

ORIGINAL



0000016215

MEMORANDUM Arizona Corporation Commission

DOCKETED

30A

TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

SA for EGT

DEC 27 2004

DOCKETED BY

THRU: Wilfred Shand Jr.
Manager, Telecommunications & Energy Section
Utilities Division

MR for WS

Matthew Rowell
Chief, Telecommunications & Energy Section
Utilities Division

MR

AZ CORP COMMISSION
DOCUMENT CONTROL

2004 DEC 27 A 8:08

RECEIVED

DATE: December 27, 2004

RE: ADDENDUM TO THE STAFF REPORT OF COMTECH21, LLC'S APPLICATION FOR APPROVAL OF A TRANSACTION WHEREBY UNITED SYSTEMS ACCESS TELECOM, INC. TRANSFERS ITS CUSTOMERS TO COMTECH21, LLC (DOCKET NOS. T-04080A-04-0510 AND T-04058A-04-0510)

On July 19, 2004, ComTech21, LLC ("ComTech21") and United Systems Access Telecom, Inc. ("USAT") (collectively, "the Companies") filed with the Arizona Corporation Commission ("Commission"), a notification of a transfer of USAT's customer base to ComTech21. On August 17, 2004, ComTech21 also requested a waiver of the Commission's Slamming and Cramming rule (which relate to unauthorized carrier changes).

On October 29, 2004, the Utilities Division Staff ("Staff") of the Commission filed a Staff Report recommending approval of the transfer of USAT's customer base to ComTech21 and approval of ComTech21's requested waiver of Arizona Administrative Code ("AAC") R14-2-1904 and 1905.

On December 7, 2004, the Commission's Hearing Division ("Hearing") issued a Procedural Order which ordered Staff to submit an addendum to its Staff Report. In its addendum, Staff is to set forth its position regarding (1) the statutory authority or Commission rule, if any, pursuant to which Commission approval of the transfer of a customer base is required; (2) the extent to which AAC R14-2-1107 applies to the transfer of a customer base. To the extent that Staff concludes that AAC R14-2-1107 does not apply, it is to indicate its basis for so concluding, and to the extent that Staff concludes the ACC R14-2-1107 does apply, Staff is to indicate whether and why the provisions of that rule should be waived.

Staff believes that a customer group is not an asset as traditionally defined, and therefore its transfer does not require Commission approval as a transfer of assets. However, that does not

negate the Commission's authority to monitor a telecommunications providers' compliance with Commission rules concerning Consumer Protections for Unauthorized Carrier Changes (i.e., slamming and cramming) and, where appropriate, take corrective action to ensure adequate consumer protection. Staff believes a waiver of AAC R14-2-1904 and 1905 is necessary to effectuate a transfer of customer base. In the matter at hand, Staff believes that adequate consumer protections have been taken in order for the Commission to approve the Companies' compliance with Article 19 of AAC Title 14, Chapter 2 and to justify a waiver of AAC R14-2-1904 and 1905.

Staff does not believe that the transfer of certain customers qualifies as a discontinuance of service or an abandonment of any portion of its service area. Therefore, Staff does not believe that AAC R14-2-1107 applies.

As previously stated in the original Staff Report, Staff continues to recommend approval of the transfer of commercial customer base from USAT to ComTech21. Staff also recommends approval of Comtech21's requested waiver of AAC R14-2-1904 and 1905.

Originator: Adam Lebrecht

Attachment: Original and Sixteen Copies

SERVICE LIST FOR: ComTech21, LLC and United Systems Access Telecom, Inc.
DOCKET NOS. T-04080A-04-0510 and T-04058A-04-0510

Ms. Sonja Johnson Byers
ComTech21, LLC
One Barnes Park South
Wallingford, Connecticut 06492

Mr. Ernest G. Johnson
Arizona Corporation Commission
Utilities Division
1200 West Washington
Phoenix, Arizona 85007

Mr. Christopher C. Kempley
Arizona Corporation Commission
Legal Division
1200 West Washington
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge
Arizona Corporation Commission
Hearing Division
1200 West Washington
Phoenix, Arizona 85007