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ORIGINAL

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

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Application for a Certificate of Convenience and Necessity to Provide Resold Interexchange Service and for Determination that Services of the Applicant are Competitive

Applicant: Legent Communications Corporation
Docket No.: T-04084A-02-0109

On February 08, 2002, Legent Communications Corporation ("Applicant") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange services within the State of Arizona.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange telecommunications services. Staff's review considers the Applicant's technical and financial capabilities, and whether the Applicant's proposed rates will be competitive, just, and reasonable.

REVIEW OF APPLICANT INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- The necessary information has been filed to process this application, and the Applicant has authority to transact business in the State of Arizona.
- The Applicant has published legal notice of the application in all counties where service will be provided.

REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- The Applicant is currently providing service in Arizona.
- The Applicant is currently providing service in other states.
- The Applicant is a switchless reseller.

Arizona Corporation Commission

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In the event the Applicant's network fails, end users can access other interexchange service providers.

The Applicant is approved to offer resold interexchange service in eleven (11) states, excluding Arizona. Based on this information, Staff has determined that the Applicant has sufficient technical capabilities to provide resold interexchange telecommunications services.

REVIEW OF FINANCIAL INFORMATION

The Applicant is required to have a performance bond to provide resold interexchange service in the State of Arizona.

The Applicant did provide its unaudited financial statements for the year ending August 31, 2001. These financial statements list assets of \$293,118; equity of \$43,118; and a net income of \$38,118. The Applicant did not provide notes related to the financial statements.

The Applicant stated in its Tariff, Section 2.14 on page 23, that it does not collect from its customers an advance or deposit. If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, Staff recommends that the Applicant be required to file such information with the Arizona Corporation Commission ("Commission") for Staff review. Upon receipt of such filing and after Staff review, Staff would forward its recommendation to the Commission.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many other companies that provide resold telecommunications service or the customers may choose a facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

The Applicant has filed a proposed tariff with the Commission.

The Applicant has filed sufficient information with the Commission to make a fair value determination.

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is zero. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate

base information submitted by the company, it did not accord that information substantial weight in its analysis.

COMPETITIVE SERVICES' RATES AND CHARGES

Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with Arizona Administrative Code ("AAC") R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with AAC R14-2-1109.

Minimum and Maximum Rates

AAC R14-2-1109 (A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with AAC R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate interexchange services as a reseller and its petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to

provide resold intrastate interexchange services, Staff recommends approval of the application subject to the following:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
6. The Applicant should be ordered to cooperate with Commission investigations of customer complaints;
7. The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;
8. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;
9. If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, it must file information with the Commission for Staff review. Upon receipt of such filing and after Staff review, Staff would forward its recommendation to the Commission;
10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to AAC R14-2-1108;
11. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in AAC R14-2-1109;
12. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate; and
13. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the

company and has determined that its fair value rate base is zero. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, Staff recommends that the fair value information provided not be given substantial weight in its analysis.

Staff recommends approval of the application subject to the following conditions:

1. The Applicant be ordered to file conforming tariffs within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever ever comes first, and in accordance with the Decision; and
2. If any of the above timeframes are not met, the Applicant's CC&N shall be null and void without further Order of the Commission and no time extensions for compliance shall be granted.

This application may be approved without a hearing pursuant to Arizona Revised Statutes § 40-282.



Ernest G. Johnson
Director
Utilities Division

Date: 4-3-02

Originator: John F. Bostwick

DIRECTOR

**MILLER
ISAR** INC.
REGULATORY CONSULTANTS

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GIG HARBOR, WA 98335
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STACEY A. KLINZMAN

Via Overnight Delivery
21 March 2002

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2996

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2002 MAR 22 A 11: 24
AZ CORP COMMISSION
DOCUMENT CONTROL

ARIZONA CORPORATION
COMMISSION
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MAR 22 2002
Director of Utilities

RE: Legent Communications Corporation – Docket No. T-04084A-02-0109

Dear Sir or Madam:

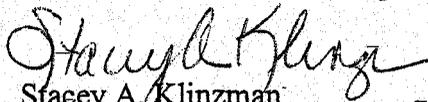
Enclosed please find an original and ten (10) copies of Legent Communications Corporation's Responses to Commission Staff's Data Requests dated March 5, 2002.

Please acknowledge receipt of this filing by date-stamping and returning the additional copy of this transmittal letter in the self-addressed, postage paid envelope enclosed for this purpose.

Questions regarding this filing may be directed to me.

Sincerely,

Miller Isar, Inc.


