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MEMORANDUM

Arizona Corporation Commission

DOCKETED

APR - 1 2005

TO: Docket Control

FROM: Ernest G. Johnson *EJG*
Director
Utilities Division

DOCKETED BY	<i>GH</i>
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THRU: Wilfred Shand, Jr. *WS*
Manager, Telecommunications & Energy Section
Utilities Division

Matthew Rowell *MR*
Chief, Telecommunications & Energy Section
Utilities Division

DATE: April 1, 2005

RE: IN THE MATTER OF THE APPLICATION OF THE J. RICHARD COMPANY
DBA LIVE WIRE PHONE COMPANY FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE RESOLD LONG DISTANCE
AND RESOLD LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES
(DOCKET NO. T-04257A-04-0335)

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On February 15, 2005, the Commission in Decision No. 67588 issued a Certificate of Convenience and Necessity to the J. Richard Company, dba Live Wire Phone Company ("Live Wire") to provide resold long distance, resold local exchange and facilities-based local exchange telecommunications services in the State of Arizona, subject to certain conditions.

Specifically, Live Wire was ordered to procure a performance bond in the amount of \$135,000 within 365 days of the effective date of the order or 10 days prior to the commencement of service.

On March 11, 2005, Live Wire filed a Motion for Alternative ("Motion") requesting approval to utilize an irrevocable letter of credit in the amount of \$135,000 issued by Bank of America in lieu of satisfying the performance bond requirement set forth in Decision No. 67588.

On March 22, 2005, the Hearing Division issued a procedural order ordering Staff to file a response to Live Wire's Motion.

Staff has reviewed Live Wire's Motion to utilize an irrevocable letter of credit in the amount of \$135,000 in lieu of a performance bond. During its review, Staff considered whether recommending approval of an alternative arrangement would be premature considering the

Commission's current generic bond investigation (Docket No. T-0000J-04-0912). Staff believes that the Motion should be granted pending the outcome of the generic bond investigation. Staff also believes recommending approval is not premature due to the following reasons: 1. The irrevocable letter of credit provides comparable consumer protection to that of a performance bond. 2. The irrevocable letter of credit is more economical to Live Wire. This is because a performance bond requires an annual premium of 10% of the amount procured, the irrevocable letter of credit submitted by Live Wire requires an annual charge of 2% that is offset by an earned interest rate of 2%.

Based on its evaluation of this matter, Staff recommends approval of Live Wire's Motion conditioned on the following:

1. The Commission shall be able to obtain the full \$135,000 should Live Wire fail to provide telecommunications services which are acceptable to the Commission as defined in the Arizona Administrative Code and Arizona State Statutes.
2. The irrevocable letter of credit shall not be cancelled without Commission approval.
3. Live Wire shall demonstrate that the amount of credit can be increased in an efficient manner.
4. Live Wire shall demonstrate that the irrevocable letter of credit can be renewed in an efficient manner.
5. Live Wire shall demonstrate that the value of the letter of credit will always be at least \$135,000 even though the FDIC insured limit is \$100,000.

Live Wire shall docket proof of an irrevocable letter of credit in the amount of \$135,000 which conforms to the above recommendations. The irrevocable letter of credit shall be docketed within 365 days from the date Live Wire was granted a CC&N (February 15, 2005) or 30 days prior to providing service, whichever comes first.

Originator: Adam Lebrecht

Attachment: Original and Sixteen Copies

SERVICE LIST FOR: THE J. RICHARD COMPANY LLC DBA LIVE WIRE PHONE COMPANY
DOCKET NO. T-04257A-04-0335

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