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BEFORE THE ARIZONA CORPORATION COMMISSION

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MIKE GLEASON
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

2007 MAR 26 P 4: 29

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

MAR 26 2007

DOCKETED BY
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STAFF of the Utilities Division,

Complainant,

vs.

NTERA, INC.

Respondent.

DOCKET NO. T-04063A-01-0875

COMPLAINT
(Motion to Rescind Decision
and cancel CC&N)

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"), pursuant to Arizona Revised Statutes (A.R.S.) § 40-246, hereby comes before the Commission to allege the following Complaint requesting a rescission of Commission Decision No. 66839 and a cancellation of Respondent's Certificate of Convenience and Necessity ("CC&N").

JURISDICTION

1. The Commission has jurisdiction to hear complaints against public service corporations pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

FACTUAL BACKGROUND

2. Respondent NTERA, Inc. ("NTERA" or "Company") is a public service corporation as defined by Article XV of the Arizona Constitution and A.R.S. § 40-282.

3. On November 21, 2001, NTERA filed with the Commission an application for a CC&N to provide facilities-based and resold local exchange and interexchange telecommunications services within the State of Arizona.

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1 4. On March 12, 2004, in Decision No. 66839, the Commission issued a CC&N to
2 NTERA conditioned upon timely compliance.

3 5. The Decision ordered that NTERA's certificate be conditioned upon the filing of
4 \$225,000 performance bond within 365 days from the effective date of the decision or 30 days prior
5 to providing service, whichever comes first.

6 6. The Decision ordered that NTERA's certificate be conditioned upon the filing of an
7 Interconnection Agreement before being allowed to offer local exchange service, within 365 days
8 from the date of the decision or 30 days prior to providing service, whichever comes first.

9 7. The Decision further ordered that if NTERA failed to meet the timeframe for
10 compliance that the CC&N conditionally granted would become null and void without further Order
11 of the Commission.

12 8. On May 14, 2005, Staff attempted to contact the Company regarding the past due
13 compliance items. Staff received updated contact information and proceeded to contact the
14 Company's Legal representative. Staff was informed that Mr. Lance Steinhart no longer represented
15 the Company.

16 9. On May 21, 2005, Staff contacted Mr. Mike Vasquez with NTERA regarding the past
17 due compliance items. Mr. Vasquez advised that the Company does not plan to conduct business in
18 Arizona. Mr. Vasquez also stated that he would send a letter to the Commission regarding this
19 matter. The letter was never received by the Commission.

20 10. On August 31, 2006, Staff made several attempts to contact the Company again
21 regarding the overdue compliance items. Staff was unable to reach the Company.

22 11. On March 2, 2007, Staff received multiple notices regarding the filing of Auctioneer's
23 report of sale. The notices were for the sale of furniture and other assets in the states of Florida and
24 New York.

25 12. Arizona Administrative Code ("A.A.C.") R14-2-411(D)(4) requires all utilities to
26 submit an annual report on or before the 15th day of April for the preceding calendar year. NTERA
27 has failed to submit an annual report for calendar year 2005. The failure to file annual reports for
28 calendar year 2005 constitutes a violation of A.A.C. R14-2-411(D)(4).

1 Copy of the foregoing hand-delivered
2 this 26th day of March, 2006 to:

3 Mr. Christopher C. Kempley
4 Chief Counsel, Legal Division
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007

8 Mr. Ernest G. Johnson
9 Director, Utilities Division
10 Arizona Corporation Commission
11 1200 West Washington
12 Phoenix, Arizona 85007

13 *Roseann Osorio*
14 _____
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MIKE GLEASON
Chairman
3 WILLIAM A. MUNDELL
Commissioner
4 JEFF HATCH-MILLER
Commissioner
5 KRISTIN K. MAYES
Commissioner
6 GARY PIERCE
Commissioner

7
8 STAFF of the Utilities Division,
9
10 Complainant,
11 vs.
12 NTERA, Inc. Respondent.

DOCKET NO. T-04063A-01-0875

DECISION NO. _____

ORDER

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14
15 Open Meeting
16 April 11 and 12, 2007
Phoenix, Arizona

17 BY THE COMMISSION:

18 FINDINGS OF FACT

19 1. Respondent NTERA, Inc. ("NTERA" or "Company") is a public service
20 corporation as defined by Article XV of the Arizona Constitution and A.R.S. § 40-282.

21 2. On November 21, 2001, NTERA filed with the Commission an application for a
22 CC&N to provide facilities-based and resold local exchange and interexchange
23 telecommunications services within the State of Arizona.

24 3. On May 5, 2005, in Decision No. 67813, the Commission issued a Certificate of
25 Convenience and Necessity ("CC&N") to Red River conditioned upon timely compliance.

26 4. On March 12, 2004, in Decision No. 66839, the Commission issued a CC&N to
27 NTERA conditioned upon timely compliance.

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1 Service List for: NTERA, Inc.
2 Docket No. T-04063A-01-0875

3 Mr. Mike Vasquez
4 NTERA, Inc.
5 1020 NW 163rd Drive
6 Miami, Florida 33169

7 Michael W. Patten
8 Roshka, Heyman & DeWulf PLC
9 400 East Van Buren, Suite 800
10 Phoenix, Arizona 85004-2262

11 Mr. Christopher C. Kempley
12 Chief Counsel, Legal Division
13 Arizona Corporation Commission
14 1200 West Washington
15 Phoenix, Arizona 85007

16 Mr. Ernest G. Johnson
17 Director, Utilities Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

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