Stacey A. Klinzman
Director – Regulatory Compliance

Enclosures

cc: Mr. Scott A. White, Legent Communications Corporation

COVER SHEET

**ARIZONA CORPORATION COMMISSION
DOCKET CONTROL CENTER**

CASE/COMPANY NAME:	DOCKET NO.
Legent Communications Corporation	T-04084A-02-0109
D/B/A or RESPONDENT: n/a	

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

- | | | | |
|-----------|---|----------|--|
| <u>01</u> | <u>UTILITIES – NEW APPLICATIONS</u> | | |
| ___ | NEW CC&N | ___ | MAIN EXTENSION |
| ___ | RATES | ___ | CONTRACT/AGREEMENTS |
| ___ | INTERIM RATES | ___ | COMPLAINT (Formal) |
| ___ | CANCELLATION OF CC&N | ___ | RULE VARIANCE/WAIVER REQUEST |
| ___ | DELETION OF CC&N (TERRITORY) | ___ | SITING COMMITTEE CASE |
| ___ | EXTENSION OF CC&N (TERRITORY) | ___ | SMALL WATER COMPANY –SURCHARGE (Senate Bill 1252) |
| ___ | TARIFF – NEW (NEXT OPEN MEETING) | ___ | SALE OF ASSETS AND TRANSFER OF OWNERSHIP |
| ___ | REQUEST FOR ARBITRATION | ___ | SALE OF ASSETS AND CANCELLATION OF OWNERSHIP |
| ___ | (Telecommunication Act) | ___ | FUEL ADJUSTER/PGA |
| ___ | FULLY OR PARTIALLY ARBITRATED | ___ | MERGER |
| ___ | INTERCONNECTION AGREEMENT | ___ | FINANCING |
| ___ | (Telecom. Act) | ___ | MISCELLANEOUS |
| ___ | VOLUNTARY INTERCONNECTION | ___ | Specify _____ |
| ___ | AGREEMENT (Telecom. Act) | ___ | |
| <u>02</u> | <u>UTILITIES – REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS</u> | | |
| ___ | APPLICATION | ___ | TARIFF |
| ___ | COMPANY | ___ | PROMOTIONAL |
| ___ | DOCKET NO. _____ | ___ | DECISIONS NO. _____ |
| | | ___ | DOCKET NO. _____ |
| | | ___ | COMPLIANCE |
| | | ___ | DECISION NO. _____ |
| | | ___ | DOCKET NO. _____ |
| <u>X</u> | <u>SECURITIES or MISCELLANEOUS FILINGS</u> | | |
| ___ | 04 AFFIDAVIT | ___ | 29 STIPULATION |
| ___ | 12 EXCEPTIONS | ___ | 38 NOTICE OF INTENT |
| ___ | 18 REQUEST FOR INTERVENTION | ___ | (Only notification of future action/no action necessary) |
| ___ | 48 REQUEST FOR HEARING | ___ | 43 PETITION |
| ___ | 24 OPPOSITION | ___ | 46 NOTICE OF OTHER LIMITED |
| | | ___ | APPEARANCE |
| | 50 COMPLIANCE ITEM FOR APPROVAL | <u>X</u> | 39 OTHER: Response to data requests |
| | 32 TESTIMONY | | |
| | 30 COMMENTS | | |

March 21, 2002
Date

Legent Communications Corporation
Stacey Klinzman, Director Regulatory Compliance
Miller Isar, Inc., (253) 851-6700
Print Name of Applicant/Company/Contact person/Respondent/Atty.

PLEASE SEE NOTICE ON REVERSE SIDE

RESPONSE OF LEGENT COMMUNICATIONS CORPORATION ("Legent")
TO COMMISSION STAFF DATA REQUESTS
DATED MARCH 5, 2002

Request No. 1: Provide the projected total revenue for the first twelve months to provide telecommunications service to Arizona customers by the Applicant following certification, adjusted to reflect the **maximum** rates that the Applicant has requested in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit.

Response: Legent anticipates that it will sell 30,000 intrastate minutes in Arizona during the first twelve months of service. At the maximum tariffed rate of \$0.20 per minute, Legent projects that its revenue for the first twelve months will be \$6,000.00. (30,000 x \$0.20).

Request No. 2: Provide the projected **operating expenses** for the first twelve months to provide telecommunications service to Arizona customers by the Applicant following certification.

Response: Legent anticipates that the wholesale cost of intrastate Arizona minutes will be \$0.12 per minute. Thus, Legent projects that its operating expenses for the first twelve months will be \$3,600.00. (30,000 minutes x \$0.12).

Request No. 3: Provide the book value (original cost less accumulated depreciation) of **all Arizona jurisdictional assets** projected to be providing telecommunications service to Arizona customers at the end of the first twelve months of operation. If the projected fair value of those assets is different than the projected original cost net book value, also provide the corresponding projected fair value amounts. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list. If the projected value of all assets is zero, please specifically state this in your response.

Response: Legent is a provider of resold long distance service. Legent does not now have and does not anticipate owning assets of any kind in the State of Arizona. Thus, Legent projects that the value of its Arizona jurisdictional assets will be \$0.00.

SERVICE LIST FOR: LEGENT COMMUNICATIONS CORPORATION
DOCKET NO. T-04084A-02-0109

Ms. Stacey A. Klinzman
Mill Isar, Inc.
7901 Skansie Avenue
Suite 240
Gig Harbor, WA 98335

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Arizona Corporation Commission
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Mr. Christopher C. Kempley
Arizona Corporation Commission
Legal Division
1200 West Washington
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Ms. Lyn Farmer
Chief Administrative Law Judge
Arizona Corporation Commission
Hearing Division
1200 West Washington
Phoenix, Arizona 85007