

BEFORE THE ARIZONA CORPORATION COMMISSION

1  
2  
3 JEFF HATCH-MILLER  
4 Chairman  
5 WILLIAM A. MUNDELL  
6 Commissioner  
7 MARC SPITZER  
8 Commissioner  
9 MIKE GLEASON  
10 Commissioner  
11 KRISTIN K. MAYES  
12 Commissioner

RECEIVED  
2005 JUL 14 A 11: 17  
AZ CORP COMMISSION  
DOCUMENT CONTROL

9 In the Matter of the Application of OCMC, )  
10 Inc. to Obtain a Certificate of Convenience ) Docket No. T-04103A-02-0274  
11 and Necessity From One Call )  
12 Communications, Inc. d/b/a Opticom to ) Docket No. T-02565A-02-0274  
13 Provide Telecommunications Services as a )  
14 Provider of Resold Interexchange Services ) **REQUEST TO VACATE HEARING**  
15 and Alternative Operator Services Within )  
16 the State of Arizona )  
17 )

15  
16 OCMC, Inc. ("OCMC") respectfully submits this filing in response to the  
17 Procedural Order dated June 24, 2005. OCMC requests that the Assistant Chief  
18 Administrative Law Judge vacate the hearing in this matter and allow the evidence that  
19 currently makes up the record in this docket and the Staff Report dated June 17, 2005,<sup>1</sup>  
20 which includes OCMC's Responses to Staff's Fourth Set of Data Requests, to form the  
21 basis for a decision by the Commission on OCMC's request for a permanent waiver of  
22 AAC R14-2-1006.A.

22  
23 As stated in OCMC's Responses to Staff's Fourth Set of Data Requests, the  
24 call processing times provided to Staff and admitted in the record in this proceeding have

25  
26 <sup>1</sup> OCMC has consulted with Staff, and the parties stipulate to the admission of the June 17,  
2005 Staff Report, including OCMC's Responses to Staff's Fourth Set of Data Requests,  
into the record.

1 not materially changed. For this reason, OCMC does not believe that further evidence will  
2 provide any substantive supplement to the record in this proceeding and submits that  
3 judicial economy supports allowing this matter to proceed to an Open Meeting.

4 **I. History.**

5 OCMC's predecessor, One Call Communications, Inc. dba Opticom  
6 ("Opticom"), began completing zero minus calls in Arizona in 1995 and received a  
7 permanent waiver of AAC R14-2-1006.A in Decision No 61274.<sup>2</sup> The Arizona  
8 Corporation Commission ("Commission") approved the transfer of Opticom's Certificate  
9 of Convenience and Necessity to OCMC in Decision No. 67444. OCMC, as the successor  
10 to Opticom and pursuant to the temporary waiver granted in Decision No. 67444, has  
11 continued to complete zero minus calls in the same manner as Opticom, except that the  
12 technology and processes now in use by OCMC are superior to those approved for  
13 Opticom in Decision No. 61274. *See* Exhibit A-1 admitted at September 20, 2004  
14 Hearing. As noted throughout this proceeding, since the commencement of zero minus  
15 service by Opticom in 1995, there is no record of any complaint being filed at the  
16 Commission relating to zero-minus calls completed by Opticom or by OCMC. *See id.*;  
17 June 17, 2005 Staff Report.

18 The record in this matter currently includes substantial evidence relating to  
19 OCMC's zero-minus calls completion procedures and processing times. This includes  
20 written evidence from OCMC's Verified Amendment to its Application (Exhibit A-1) and  
21 its late-filed submissions filed at the request of the ALJ on October 4, 2004. Furthermore,  
22 Mr. David Hill testified extensively at the hearing in relation to OCMC's processing of  
23 zero minus calls. At the hearing, the following exhibits were admitted into record:  
24

25 <sup>2</sup> In response to the question posed in the June 17, 2005 Procedural Order, based on a  
26 limited review of the Commission's dockets, OCMC is not aware that any other entity has  
received a zero-minus waiver from the Commission.

- 1 1. OCMC's Verified Amendment dated March 26, 2004 (A-1)
- 2 2. Staff Report dated September 20, 2002 (S-1)
- 3 3. Amended Staff Report dated April 26, 2004 (S-2)
- 4 4. Amended Staff Report dated February 24, 2004 (S-3)
- 5 5. Supplemental Staff Report dated August 23, 2004 (S-4)

6 The record also includes Staff's Memorandum dated October 19, 2004, which included  
7 OCMC's supplemental information filed October 4, 2004. OCMC submits that this  
8 evidence, along with the Staff Report dated June 17, 2005, provides sufficient evidence  
9 upon which to base a decision in this matter.

10  
11 **II. Sufficient Evidence is in the Record to Support a Waiver Pursuant to AAC R-**  
12 **14-2-1006.**

13 As part of this waiver request, OCMC provided detailed information  
14 regarding the facilities used to process zero minus calls and its zero minus call completion  
15 procedures. *See* Exhibit A-1. As set forth in its Supplemental Report, Staff specifically  
16 found that OCMC has the ability to process zero minus calls as accurately and reliably as  
17 Qwest. *See* Exhibit S-4 at 3; Decision No. 67444 at ¶ 20. Staff also concluded in an  
18 earlier Staff Report that based on the information provided, OCMC has the ability to  
19 quickly process zero minus emergency calls. *See* Exhibit S-2 at 8.

