)	\$ (1,462,957)	\$ (3,092,599)
<b>Total Capital and Liabilities</b>	\$ 93,149,546	\$ 95,197,916	\$ 95,792,575	\$ 94,805,405	\$ 94,122,480	\$ 93,653,004

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

**Comm South Companies, Inc**  
**Financial Statements**

	99 Qtr 1		99 Qtr 2		99 Qtr 3		Oct-99		Nov-99		Dec-99		99 YTD	
Revenue	\$ 26,246,978	114.71%	\$ 26,085,746	126.46%	\$ 26,918,442	118.13%	\$ 6,847,560	119.69%	\$ 9,012,217	122.76%	\$ 8,583,202	109.69%	\$ 107,794,145	118.09%
Local Service	\$ (10,974)	-0.05%	\$ (7,990)	-0.03%	\$ (1,006)	0.00%	\$ (103)	0.00%	\$ (117)	0.00%	\$ (117)	0.00%	\$ (20,022)	-0.07%
Service/terminal Credits	\$ (176,578)	-0.77%	\$ (143,927)	-0.65%	\$ (137,700)	-0.60%	\$ (52,407)	-0.70%	\$ (53,027)	-0.73%	\$ (72,464)	-0.93%	\$ (636,761)	-0.70%
Refunds	\$ (3,177,876)	-13.89%	\$ (5,729,037)	-25.00%	\$ (3,993,116)	-17.62%	\$ (1,419,843)	-18.99%	\$ (1,817,232)	-22.03%	\$ (895,346)	-8.76%	\$ (19,622,060)	-18.36%
Bad Debts	\$ 22,881,802	100.00%	\$ 22,205,086	100.00%	\$ 22,786,501	100.00%	\$ 7,475,407	100.00%	\$ 7,341,241	100.00%	\$ 7,825,285	100.00%	\$ 90,515,322	100.00%
Net Revenue	\$ 12,208,268	53.34%	\$ 12,143,905	54.89%	\$ 11,458,589	50.29%	\$ 3,977,246	53.20%	\$ 3,985,544	54.29%	\$ 4,108,081	52.50%	\$ 47,879,613	52.90%
Line Costs	\$ 12,208,268	53.34%	\$ 12,143,905	54.89%	\$ 11,458,589	50.29%	\$ 3,977,246	53.20%	\$ 3,985,544	54.29%	\$ 4,108,081	52.50%	\$ 47,879,613	52.90%
Total Cost of Revenue	\$ 10,875,534	48.66%	\$ 10,081,181	45.31%	\$ 11,327,932	49.71%	\$ 3,498,181	46.80%	\$ 3,355,697	45.71%	\$ 3,717,204	47.50%	\$ 42,835,709	47.10%
Gross Profit	\$ 1,842,220	7.18%	\$ 1,871,388	7.53%	\$ 1,982,223	8.70%	\$ 819,463	10.96%	\$ 772,975	10.53%	\$ 895,906	11.45%	\$ 7,784,175	8.60%
Operating Expenses	\$ 2,408,809	10.53%	\$ 1,900,990	8.56%	\$ 1,790,823	7.86%	\$ 655,854	8.77%	\$ 635,190	8.65%	\$ 628,868	8.04%	\$ 6,020,352	8.86%
Sales & Marketing	\$ 27,882	0.12%	\$ 53,578	0.24%	\$ 48,209	0.20%	\$ 18,989	0.25%	\$ 15,145	0.21%	\$ 8,918	0.11%	\$ 170,729	0.19%
Advertising	\$ 175,565	0.77%	\$ 149,986	0.65%	\$ 118,878	0.51%	\$ 43,689	0.58%	\$ 44,524	0.61%	\$ 33,240	0.42%	\$ 557,672	0.62%
Commissions	\$ 2,308	0.01%	\$ 8,953	0.04%	\$ 10,989	0.05%	\$ 2,257	0.03%	\$ 4,984	0.07%	\$ 1,119	0.01%	\$ 30,818	0.03%
Travel	\$ 55,741	0.24%	\$ 177,433	0.80%	\$ 193,185	0.85%	\$ 93,907	1.20%	\$ 74,877	1.02%	\$ 83,606	1.07%	\$ 678,708	0.76%
Printing	\$ 4,312,513	18.85%	\$ 3,956,326	17.82%	\$ 4,139,907	18.17%	\$ 1,634,229	21.85%	\$ 1,547,705	21.09%	\$ 1,651,574	21.10%	\$ 17,242,254	19.05%
Promotions	\$ 1,387,820	6.07%	\$ 1,331,513	6.00%	\$ 1,373,898	6.03%	\$ 527,286	7.05%	\$ 462,102	6.29%	\$ 542,918	6.94%	\$ 5,625,537	6.22%
Sales/Marketing Salaries	\$ 790,661	3.46%	\$ 793,852	3.58%	\$ 822,698	3.61%	\$ 276,925	3.70%	\$ 272,198	3.71%	\$ 239,078	3.06%	\$ 3,195,352	3.53%
Total Sales & Marketing Costs	\$ 2,178,481	9.53%	\$ 2,125,365	9.58%	\$ 2,199,496	9.65%	\$ 804,211	10.75%	\$ 734,240	10.00%	\$ 781,996	10.00%	\$ 8,823,789	9.75%
Customer Service	\$ 1,387,820	6.07%	\$ 1,331,513	6.00%	\$ 1,373,898	6.03%	\$ 527,286	7.05%	\$ 462,102	6.29%	\$ 542,918	6.94%	\$ 5,625,537	6.22%
Customer Service Salaries	\$ 790,661	3.46%	\$ 793,852	3.58%	\$ 822,698	3.61%	\$ 276,925	3.70%	\$ 272,198	3.71%	\$ 239,078	3.06%	\$ 3,195,352	3.53%
Long Distance	\$ -	0.00%	\$ -	0.00%	\$ 2,900	0.01%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ 2,900	0.00%
Customer Service Other	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Total Customer Service	\$ 2,178,481	9.53%	\$ 2,125,365	9.58%	\$ 2,199,496	9.65%	\$ 804,211	10.75%	\$ 734,240	10.00%	\$ 781,996	10.00%	\$ 8,823,789	9.75%

