

OPEN MEETING ITEM



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ORIGINAL



COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

ARIZONA CORPORATION COMMISSION

DATE: November 17, 2005

DOCKET NO: T-04294A-04-0879

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Order on:

INMATE CALLING SOLUTIONS, LLC
(CC&N/COPT)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

NOVEMBER 28, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

DECEMBER 6 AND 7, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 INMATE CALLING SOLUTIONS, LLC FOR A
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE CUSTOMER-OWNED
12 PAY TELEPHONE SERVICE.

DOCKET NO. T-04294A-04-0879

DECISION NO. _____

9 ORDER

10 Open Meeting
11 December 6 and 7, 2005
12 Phoenix, Arizona

13 **BY THE COMMISSION:**

14 Having considered the entire record herein and being fully advised in the premises, the
15 Commission finds, concludes, and orders that:

16 FINDINGS OF FACT

17 1. On December 9, 2004, Inmate Calling Solutions, LLC ("Applicant") filed with the
18 Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience
19 and Necessity ("Certificate") to provide customer-owned pay telephone ("COPT") service in the
20 State of Arizona.

21 2. On February 24, 2005, the Commission's Utilities Division Staff ("Staff") filed a letter
22 of insufficiency and first set of data requests to Applicant.

23 3. On July 25, 2005, Applicant filed responses to Staff's first set of data requests.

24 4. On September 26, 2005, Applicant amended its original application to provide service
25 in accordance with the rates, charges, terms and conditions contained within the Generic COPT
26 Tariff. The rate sheet submitted with the amendment indicated that Applicant's rates fall within the
27 rates allowed in the Generic COPT Tariff.

28 5. On October 5, 2005, Applicant filed additional information requested by Staff.

6. In Decision No. 55817 (December 10, 1987), the Commission found that COPT

1 providers were public service corporations subject to the jurisdiction of the Commission.

2 7. In Decision No. 57797 (April 8, 1992), the Commission adopted A.A.C. R14-2-901
3 through R14-2-909 to regulate COPT providers.

4 8. Decision No. 58535 (February 14, 1994) adopted a Generic Tariff that establishes
5 rates and minimum service standards applicable to COPT service.

6 9. Pursuant to A.R.S. § 40-282, the Commission may issue Decisions regarding COPT
7 Certificates without a hearing.

8 10. Applicant has requested that a Certificate be granted and has indicated that it will
9 provide COPT service pursuant to the rates, terms and conditions specified in the Generic COPT Tariff.

10 11. The Applicant requested a waiver of the posting and disclosure requirements.
11 Applicant's payphones will only be used in correctional facilities and calls placed by inmates are
12 limited to collect or prepaid only. For security reasons, placards are not allowed to be posted on
13 telecommunications equipment that is used by inmates. The Applicant stated that any correctional
14 facility that enters a contract for service will be required to provide information to inmate end users
15 and their families or called parties that informs all users of the dialing instructions and the identity,
16 rates, customer service number and the identity number of the company requesting the authority to
17 provide COPT service.

18 12. On October 17, 2005, Staff filed a Staff Report recommending approval of the
19 application and waivers requested by the Applicant. Staff stated that in the past, the Commission has
20 approved waivers of the posting and disclosure requirements subject to the condition that the
21 correctional facility provide information to inmate end users and their families or other called parties
22 that informs all users of the dialing instructions and the identity, rates, customer service number and
23 identity number of the company requesting the authority to provide COPT service. The Applicant
24 stated that any correctional facility with which it enters into a contract will be required to provide this
25 information. Staff therefore believes the Applicant has taken the necessary action to be exempt from
26 the requirement to provide calling instructions and rate information through the use of a placard
27 affixed to the telephone.

28 13. Staff stated that the Applicant provides prepaid calling cards to inmates, with the rates

1 and charges for these prepaid services shown on the reverse side of the prepaid calling cards.
2 Further, rate details are provided to the inmates at the point of purchase within the correctional
3 facility.

4 14. The Applicant stated that before any charges are assessed and upon request, rate
5 quotes will be made available to the caller and called party for collect calls at the time the call is
6 placed. Additionally, rate quotes are provided via an automated announcement during the call set-up
7 process and prior to call acceptance, and the called party may listen to the rates and choose to refuse
8 the call without incurring any charges.

9 15. Staff stated that the Applicant also requested the following waivers to the Generic
10 COPT Tariff because it is providing service in correctional facilities:

11 (a) At the request of the correctional facility, the Applicant will arrange to block
12 access to other carriers, 911, directory assistance and specified dialing sequences (1+800;
13 10XXX, 976-XXXX, etc.).

14 (b) At the request of the correctional facility, the Applicant will arrange to block
15 incoming calls.

16 (c) At the request or specifications of the correctional facility, the Applicant will
17 limit the availability of service to inmates.

18 (d) At the request of the correctional facility, the Applicant will limit service to
19 collect calling and correctional facility provided prepaid calling cards only.

20 16. Staff stated that the Applicant's requests for waivers of the Generic COPT Tariff as
21 stated in Finding of Fact No. 15 are consistent with waivers granted to other providers of COPT
22 services in correctional facilities and should be granted in this matter as well.

23 CONCLUSIONS OF LAW

24 1. Applicant is a public service corporation within the meaning of Article XV of the
25 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

26 2. The Commission has jurisdiction over Applicant and the subject matter of the
27 application.

28 3. The provision of COPT service in Arizona by Applicant is in the public interest.

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SERVICE LIST FOR: INMATE CALLING SOLUTIONS, LLC

DOCKET NO: T-04294A-04-0879

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