

OPEN MEETING ITEM
ORIGINAL



0000061072

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
DOCKETED

SEP - 5 2006

DATE: September 5, 2006

DOCKET NO.: T-04257A-06-0350

TO ALL PARTIES:

DOCKETED BY	nr
-------------	----

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

THE J. RICHARD COMPANY dba LIVE WIRE PHONE COMPANY

(CC&N CANCELLATION)

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:

SEPTEMBER 14, 2006

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:

SEPTEMBER 19 AND 20, 2006

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.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

RECEIVED
2006 SEP - 5 P 3: 34
AZ CORP COMMISSION
DOCUMENT CONTROL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF
THE J. RICHARD COMPANY FOR
CANCELLATION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR ITS
FACILITIES-BASED TELECOMMUNICATIONS
SERVICES AND A REQUEST FOR REDUCTION
IN ITS PERFORMANCE BOND.

DOCKET NO. T-04257A-06-0350

DECISION NO. _____

ORDER

Open Meeting
September 19 and 20, 2006
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On February 15, 2005, the Commission issued Decision No. 67588 which granted to the J. Richard Company dba Live Wire Phone Company ("Live Wire" or "Applicant") a Certificate of Convenience and Necessity ("Certificate") to provide resold long distance, resold local exchange and facilities-based local exchange telecommunications services within the State of Arizona. In that Decision, Live Wire was ordered to procure a performance bond in the amount of \$135,000.

2. On May 30, 2006, Live Wire filed an application to cancel its facilities-based local exchange service and requested a corresponding reduction in its performance bond.

3. In its application, Live Wire indicated that it has changed its business model and wishes to provide only resold local exchange and resold long distance services. Live Wire stated that although most of its customers purchase resale services, some are provided service through the use of Unbundled Network Element Platforms ("UNE-P"). These accounts are being converted to resale

1 account, the conversion of which was to be completed by July 31, 2006.

2 4. Live Wire expected services and rates to end-users to remain the same, with no
3 interruption or reduction of services. The cancellation of Applicant's facilities-based local exchange
4 certificate is an internal change that will only affect Live Wire's billing with its wholesale provider,
5 Qwest. In order to avoid customer confusion, Live Wire did not provide customer notification of the
6 change and has requested a waiver of the requirements of A.A.C. R14-2-1107. Because there will be
7 no substantive change to customers' telecommunications service provided by Live Wire, the notice
8 requirement of A.A.C. R14-2-1107(B) should therefore be waived under the unique circumstances of
9 this case. Absent the unique facts presented in this case, we will strictly enforce the requirements set
10 forth in A.A.C. R14-2-1107.

11 5. Staff stated that Live Wire does not collect deposits from customers, but is a prepaid,
12 basic service provider with service renewed by the customer on a month-to-month basis. Live Wire
13 has 65 customers, and funds collected in advance of services on a month-to-month basis do not
14 exceed \$2,000. If a customer cancels at any point during the term of service, Live Wire issues a
15 check to the customer for the unused prorated period of service. No early termination fees are
16 assessed by Applicant.

17 6. In compliance with Decision No. 67588, Live Wire currently holds a performance
18 bond of \$135,000. With its application for cancellation of the facilities-based portion of its
19 Certificate, Live Wire has requested a reduction in the required amount to \$35,000, which is
20 consistent with the performance bond requirement for providers of resold local exchange and resold
21 long distance telecommunications services.

22 7. The Consumer Services Section of the Utilities Division reported no complaints,
23 inquiries, or opinions against Applicant from January 1, 2003 through June 6, 2006. Live Wire is in
24 good standing with the Commission's Corporations Division.

25 8. Staff recommended approval of Live Wire's application to cancel its facilities-based
26 local exchange certificate. Staff further recommended a reduction in the required performance bond
27 amount, from \$135,000 to \$35,000.

28

CONCLUSIONS OF LAW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

3. Staff's recommendations are reasonable and should be adopted.

4. The notice requirement of A.A.C. R14-2-1107(B) should be waived, under the unique circumstances of this case.

ORDER

IT IS THEREFORE ORDERED that the Application of J. Richard Company dba Live Wire, for cancellation of its Certificate of Convenience and Necessity for its facilities-based local exchange service shall be, and is hereby, approved.

IT IS FURTHER ORDERED that the performance bond required by Decision No. 67588 shall be reduced to \$35,000.

...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...
...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that all other requirements of Decision No. 67588 shall remain in full force and effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN		COMMISSIONER
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2006.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: J. RICHARD COMPANY dba LIVE WIRE PHONE
2 COMPANY

3 DOCKET NO.: T-04257A-06-0350

4 Thomas J. Campbell
5 Michael T. Hallam
6 LEWIS AND ROCA
7 40 North Central Avenue
8 Phoenix, AZ 85004
9 Attorneys for J. Richard Company dba
10 Live Wire Phone Company

11 Christopher Kempley, Chief Counsel
12 Legal Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 Ernest G. Johnson, Director
17 Utilities Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21
22
23
24
25
26
27
28