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

**Comm South Companies, Inc**  
**Financial Statements**

	99 Qtr 1	99 Qtr 2	99 Qtr 3	Oct-99	Nov-99	Dec-99	99 YTD
<b>Liabilities and Capital</b>							
<b>Current Liabilities</b>							
Accounts Payable	\$ 5,466,092	\$ 4,570,265	\$ 4,372,454	\$ 4,895,458	\$ 4,913,709	\$ 4,078,470	
AP Installation	\$ 502,843	\$ 311,831	\$ 321,075	\$ 370,008	\$ 415,544	\$ 422,320	
Payroll Taxes Payable	\$ 159,589	\$ 120,817	\$ 61,143	\$ 69,220	\$ 85,325	\$ 121,578	
Accrued Interest	\$ 135,360	-	-	-	-	-	
Accrued 911 Costs	\$ 881,761	\$ 1,118,725	\$ 1,338,029	\$ 1,236,713	\$ 1,319,982	\$ 1,553,357	
Sales Tax Payable	\$ 359,348	\$ 510,001	\$ 527,271	\$ 415,314	\$ 472,257	\$ 494,340	
Taxes Payable	\$ 952,087	\$ 1,289,235	\$ 1,810,218	\$ 2,171,124	\$ 2,537,262	\$ 2,741,157	
Deferred Revenue	\$ 7,840,398	\$ 7,889,795	\$ 7,222,733	\$ 7,229,748	\$ 7,511,113	\$ 7,542,436	
Current Portion of Notes Payable	\$ 136,662	\$ 18,668	\$ 49,717	\$ 200,811	\$ 200,928	\$ 187,407	
Notes Payable - Shareholders	\$ 33,797	-	-	-	-	-	
<b>Total Current Liabilities</b>	<b>\$ 16,466,735</b>	<b>\$ 15,889,035</b>	<b>\$ 15,502,440</b>	<b>\$ 16,588,196</b>	<b>\$ 17,456,118</b>	<b>\$ 17,821,065</b>	
<b>Long-Term Liabilities</b>							
Loan - Bank One	-	\$ 484,000	\$ 403,333	\$ 208,089	\$ 266,445	\$ 288,609	
Loan - Bank One Leasing	\$ 487,032	\$ 111,473	\$ 111,473	\$ 78,483	\$ 76,037	\$ 78,611	
Loan - Automobiles	\$ 47,030	-	-	-	-	-	
Less: Current Portion	-	-	-	-	-	-	
<b>Total Long-Term Liabilities</b>	<b>\$ 544,062</b>	<b>\$ 595,473</b>	<b>\$ 514,806</b>	<b>\$ 347,372</b>	<b>\$ 330,482</b>	<b>\$ 347,400</b>	
<b>Total Liabilities</b>	<b>\$ 17,010,797</b>	<b>\$ 16,484,508</b>	<b>\$ 16,017,246</b>	<b>\$ 16,935,568</b>	<b>\$ 17,786,600</b>	<b>\$ 18,268,465</b>	
<b>Capital</b>							
Common Stock	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	
Retained Earnings	\$ (4,881,232)	\$ (4,881,232)	\$ (4,881,232)	\$ (4,881,232)	\$ (4,881,232)	\$ (4,881,232)	
Net Income	\$ 1,899,318	\$ 3,132,668	\$ 4,365,324	\$ 4,201,060	\$ 4,609,263	\$ 5,202,100	
<b>Total Capital</b>	<b>\$ (2,980,914)</b>	<b>\$ (1,747,564)</b>	<b>\$ (514,908)</b>	<b>\$ (679,172)</b>	<b>\$ (279,949)</b>	<b>\$ 321,868</b>	
<b>Total Capital and Liabilities</b>	<b>\$ 14,029,883</b>	<b>\$ 14,736,944</b>	<b>\$ 15,502,338</b>	<b>\$ 16,256,396</b>	<b>\$ 17,515,651</b>	<b>\$ 18,590,333</b>	

