

OPEN MEETING ITEM



0000063017

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

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: OCTOBER 19, 2006

DOCKET NO: C-00000A-06-0195

TO ALL PARTIES:

Arizona Corporation Commission
DOCKETED

OCT 19 2006

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

COMMISSION INVESTIGATION
(FAILURE TO FILE 2002 ANNUAL REPORTS)

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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

OCTOBER 30, 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 Working Session and Open Meeting to be held on:

NOVEMBER 21, 2006 and NOVEMBER 22, 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 Secretary's Office at (602) 542-3931.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

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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 COMMISSION ON ITS
OWN MOTION INVESTIGATING THE FAILURE
OF NUMEROUS UTILITIES TO FILE ANNUAL
REPORTS FOR CALENDAR YEAR 2002.

DOCKET NO. C-00000A-06-0195
DECISION NO. _____

OPINION AND ORDER

DATE OF PRE-HEARING: September 6, 2006
DATE OF HEARING: October 4, 2006
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Mr. Joseph Haines, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On May 5, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68687, a Complaint and Order to Show Cause ("Complaint" or "OSC") against the following named Respondents¹ for failing to file their 2002 Utilities Division Annual Reports ("Annual Reports"):

<u>DOCKET NO.</u>	<u>COMPANY</u>
T-04017A-06-0195	Amiga Enterprises
T-03942A-06-0195	Comtel Network, LLC
T-02940A-06-0195	Dillon Enterprises
T-03482A-06-0195	Discount Utilities, LLC
T-03021A-06-0195	E.Spire
T-03220A-06-0195	ETI – Telecommunications
T-03836A-06-0195	Excell Agent Services, LLC
T-03833A-06-0195	EZTel Network Services, LLC
W-02271A-06-0195	Green Acres Water Company
T-03251A-06-0195	Group Long Distance, Inc.
W-01557A-06-0195	Lake Verde Water Company

¹ The named Respondents shall hereinafter be referred to as the Non-filing Respondents.

1	W-02504A-06-0195	Meadow Water Company
	T-03244A-06-0195	Metrophone Telecommunications, Inc.
2	T-02939A-06-0195	MTV World Payphones
	T-03821A-06-0195	NAS
3	T-03878A-06-0195	Natel, LLC
	T-03737A-06-0195	Promise-Net International, LTD
4	T-03928A-06-0195	Raptel Communications, LLC
	W-02003A-06-0195	Rillito Water Users Association
5	W-01084A-06-0195	Salome Water Company ²
	T-03650A-06-0195	Special Accounts Billing Group, Inc.
6	W-01407A-06-0195	Strawberry Water Company
	W-02386A-06-0195	Sun Leisure Estates Utilities Company, Inc. ³
8	T-04167A-06-0195	Teleglobe USA, LLC
	T-03262A-06-0195	Tele-Pro Independent Contractors, LLC
9	T-02885A-06-0195	Trattoria Pina
	T-03558A-06-0195	United States Telecommunications, Inc.
10	W-02274A-06-0195	Verde West Irrigation
	T-03988A-06-0195	Wilshire Connection, LLC
11	T-03165A-06-0195	Zenex Long Distance, Inc.

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Therein, the Commission ordered a hearing to be conducted at a date and time set by the Hearing Division.

On July 13, 2006, by Procedural Order, a pre-hearing conference was scheduled on the Complaint against the above-named Non-filing Respondents. The Commission's Utilities Division ("Staff") was ordered to file a Memorandum by September 1, 2006 to indicate which, if any, Non-filing Respondents filed their 2002 Annual Reports so they could be dismissed from the proceeding.

On September 1, 2006, Staff filed its Memorandum indicating that as of that date two utilities had filed their 2002 Annual Reports and requested that they be dismissed from the proceeding.

On September 6, 2006, a pre-hearing conference was held at the Commission's offices in Phoenix, Arizona. Staff appeared with counsel. No appearances were entered by any of the Non-filing Respondents.

On October 4, 2006, a full public hearing was held by the Commission at its offices in Phoenix, Arizona before a duly authorized Administrative Law Judge of the Commission. Staff appeared with counsel. No other parties named in the proceeding appeared. At the conclusion of the

² This Respondent's name appears in error since its Certificate of Convenience and Necessity ("Certificate") was revoked in Decision No. 64395 (January 31, 2002) for failing to file its 1999 Annual Report.

³ This Respondent's name appears in error since its Certificate was revoked in Decision No. 65649 (February 19, 2003) for failing to file its 2001 Annual Report.

1 hearing, the matter was taken under advisement pending submission of a Recommended Opinion and
 2 Order to the Commission.

3 * * * * *

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

6 **FINDINGS OF FACT**

7 1. Pursuant to authority granted by the Commission, the Non-Filing Respondents were
 8 authorized to conduct business at various times in Arizona as public utilities.

