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MEMORANDUM

TO: Docket Control

FROM: Ernest G. Johnson
Director
Utilities Division

EA for EGJ

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

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

DATE: July 22, 2005

RE: IN THE MATTER OF THE APPLICATION OF DMJ COMMUNICATIONS, INC.
TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY
(DOCKET NO. T-03571A-03-0706)

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DOCUMENT CONTROL

Attached is the Staff Report for the application of DMJ Communications, Inc. to cancel its Certificate of Convenience and Necessity. Staff recommends cancellation of the CC&N.

Originator: Adam Lebrecht

Attachment: Original and Sixteen Copies

SERVICE LIST FOR: DMJ COMMUNICATIONS, INC.

DOCKET NO. T-03571A-03-0706

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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

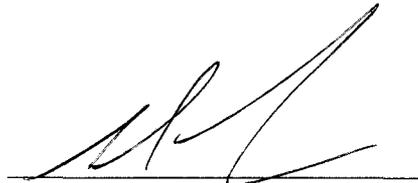
DMJ COMMUNICATIONS, INC.
DOCKET NO. T-03571A-03-0706

IN THE MATTER OF THE APPLICATION OF DMJ COMMUNICATIONS, INC. TO
CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY

JULY 22, 2005

STAFF ACKNOWLEDGEMENT

The Staff Report for DMJ Communications, Inc., Docket No. T-03571A-03-0706, was the responsibility of the staff member listed below. Adam Lebrecht was responsible for the review and analysis of the Company's application to cancel portions of its Certificate of Convenience and Necessity.

A handwritten signature in black ink, appearing to read 'AL', is written over a horizontal line.

ADAM LEBRECHT
Executive Consultant I

Background

On August 5, 1999, the Commission, in Decision No. 61861, originally granted a Certificate of Convenience and Necessity ("CC&N") to DMJ Communications, Inc. ("DMJ") to provide competitive intrastate telecommunications service as a provider of resold local exchange service in the State of Arizona.

DMJ requests Commission approval to discontinue its authority to provide competitive intrastate telecommunications service as a resold local exchange service provider in Arizona.

Staff Analysis

On October 18, 2002, in Docket No. T-03889A-02-0796, Staff filed a formal complaint against The Phone Company Management Group ("PCMG") and several of its affiliates operating in Arizona. This formal complaint alleged PCMG and/or its affiliates had provided telecommunications service without a CC&N and had cancelled its services without the proper customer notice.

On September 25, 2003, DMJ filed an application to cancel its CC&N in Arizona. In this application, DMJ indicated that it is no longer in business in Arizona, no longer has an office and does not have any customers in Arizona.

During its investigation of Docket No. T-03889A-02-0796, Staff determined that DMJ had a business relationship with PCMG and its affiliates mentioned in the formal complaint. Because of this relationship, DMJ's application to cancel its CC&N was placed in abeyance pending the resolution of the formal complaint.

On May 12, 2004, in Decision No. 66984, the Commission determined that PCMG had acted in violation of the Arizona Administrative Code ("A.A.C.") and was therefore subject to penalties. The Commission also determined that DMJ was not subject to any penalties due to its business relationship with PCMG.

On June 18, 2004, Staff issued a data request indicating that DMJ's application to cancel its CC&N was not sufficient and required additional information.

On July 8, 2004, Joyce Howard, former Vice President of Operations for DMJ, filed a response to Staff's data request. In her response, Ms. Howard indicated that DMJ is no longer in business and that DMJ's insolvency is the reason it is no longer in business. Ms. Howard indicated that DMJ has no office, no officers, and no business of any kind. Ms. Howard also indicated that to her knowledge, security deposits were not collected by DMJ. Finally, Ms. Howard indicated that she is no longer employed by DMJ and has no further responsibility for the insolvent corporation.

On June 21, 2005, the Commission's Hearing Division issued a Procedural Order which ordered Staff to file a status report on this matter on or before July 22, 2005. The status

report is to offer a recommendation with regard to the action to be taken on DMJ's application to cancel its CC&N.

Consumer Services Staff has indicated that between July 25, 2003 and July 31, 2003, there were a total of 14 complaints, inquiries and opinions received from DMJ customers who had been disconnected without receiving notice from DMJ. DMJ indicated that these customers were disconnected due to a billing dispute with Qwest Corporation ("Qwest"). Qwest has indicated that because of this billing dispute, all of DMJ's approximately 700 customers were disconnected by July 31, 2003. DMJ has not offered service in Arizona since July 31, 2003. In response to the 14 customer complaints, inquiries and opinions regarding customer monies lost due to payments made one month in advance, DMJ indicated that all monies would be refunded within 60 days of the time DMJ's service was disconnected by Qwest. All complaints, inquiries and opinions regarding the refunding of customer monies have been closed.

Lines 6, 7 and 8 on Page 5 of Decision No. 61861 state that DMJ shall not be authorized to charge customers any prepayments, advances or deposits unless an escrow account is established or a bond is posted. Because DMJ never established an escrow account or posted a bond, it was never authorized to charge prepayments, advances or deposits.

Consumer Services Staff has indicated that currently, there are no open complaints, inquiries or opinions concerning DMJ. Because Ms. Howard indicated that DMJ never collected security deposits and all monies related to monthly service paid in advance have been returned, Staff does not believe there is a risk that an advance, deposit and/or prepayment of funds from DMJ's customers would be lost by canceling DMJ's CC&N.

A.A.C. R14-2-1107(B) states that a telecommunications company wishing to discontinue or abandon its service area shall publish legal notice of the application in all counties affected by the application. Because DMJ is insolvent, has no office and has no customers or business of any kind, Staff does not believe that it is possible for DMJ to publish the required legal notice of this application. Therefore, because of these unique circumstances, Staff believes that A.A.C. R14-2-1107(B) should be waived in this matter.

Because DMJ is no longer in business and should be removed from the Commission's records as a current provider of telecommunications service, Staff believes granting DMJ's application to cancel its CC&N to provide resold local exchange service in Arizona is in the public interest.

Upon cancellation of DMJ's CC&N, DMJ will no longer be authorized to provide competitive intrastate telecommunications service as a resold local exchange service provider in Arizona and will no longer be subject to the requirements of Decision No. 61861.

Recommendations

Staff recommends approval of DMJ's application to cancel its CC&N in the State of Arizona. Staff also recommends approval of a waiver of A.A.C. R14-2-1107(B).