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

**Comm South Companies, Inc**  
**Financial Statements**

	99 Qtr 1	99 Qtr 2	99 Qtr 3	Oct-99	Nov-99	Dec-99	99 YTD
<b>Assets</b>							
Cash	\$ (15,633)	\$ 431,760	\$ 699,770	\$ 1,624,533	\$ 2,305,007	\$ 864,317	\$ 864,317
Investment Fund	\$ 2,728,162	\$ 2,493,479	\$ 3,091,858	\$ 2,947,005	\$ 2,951,783	\$ 2,601,884	\$ 2,601,884
Notes Receivable - Affiliates	\$ 232,272	\$ 239,772	\$ -	\$ -	\$ -	\$ 2,402,490	\$ 2,402,490
Accounts Receivable	\$ 9,664,768	\$ 9,353,561	\$ 10,359,860	\$ 10,612,411	\$ 10,837,372	\$ 11,092,209	\$ 11,092,209
Employee Advances	\$ 2,016	\$ 2,046	\$ 1,120	\$ 1,120	\$ 1,020	\$ 1,020	\$ 1,020
Allowance for Doubtful A/R	\$ (1,405,638)	\$ (1,370,083)	\$ (1,813,557)	\$ (1,831,759)	\$ (1,657,187)	\$ (1,659,326)	\$ (1,659,326)
<b>Total Current Assets</b>	\$ 11,205,947	\$ 11,150,555	\$ 12,339,051	\$ 13,353,310	\$ 14,437,995	\$ 15,302,574	\$ 15,302,574
<b>Property and Equipment</b>							
Furniture & Fixtures	\$ 123,361	\$ 148,381	\$ 331,216	\$ 331,216	\$ 331,216	\$ 331,216	\$ 331,216
Computer Equipment	\$ 911,976	\$ 955,174	\$ 981,079	\$ 981,079	\$ 1,327,124	\$ 1,569,861	\$ 1,569,861
Office Equipment	\$ 1,192,066	\$ 1,209,861	\$ 1,116,796	\$ 1,116,796	\$ 1,101,087	\$ 1,101,087	\$ 1,101,087
Store & Warehouse Equipment	\$ 869	\$ 969	\$ 969	\$ 969	\$ 969	\$ 969	\$ 969
Leasehold Improvements	\$ 547,266	\$ 548,444	\$ 458,444	\$ 458,444	\$ 463,207	\$ 463,207	\$ 463,207
Less: Accumulated Depreciation	\$ (763,845)	\$ (870,587)	\$ (991,229)	\$ (1,031,360)	\$ (1,066,806)	\$ (1,118,141)	\$ (1,118,141)
<b>Total Property and Equipment</b>	\$ 2,021,793	\$ 1,992,032	\$ 1,871,370	\$ 1,857,144	\$ 2,156,787	\$ 2,346,199	\$ 2,346,199
<b>Other Assets</b>							
Other Receivables	\$ 536,966	\$ 1,055,444	\$ 404,058	\$ 408,241	\$ 407,491	\$ 407,491	\$ 407,491
Deposits	\$ 230,358	\$ 232,019	\$ 391,969	\$ 391,969	\$ 392,880	\$ 394,680	\$ 394,680
Notes Receivable	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Assets	\$ 34,819	\$ 6,894	\$ 498,090	\$ 245,732	\$ 120,488	\$ 137,389	\$ 137,389
<b>Total Other Assets</b>	\$ 802,143	\$ 1,294,357	\$ 1,292,117	\$ 1,045,942	\$ 920,859	\$ 939,560	\$ 939,560
<b>Total Assets</b>	\$ 14,029,883	\$ 14,436,944	\$ 16,602,538	\$ 16,256,396	\$ 17,515,651	\$ 18,590,333	\$ 18,590,333