9 2. On May 5, 2006, the Commission issued Decision No. 68687, a Complaint against the
 10 Non-filing Respondents described above due to their failure to file their 2002 Annual Reports.

11 3. On September 1, 2006, Staff filed its Memorandum which Staff's witness, Ms. Kim
 12 Batista, the Chief of Compliance, amended at the hearing, indicating that Green Acres Water
 13 Company, Rillito Water Users Association and Strawberry Water Company had filed their 2002
 14 Annual Reports and should be dismissed from the proceeding.⁴ Ms. Batista also recommended that
 15 Verde West Irrigation be dismissed due to ownership issues because no information is available to
 16 file its Annual Report.

17 4. Ms. Batista further indicated that a number of telephone utilities have filed
 18 applications for the cancellation of their Certificates and should be dismissed from the proceeding as
 19 follows: MTV World Payphones; NAS; Raptel Communications, L.L.C.; Teleglobe USA, L.L.C.;
 20 and Trattoria Pina.⁵ Staff indicates their Certificates will be cancelled by subsequent proceedings.

21 5. Commission records reveal that of the above-named Non-filing Respondents, Salome
 22 Water Company and Sun Leisure Estates Utility Company, Inc., had their Certificates revoked by
 23 prior Commission Orders.

24 6. Notice of the proceeding was given in the manner prescribed by law.

25 7. A number of the Procedural Orders which contained the notice of the proceeding's
 26 pre-hearing conference and the hearing that were mailed to the Non-filing Respondents' last known

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28 ⁴ These Respondents are hereinafter known as the Late-filed Respondents.

⁵ These Respondents are hereinafter known as the Cancellation Respondents.

1 address were returned to the Commission with notations such as “return to sender, no forwarding
2 order on file”, “moved, left no address, unable to forward”, and “forwarding order expired”. Those
3 non-filing Respondents included: NAS; E.Spire; United States Telecommunications; Zenex Long
4 Distance; Metrophone Telecommunications, Inc.; Dillon Enterprises; ETI Telecommunications;
5 Meadow Water Company; Lake Verde Water Company; Amiga Enterprises; and Promise-Net
6 International, Ltd.

7 8. Ms. Batista testified that the Complaint had been filed because the various utility
8 companies and/or entities that were described above as the Non-filing Respondents had failed to file
9 their 2002 Annual Reports.

10 9. Ms. Batista indicated that the Commission sent out delinquent notices to all of the
11 above-referenced utilities and/or entities to advise them that they had failed to file their 2002 Annual
12 Reports. Following the mailing of the delinquent notices, personal phone calls to each of the utilities
13 along with follow-up phone calls were made in an attempt to secure compliance with the requirement
14 that the utilities file their 2002 Annual Reports. Since there was continued non-compliance, the
15 Complaint was prepared and filed.

16 10. While Staff believes the Non-filing Respondent water utilities are providing service, it
17 does not have any information whether the telecommunications utilities are still providing service.

18 11. Staff is recommending that the Certificates of the Non-filing Respondents which have
19 either failed to file their 2002 Annual Reports and/or failed to advise the Commission of their proper
20 mailing addresses be revoked and the utility and/or entity be penalized.

21 12. Based upon our review of the record, we believe that Staff’s recommendations with
22 respect to the Late-filed Respondents and Verde West Irrigation are appropriate and they should be
23 dismissed from the proceeding. With respect to the above-described Non-filing Respondents, their
24 Certificates should be revoked and they should also be assessed financial penalties. However, if any
25 affected Non-filing Respondent files, within 60 days of the effective date of this Decision, its 2002
26 Annual Report, then the Order of revocation and penalty as to that utility and/or entity should be
27 rendered null and void without further Order by the Commission.

28 13. We further find that Staff’s recommendation to dismiss the Cancellation Respondents

1 from this proceeding is reasonable and should be approved.

2 **CONCLUSIONS OF LAW**

3 1. The above-referenced Non-filing Respondents are public service corporations within
4 the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

5 2. The Commission has jurisdiction over the Non-filing Respondents and of the subject
6 matter of the Complaint herein.

7 3. The revocation of the Certificates of the remaining Non-filing Respondents as
8 described above would benefit the public interest.

9 4. The Complaint against the Late-filed Respondents, Verde West Irrigation, the
10 Cancellation Respondents and the previously revoked Respondents should be dismissed.

11 5. Pursuant to A.R.S. § 40-425, the remaining Non-filing Respondents should also each
12 be penalized the sum of \$200 unless, within 60 days of the effective date of this Decision, the
13 remaining Non-filing Respondent files its 2002 Annual Report.