20 OCMC fully recognizes and appreciates the importance of quick and  
21 accurate processing of zero minus emergency calls. *See* 9/20/04 Hearing Transcript (Tr.)  
22 at 27. For this reason, OCMC uses state-of-the-art systems and technologies and closely  
23 monitors processing times and processing quality of all zero minus calls, including  
24 emergency calls. *See* Tr. at 18-19, 27. OCMC also believes that call processing speeds  
25 for zero minus calls must be balanced with the quality of such processing so that callers  
26

1 are routed to the appropriate agencies in the appropriate manner. Given these competing  
2 interests, OCMC submits that based on its extensive experience in this field that its zero-  
3 minus emergency call processing appropriately balances these competing interests. *See*  
4 *Tr.* at 27-28.

5 As set forth in Decision No. 67444, OCMC's call processing times are  
6 within seconds of those reported by Qwest. *See* Decision No. 67444 at ¶ 30 n. 4. It is  
7 important to note, however, that the processing times reported for both Qwest and OCMC  
8 include non-emergency call processing, such as dialing instructions, time of day, and  
9 calling card calls. As OCMC has stated throughout this process, it does not dispute that  
10 Qwest processes its zero-minus emergency calls in a quick and accurate manner.  
11 However, based on the use of similar technologies and qualified operators, OCMC submits  
12 that its call processing times are necessarily as quick and accurate as those of Qwest. *See*  
13 *Tr.* at 27-28. Furthermore, as Mr. Hill testified at the prior hearing, based on-going test  
14 calls and based on OCMC's extensive experience in processing these calls since 1991,  
15 OCMC believes that its call processing times specifically for zero minus emergency calls  
16 meet or exceed those of Qwest. *See Tr.* at 16, 27-28. Indeed, OCMC is currently  
17 authorized to complete zero minus calls in thirty states and has never received a complaint  
18 regarding that service. *See Exhibit A-1; Tr.* at 16.

19 **III. OCMC Has Complied With The Requirements of Decision No. 67444.**

20 In Decision No. 67444, the Commission granted to OCMC a waiver of the  
21 provisions of AAC R14-2-1006.A. for six months and allowed OCMC, during that 6-  
22 month period, to file a request to make the waiver permanent. At the Open Meeting at  
23 which the Commission heard this matter, Chairman Spitzer stated the following:

24 I was wondering if there is a way of providing, since we  
25 haven't had any customer complaints, a waiver for a  
26 period of six months and then look into it prior to the  
termination of the six month term and if no customers

1 anywhere have complained, it would seem to be a viable  
2 competitor and that waiver could then be extended. But if  
3 there were problems, then the termination of the waiver  
4 period would give us a measure of security.

5 \* \* \*

6 [S]uch waiver shall be for a term of six months with the  
7 purpose of having the company come forward for a  
8 permanent waiver based upon Staff's view of the facts at  
9 that time.

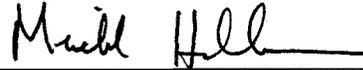
10 OCMC respectfully submits that the Commission in Decision No. 67444  
11 made clear its intention to allow OCMC to have a permanent waiver if, during the six  
12 month temporary waiver period, no complaints were received. OCMC has verified that no  
13 complaints have been filed and Staff has confirmed the accuracy of OCMC's filing.  
14 Based on these facts, Staff has recommended approval of a permanent waiver. *See* June  
15 17, 2005 Staff Report. Because OCMC does not believe that another hearing will provide  
16 any additional information for the Commission's consideration, OCMC respectfully  
17 requests that the hearing be vacated and that this matter be sent back to the Commission  
18 for a final determination.

19 **IV. Conclusion.**

20 As stated throughout this proceeding, OCMC believes that a waiver of AAC  
21 R14-2-1006.A is warranted and in the public interest. OCMC further believes that the  
22 record in this proceeding is sufficient for the Commission's consideration of a permanent  
23 waiver. For these reasons, OCMC respectfully requests that the ALJ vacate the hearing  
24 scheduled in this matter and allow the matter to proceed to an Open Meeting based on the  
25 current record.  
26

1  
2 DATED this 14<sup>th</sup> day of July, 2005.

3  
4 LEWIS AND ROCA LLP

5  
6 

7 Thomas H. Campbell  
8 Michael T. Hallam  
9 40 N. Central Avenue  
10 Phoenix, Arizona 85004

11 Attorneys for OCMC, Inc.

12 ORIGINAL and fifteen (15) copies  
13 of the foregoing filed this 14<sup>th</sup> day of  
14 July, 2005, with:

15 The Arizona Corporation Commission  
16 Utilities Division – Docket Control  
17 1200 W. Washington Street  
18 Phoenix, Arizona 85007

19 COPIES of the foregoing  
20 hand-delivered this 14<sup>th</sup> day of  
21 July, 2005, to:

22 Dwight Nodes, Assistant Chief Administrative Law Judge  
23 Hearing Division  
24 Arizona Corporation Commission  
25 1200 W. Washington Street  
26 Phoenix, Arizona 85007

Tim Sabo, Legal Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

1 Del Smith  
2 Utilities Division  
3 Arizona Corporation Commission  
4 1200 W. Washington Street  
5 Phoenix, Arizona 85007

6 Ernest G. Johnson, Director  
7 Utilities Division  
8 Arizona Corporation Commission  
9 1200 W. Washington Street  
10 Phoenix, Arizona 85007

11  \_\_\_\_\_  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26