**COMM SOUTH COMPANIES, INC**  
**FINANCIAL STATEMENTS**

**Comm South Companies, Inc**  
**Financial Statements**

	99 Qtr 1	98 Qtr 2	99 Qtr 3	Oct-99	Nov-99	Dec-99	99 YTD
<b>EBITDA</b>	\$ 2,022,924	\$ 1,355,864	\$ 1,421,985	\$ (53,516)	\$ 453,308	\$ 530,839	\$ 5,831,404
	8.84%	6.09%	6.25%	-0.70%	6.17%	8.08%	6.40%
<b>Non Operating Income/(Expenses)</b>							
Depreciation	\$ (113,322)	\$ (116,721)	\$ (120,663)	\$ (40,131)	\$ (41,022)	\$ (51,335)	\$ (463,194)
Interest Expense	\$ (16,244)	\$ (10,285)	\$ (10,458)	\$ (4,048)	\$ (4,168)	\$ (3,983)	\$ (59,197)
Interest Income	\$ 8,238	\$ 12,372	\$ 22,792	\$ 5,852	\$ 7,828	\$ 29,017	\$ 95,997
Other Income	\$ 522	\$ 130	\$ -	\$ -	\$ -	\$ 100	\$ 752
Gain/(Loss) on Asset Disposal	\$ (800)	\$ -	\$ -	\$ -	\$ 776	\$ -	\$ (24)
	0.00%	0.00%	0.00%	0.00%	0.01%	0.00%	0.00%
<b>Non Operating Income/(Expenses)</b>	\$ (123,606)	\$ (122,514)	\$ (108,329)	\$ (38,227)	\$ (36,769)	\$ (26,201)	\$ (455,666)
	-0.54%	-0.55%	-0.48%	-0.61%	-0.51%	-0.34%	-0.50%
<b>Income before Taxes</b>	\$ 1,899,318	\$ 1,233,350	\$ 1,313,656	\$ (91,743)	\$ 416,539	\$ 604,638	\$ 5,375,738
	8.30%	5.54%	5.77%	-1.21%	5.60%	7.74%	5.90%
<b>Taxes on Income</b>	\$ -	\$ -	\$ 81,000	\$ 72,521	\$ 8,296	\$ 11,821	\$ 173,638
	0.00%	0.00%	0.36%	0.97%	0.11%	0.15%	0.19%
<b>Net Income After Taxes</b>	\$ 1,899,318	\$ 1,233,350	\$ 1,232,656	\$ (164,264)	\$ 408,243	\$ 592,817	\$ 5,202,100
	8.30%	5.54%	5.41%	-2.18%	5.95%	7.59%	5.71%