14 **ORDER**

15 IT IS THEREFORE ORDERED that the Certificates of Convenience and Necessity of the
16 remaining Non-filing Respondents and the authorizations therein be revoked as follows:

<u>DOCKET NO.</u>	<u>COMPANY</u>
T-04017A-06-0195	Amiga Enterprises
T-03942A-06-0195	Comtel Network, LLC
T-02940A-06-0195	Dillon Enterprises
T-03482A-06-0195	Discount Utilities, LLC
T-03021A-06-0195	E.Spire
T-03220A-06-0195	ETI – Telecommunications
T-03836A-06-0195	Excell Agent Services, LLC
T-03833A-06-0195	EZTel Network Services, LLC
T-03251A-06-0195	Group Long Distance, Inc.
W-01557A-06-0195	Lake Verde Water Company
W-02504A-06-0195	Meadow Water Company
T-03244A-06-0195	Metrophone Telecommunications, Inc.
T-03878A-06-0195	Natel, LLC
T-03737A-06-0195	Promise-Net International, LTD
T-03650A-06-0195	Special Accounts Billing Group, Inc.
T-03262A-06-0195	Tele-Pro Independent Contractors, LLC
T-03558A-06-0195	United States Telecommunications, Inc.

T-03988A-06-0195
T-03165A-06-0195

Wilshire Connection, LLC
Zenex Long Distance, Inc.

IT IS FURTHER ORDERED that the Complaint against Verde West Irrigation, the Late-filed Respondents: Green Acres Water Company; Rillito Water Users Association; and Strawberry Water Company; the Cancellation Respondents: MTV World Payphones; NAS; Raptel Communications; L.L.C.; Teleglobe USA, L.L.C.; and Trattoria Pina; and the previously revoked Respondents, Salome Water Company and Sun Leisure Estates Utility Company, Inc., is hereby dismissed.

IT IS FURTHER ORDERED that the above-named Non-filing Respondents shall each be penalized the sum of \$200 unless, within 60 days of the effective date of this Decision, the above-named Non-filing Respondent files its 2002 Utilities Division Annual Report with the Director of the Commission's Utilities Division, then said revocation and financial penalty shall be null and void without further Order by the Commission.

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:	2002 ANNUAL REPORTS
2	DOCKET NO.:	C-00000A-06-0195
3	Lance Steinhart	
4	1720 Windward Concourse, Ste. 250	Amiga Enterprises
	Alpharetta, GA 30005	3853 E. Dulciana Avenue
5	Attorney for EZTel Networks, Service, LLC,	Mesa, AZ 85206
	Natel, LLC and Wilshire Connections	
6	E. Spire	David Aduddell
7	7125 Columbia Gateway Drive, Ste. 200	3705 W Memorial
8	Columbia, MD 21046	Oklahoma City, OK 73134
		Attorney for Zenex Long Distance, Inc.
9	Patrick Crocker	Dillon Enterprises
	900 Comerica Building	14490 E. Elgin St
10	Kalamazoo, MI 49007-4752	Gilbert, AZ 85296
	Attorney for Special Accounts Billing Group	
11	Glenn Richards	Trattoria Pina
12	2001 Pennsylvania Ave NW, Ste. 400	5541 N. Swan Rd.
13	Washington, DC 20006	Tucson, AZ 85718
	Attorney for United States	Green Acres Water Company
14	Telecommunications	2300 W. 32nd Street
		Yuma, AZ 85364
15	David Klein	Salome Water Company
16	485 Madison Avenue, 15th Floor	PO Box 550
	New York, NY 10022	Salome, AZ 85348
17	Attorney for Raptel Communications	
18	Cara Sheppard	Strawberry Water Company
19	1400 16th Street NW	RT. 1, Box 702
	Washington, DC 20036	Strawberry, AZ 85544
20	Attorney for Excell Agent Services, LLC	
21	Monica Haab	Lawrence Robertson, Jr.
	3500 N. Causeway Blvd., Ste. 1442	Munger Chadwick
22	Metairie, LA 70005	PO Box 1448
	Attorney for Comtel Network LLC	Tubac, AZ 85646
23	EllenAnn Sands	Metrophone Telecommunications, Inc.
24	3500 North Causeway Blvd., Ste. 1442	2020-124th Ave. NE C-103
25	Metairie, Louisiana 70002	Bellevue, WA 98005
	Attorney for Group Long Distance, Inc.	ETI Telecommunications
26	Tele-Pro Independent Contractors, LLC	9500 Toledo Way
	3331 E. Waltann Lane	Irvine , CA 92618
27	Phoenix, AZ 85032	
28		

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2 Gig Harbor, WA 98335
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4 Gayle Riekema
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Attorney for Promise-Net International, Ltd.
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7 Verde West Irrigation
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8 Camp Verde, AZ 86322
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10 Meadow Water Company
PO Box 2777
Prescott, AZ 86302
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12 Lake Verde Water Company
P.O. Box 2777
13 Prescott, AZ 86302
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