

OPEN MEETING ITEM



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ORIGINAL



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

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ARIZONA CORPORATION COMMISSION

2007 AUG -6 P 4: 24

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: AUGUST 6, 2007

DOCKET NO: T-04257A-07-0188

TO ALL PARTIES:

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

J. RICHARD COMPANY D/B/A LIVE WIRE PHONE COMPANY  
(CANCEL CC&N)

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:

AUGUST 15, 2007

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:

AUGUST 21, 2007 and AUGUST 22, 2007

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

Arizona Corporation Commission  
**DOCKETED**  
AUG - 6 2007

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF  
THE J. RICHARD COMPANY D/B/A LIVE  
WIRE PHONE COMPANY FOR THE  
CANCELLATION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. T-04257A-07-0188

DECISION NO. \_\_\_\_\_

ORDER

Open Meeting  
August 21 and 22, 2007  
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, in Decision No. 67588, the Commission granted to the J. Richard Company d/b/a Live Wire Phone Company ("Applicant") a Certificate of Convenience and Necessity ("Certificate") authorizing it to provide competitive facilities-based local exchange, resold local exchange and resold interexchange telecommunications services.<sup>1</sup>

2. On March 28, 2007, due to a lack of business, Applicant filed with the Commission an application to cancel its Certificate to provide resold local exchange and resold interexchange telecommunications services. Based on supplemental information filed by Applicant on June 18, 2007, Applicant confirmed that it has ceased operations and has no telecommunications customers or subscribers in the State of Arizona.

3. In Applicant's supplemental filing on June 18, 2007, the Applicant requested a waiver

<sup>1</sup> On September 1, 2006, the Commission issued Decision No. 68956 which cancelled the Certificate of the Applicant to provide facilities-based local exchange services.

1 of A.A.C. R14-2-1107 that requires the Applicant to notify its customers and the Commission 60  
 2 days prior to filing an application to discontinue service. Although Applicant was aware that it did  
 3 not provide notice to its customers and the Commission as required by A.A.C. R14-2-1107,<sup>2</sup> since the  
 4 Applicant provided service to its customers on a prepaid basis and continued service only when the  
 5 customer prepaid Applicant's bill for the next month, the Applicant never transferred any of its  
 6 customers to another carrier as all customers terminated their telecommunications services with the  
 7 Applicant by discontinuing the payment of their bills.

8 4. Pursuant to Decision No. 67588, the Applicant has maintained a performance bond  
 9 and requests that this requirement be cancelled upon approval for the cancellation of Applicant's  
 10 Certificate as requested herein.

11 5. On July 31, 2007, Commission's Utilities Division Staff ("Staff") filed a Staff Report  
 12 in this matter.

13 6. In the Staff Report, Staff verified that Applicant does not service any Arizona  
 14 customers and is no longer doing business in Arizona. Staff stated that Applicant is not holding any  
 15 prepayments, deposits, or advances and no customers in Arizona would be at risk by cancellation of  
 16 Applicant's Certificate. In addition, Staff stated that there are numerous other carriers offering  
 17 services similar to Applicant's in Arizona.

18 7. Staff is recommending the following: that Applicant's application be approved  
 19 without a hearing; that Applicant's request to waive the 60 day notice requirement of A.A.C R14-2-  
 20 1107 be approved; and that Applicant's performance bond be cancelled.

### CONCLUSIONS OF LAW

21  
 22 1. Applicant is a public service corporation within the meaning of Article XV of the  
 23 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

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

26  
 27 <sup>2</sup> Attached to the Applicant's June 18, 2007 filing was a copy of a letter that Applicant mailed to all of its customers on  
 28 March 12, 2007. The letter notified all of Applicant's customers of its proposed discontinuance of telecommunications  
 services in Arizona. The letter listed two alternative providers that could provide service to customers in Arizona if they  
 chose to use them.

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- 3. The cancellation of Applicant's Certificate is in the public interest.
- 4. Pursuant to A.R.S. § 40-282, the Commission may grant the application without a hearing.
- 5. Staff's recommendations in Findings of Fact No. 7 are reasonable and should be adopted.
- 6. The requirements of A.A.C. R14-2-1107 should be waived based upon the unique circumstances of this case.

**ORDER**

IT IS THEREFORE ORDERED that the application of the J. Richard Company d/b/a Live Wire Phone Company for the cancellation of its Certificate of Convenience and Necessity to provide competitive resold interexchange telecommunications services and resold local exchange services is hereby approved.

IT IS FURTHER ORDERED that the J. Richard Company d/b/a Live Wire Phone Company is no longer authorized to provide competitive resold interexchange telecommunications services and resold local exchange services in Arizona.

IT IS FURTHER ORDERED that the request of the J. Richard Company d/b/a Live Wire Phone Company for a waiver of A.A.C R14-2-1107 is hereby granted.

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IT IS FURTHER ORDERED that the performance bond and tariffs of the J. Richard Company d/b/a Live Wire Phone Company on file with the Commission are hereby cancelled.

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 \_\_\_\_\_, 2007.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: J. RICHARD COMPANY D/B/A LIVE WIRE PHONE COMPANY

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3 DOCKET NO.: T-04257A-07-0188

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