**TOPP TELECOM, INC.**  
**COMPARATIVE BALANCE SHEET**  
**MONTHS OF SEPTEMBER AND OCTOBER, 1999**

	Balance as of Sep-99	Balance as of Oct-99
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash In Bank	8,654,893	1,657,076
Restricted Cash (CDs)	2,908,133	2,928,133
Accounts Receivable, Net	10,186,015	16,855,962
Inventory	507,094	438,597
Prepaid Expenses	9,263,636	8,511,836
<b>TOTAL CURRENT ASSETS</b>	<b>31,519,771</b>	<b>30,391,604</b>
<b>FIXED ASSETS:</b>		
Property & Equipment, Net	11,956,729	12,876,155
Capitalized Software, Net	2,755,515	2,757,608
<b>TOTAL FIXED ASSETS</b>	<b>14,712,244</b>	<b>15,633,763</b>
<b>LONG TERM ASSETS:</b>		
Investment In Comm South	25,100,847	25,169,316
Patents, Net	676,846	671,061
Other Assets	50,977,516	50,985,102
<b>TOTAL LONG TERM ASSETS</b>	<b>76,755,209</b>	<b>76,825,479</b>
<b>TOTAL ASSETS</b>	<b>122,987,224</b>	<b>122,850,846</b>
 <b>LIABILITIES AND STOCKHOLDER'S EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts Payable	2,882,449	6,233,149
Accrued Expenses	23,189,243	19,724,997
Current Portion of Long Term Debt	689,030	689,030
Deferred Revenue	9,898,320	9,537,924
Accrued Interest	124,048	119,539
<b>TOTAL CURRENT LIABILITIES</b>	<b>36,783,090</b>	<b>36,304,639</b>
<b>LONG TERM LIABILITIES:</b>		
Due To Affiliates	2,499,000	2,499,000
Notes Payable--Long Term	3,330,345	3,319,151
Patent Liability	750,000	750,000
<b>TOTAL LIABILITIES</b>	<b>43,362,435</b>	<b>42,872,790</b>
<b>STOCKHOLDER'S EQUITY:</b>		
Class A Common Stock	310	310
Class B Common Stock	6,566	6,566
Additional Paid-In Capital	168,951,908	168,951,908
Retained Earnings	(56,801,846)	(56,801,846)
Current Earnings	(32,532,149)	(32,178,881)
<b>TOTAL STOCKHOLDER'S EQUITY</b>	<b>79,624,789</b>	<b>79,978,057</b>
<b>TOTAL LIABILITIES &amp; STOCKHOLDER'S EQUITY</b>	<b>122,987,224</b>	<b>122,850,847</b>

**Topp Telecom**  
**Proforma Balance Sheet**  
**as of May 31, 1999**

	Balance at 12/31/1998	Proforma Balance at 05/31/99
<b>ASSETS</b>		
<b>Current Assets:</b>		
Cash In Bank	372,078	28,657,311
Restricted Cash (CD's)	3,098,900	3,436,730
Accounts Receivable, net	8,555,379	12,242,359
Inventory	1,263,319	2,267,719
Prepaid Expenses	1,383,137	6,328,932
<b>Total Current Assets</b>	<b>14,683,813</b>	<b>52,943,052</b>
Investment in Comm South	-	77,500,000
<b>Fixed Assets:</b>		
Property and Equipment, net	2,453,765	3,373,949
Capitalized Software, net	1,699,796	1,546,372
Other	287,975	228,645
<b>Total Assets</b>	<b>19,125,350</b>	<b>135,592,018</b>
<b>Liabilities and Stockholder's Equity</b>		
Accounts Payable	13,835,327	6,441,593
Accrued Expenses	20,238,513	24,625,393
Deferred Revenue	3,244,466	4,837,637
Bank Overdraft	3,597,765	
Advances Under Factoring agreement	976,318	
Revolving Line of Credit	93,230	
Notes Payable-Current	813,877	824,607
Current Portion of capital lease obligation	289,764	289,764
<b>Total Current Liabilities</b>	<b>43,060,260</b>	<b>37,018,993</b>
Long-term Portion of capital lease obligation	740,843	669,359
Due To Affiliates	26,732,804	27,434,372
<b>Total Liabilities</b>	<b>70,563,907</b>	<b>65,122,724</b>
<b>Stockholder's Equity:</b>		
Class A common stock	61	278
Class B common stock	1,335	5,892
Additional paid in capital	4,103,605	146,080,455
Retained Earnings	(55,543,558)	(75,617,331)
<b>Total stockholders' equity</b>	<b>(51,439,557)</b>	<b>70,469,294</b>
<b>Total liabilities and stockholders' equity</b>	<b>19,125,350</b>	<b>135,592,018</b>

ATTACHMENT E

Further Responses to Question Nos. A-13 and A-14

**Further Response to Question No. A-13: Suspension or Revocations**

Comm South's policy is to comply with all rules and regulations of states in which it has been granted authority to provide telecommunications services. However, in 2000, Applicant's authority to provide telecommunications services was suspended or revoked in the states of Alabama, Arkansas, and Florida due to the Applicant's inadvertent failure to timely file reporting information. See Order, Alabama PSC Docket No. 27495 (Sept. 12, 2000); Order No. 5, Arkansas PSC Docket No. 00-121-U (July 25, 2000); and Order No. PSC-00-0680-SC-TX, Florida PSC Docket No. 000230-TX (April 12, 2000). A copy of each order is attached hereto.

Applicant believes that the oversights were attributable in large measure to changes in responsible personnel and a move of the company's headquarters in March and April of this year. The Alabama Public Service Commission has reinstated Applicant's authority. Applicant's request for reinstatement is currently pending before the Arkansas Public Service Commission. Applicant only recently learned of its Florida revocation. It is in the processing of correcting its deficiencies and re-applying for authority. Applicant is not aware of any other actions involving non-compliance with regulatory requirements.

**Further Response to Question No. A-14: Civil Court Proceedings**

Comm South is involved in a civil proceeding in the State of Kentucky. See *ALLTEL Kentucky, Inc., et al., v. Brenda Helton, et al.*, Civil Action No. 00-45, (E.D. Ky., Sep. 18, 2000). In this proceeding, ALLTEL is seeking a ruling that the Kentucky Commission improperly imposed a 17% resale discount on a voluntarily negotiated resale agreement between Comm South and ALLTEL. ALLTEL maintains that the Commission lacks the authority to impose resale discounts for voluntarily negotiated agreements and further may not do so in the case of exempted rural ILECs. The proceeding is not a result of any direct dispute between ALLTEL and Comm South and does not raise any issues regarding Comm South's managerial, technical or financial ability to provide telecommunications services.

To the best of Applicant's knowledge, Comm South is not involved in any formal complaint proceedings before any State or Federal regulatory commission involving customer dissatisfaction or dispute with the telecommunications services that Comm South provides.



STATE OF ALABAMA  
ALABAMA PUBLIC SERVICE COMMISSION  
P.O. BOX 991  
MONTGOMERY, ALABAMA 36101-0991

JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

ALABAMA PUBLIC SERVICE COMMISSION,

DOCKET 27495

v.

DELINQUENT COMPANIES,

Respondents

ORDER

BY THE COMMISSION:

By Order entered in this proceeding in June of 2000, the Certificates of the companies that have not paid the inspection and supervision fees were revoked. Subsequently, Comm South Companies, Inc., d/b/a Alabama Comm South Corp. ("Comm South") petitioned for reinstatement. It appears that a \$200.00 penalty should be assessed but that Comm South's Certificate should be reinstated.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That a penalty in the amount of \$200.00 is assessed against Comm South Companies, Inc., d/b/a Alabama Comm South Corp. pursuant to §37-2-41 Code of Alabama, 1975.

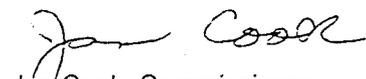
IT IS FURTHER ORDERED BY THE COMMISSION, That the Certificate to provide Local Exchange Resale Service is hereby reinstated for Comm South Companies, Inc., d/b/a Alabama Comm South Corp.

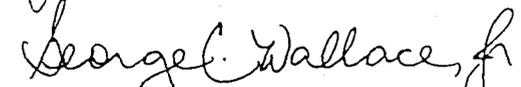
IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12<sup>th</sup> day of September, 2000.

ALABAMA PUBLIC SERVICE COMMISSION

  
Jim Sullivan, President

  
Jan Cook, Commissioner

  
George C. Wallace, Jr., Commissioner

ATTEST, A True Copy

  
Walter L. Thomas, Jr., Secretary

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CHISENHALL FIRM

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ARKANSAS PUBLIC SERVICE COMMISSION

FILED

IN THE MATTER OF UTILITIES FAILING )  
TO FILE ANNUAL REPORTS )

DOCKET NO. 00-121-U  
ORDER NO. 5

Appearances: General Staff of the Arkansas Public Service Commission represented by Gregory Glisich, Attorney at Law, Little Rock, Arkansas; no appearance for any of the respondents.

ORDER

On April 21, 2000, the General Staff of the Arkansas Public Service Commission (Staff) initiated this docket by filing a petition pursuant to Rules 10.03 and 10.04 of the Arkansas Public Service Commission's (Commission) *Rules of Practice and Procedure* requesting that the Commission issue a show cause order against certain utilities who have failed to file an annual report of gross earnings from their Arkansas properties for the preceding calendar year as required by Ark. Code Ann. §23-3-109. The utilities alleged by Staff to be in noncompliance with Ark. Code Ann. §23-3-109 are listed in a three page attachment, called Attachment A, to its petition

Staff's petition states that without the reports of gross earnings as required by Ark. Code Ann. §23-3-109, due to be filed by the end of March each year for the preceding calendar year, the Commission is unable to determine the total gross earnings of all utilities as required by this statute and then levy and collect from each utility subject thereto the annual fee mandated by Ark. Code Ann. §23-3-110

Ark. Code Ann. §23-3-103 empowers the Commission to enforce compliance with the Arkansas Public Utility Code, which includes the cited statutes, by, among other things, imposing a

DOCKET NO. 00-121-U  
PAGE 2

civil sanction of no more than \$1,000 against a utility over which it has jurisdiction and which is found to be in violation of law. In its petition Staff requests that the Commission impose this \$1,000 civil sanction against each of the offending utilities, and, in addition thereto, that the certificates of public convenience and necessity (CCN) of the offending utilities, previously granted by the Commission, be revoked.

On May 16, 2000, Staff filed an amended petition in this docket removing from Attachment A to the original petition the names of several utilities and stating that this show cause petition is withdrawn as to those utilities whose names do not appear on amended Attachment A to the amended petition.

Based on the allegations of Staff's petition and amended petition, an order to show cause was issued on June 14, 2000, ordering the utilities named in amended Attachment A to the amended petition to appear and show cause why their CCN's should not be revoked and a civil penalty in the amount of \$1,000 imposed against each of them for the violation of Ark. Code Ann. §23-3-109. A hearing on this matter was scheduled on July 18, 2000.

Staff filed motions to dismiss its petition against certain of the named utilities on June 21 and July 12, 2000, stating that these named utilities had brought themselves into compliance with the statutory annual report of gross earnings filing requirement subsequent to the issuance of the order to show cause on June 14, 2000. Therefore, based on Staff's motions to dismiss, Order Nos. 3 and 4, issued June 22 and July 14, 2000, respectively, dissolved the order to show cause as to the utilities named therein and dismissed this proceeding as to them.

None of the utilities against which the order to show cause remains in effect has filed any

DOCKET NO. 00-121-U  
PAGE 3

written response to either Staff's petition or to the show cause order itself. At the hearing on July 18, 2000, no one appeared on behalf of any of these remaining utilities thus leaving them in total default.

Rule 10.04 of the Commission's *Rules of Practice and Procedure*, applicable to show cause orders initiated by Staff, provides that, "Any respondent failing to answer within the period prescribed shall be deemed in default and in all relevant basic facts stated in said complaint or show cause order shall be deemed admitted, . . . ." The show cause order in this case, Order No. 2, issued June 14, 2000, was timely served on each respondent utility by mail and the twenty (20) day period for answer or response required by Rule 10.04 expired prior to the date of the hearing, July 18, 2000.

Based upon the allegations set forth in Staff's petition for a show cause order, incorporated into the show cause order issued on June 14, 2000, and in accordance with Rule 10.04 of the Commission's *Rules of Practice and Procedure* as hereinabove indicated, it is ORDERED that the CCN's previously granted to the following named respondent utilities authorizing them to provide utility services in the State of Arkansas be, and are hereby, revoked effective with the date of this order:

Accutel Communications, Inc.  
American Tel Group, Inc.  
AR-KAN  
Arcall, Inc.  
ATN Communications, Inc.  
Austin Payfones, L.L.P.  
Buyers United International  
Colorado River Communications Corp.  
Communication Network Services, LLC  
ConnectAmerica, Inc.  
Cyberlight International Inc  
Daveitel, Inc.

DOCKET NO 00-121-U  
PAGE 4

- Inacon Communications, Inc.
- Intelcom International Corp.
- LDD, Inc.
- Network One, Inc.
- NOR Communications, Inc.
- Nova Telecom, Inc.
- NTI Telecom, Inc.
- Omnicall
- Paradigm Communications Corp.
- QAI, Inc
- Satlink 3000
- Speer Comm. Virtual Media, Inc.
- Transnet Connect, Inc.
- TSC Payphone Corp.
- US Network Services, Inc.
- USBG, Inc.
- Vista Group International, Inc.
- World Wide Communications Now LDDS
- Comm. South Companies dba Arkansas Comm. South, Inc.
- Tel-Link LLC
- Transtar Communications

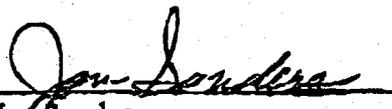
It is further ORDERED that a civil penalty of \$1,000 be, and is hereby, assessed against each of the aforementioned respondent utilities pursuant to Ark. Code Ann. §23-1-103.

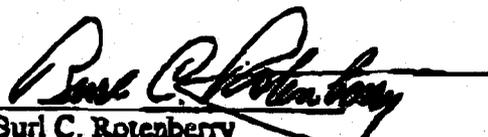
The Secretary of the Commission is directed to serve a copy of this order on each of the above named respondent utilities.

Jurisdiction is retained in this matter for such further proceedings or orders as may be necessary or appropriate.

BY ORDER OF THE ADMINISTRATIVE LAW JUDGE PURSUANT TO DELEGATION.

This 25th day of July, 2000.

  
 Jan Sanders  
 Secretary of the Commission

  
 Burl C. Rotenberry  
 Administrative Law Judge

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## BEFORE THE FLORIDA PUBLIC SERVICE

### COMMISSION

In re: Initiation of show cause DOCKET NO. 000230-TX  
proceedings against Onyx ORDER NO. PSC-00-0680-SC-TX  
Distributing Company, Inc. d/b/a ISSUED: April 12, 2000  
Florida Comm South for apparent  
violation of Section 364.183(1),  
F.S., Access to Company Records.

### **The following Commissioners participated in the disposition of this matter:**

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

### ORDER TO SHOW CAUSE

#### BY THE COMMISSION:

Onyx Distributing Company, Inc. d/b/a Florida Comm South (Onyx) is an ALEC certificated to operate in Florida pursuant to Certificate Number 4757. As a provider of telecommunications services in Florida, Onyx is subject to the rules and regulations of the Commission.

On June 25, 1999, our staff sent to Onyx a certified letter, requesting information necessary for inclusion in the local competition report required of the Commission by Section 364.386, *Florida Statutes*. On July 6, 1999, Onyx signed for delivery of the letter. Receiving no response, on December 6, 1999, our staff sent a second certified letter, requesting a response from Onyx no later than December 22, 1999. To date, they have not responded to our staff's inquiries.

Section 364.183(1), *Florida Statutes*, provides that we shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within our jurisdiction. The rule further provides that we may require telecommunications companies to provide the requested records to us in the form specified by us.

Pursuant to Section 364.285, *Florida Statutes*, we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have refused to comply with, or to have willfully violated any lawful rule or order of the commission, or any provision of Chapter 364, *Florida Statutes*. Utilities are charged with knowledge of

the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally," Barlow v. United States, 32 U.S. 404, 411 (1833).

We believe that Onyx's conduct in not providing access to company records, in apparent violation of Section 364.183(1), Florida Statutes, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation into the Proper Application of Rule 25-14.003, Florida Administrative Code, Relating to Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as Onyx's conduct at issue here, would meet the standard for a "willful violation."

Upon consideration, Onyx shall have 21 days from the date of this order to respond in writing why it should not be fined \$10,000 or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes. If Onyx timely responds to the show cause order, this docket shall remain open, pending resolution of the show cause proceeding. If Onyx does not respond to this Order to Show Cause, the fine shall be deemed assessed. If Onyx pays the fine, it should be remitted to the State of Florida General Revenue Fund, pursuant to Section 364.285, Florida Statutes. If Onyx fails to respond to the Order to Show Cause, and the fine is not received within ten business days after the expiration of the show cause response period, Certificate Number 4757, issued to Onyx Distributing Co., Inc. d/b/a Florida Comm South, shall be canceled and this docket closed.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that Onyx Distributing Company, Inc. d/b/a Florida Comm South shall show cause in writing within 21 days of the date of this Order why it should not be fined \$10,000 or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes. It is further

ORDERED that any response to the Order to Show Cause filed by Onyx Distributing Company, Inc. d/b/a Florida Comm South shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and by the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto, shall constitute an admission of the violations described in the body of this Order, as well as a waiver of the right to a hearing, and will result in the automatic assessment of the fine. It is further

ORDERED that if Onyx Distributing Company, Inc. d/b/a Florida Comm South pays the fine, it shall be remitted to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. It is further

ORDERED that in the event Onyx Distributing Company, Inc. d/b/a Florida Comm South fails to respond to this Order and the fine is not received within ten business days after the expiration to the show cause response period, Certificate Number 4757 shall be canceled, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 12th day of April, 2000.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director

Division of Records and Reporting

*This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.*

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), *Florida Statutes*, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, *Florida Statutes*, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 3, 2000.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), *Florida Administrative Code*. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

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