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**ARIZONA CORPORATION COMMISSION**

November 6, 2007

TO: Telecommunications Industry Members and Other Interested Parties

RE: Generic Investigation into Preferred Carrier Arrangements  
Docket No. T-00000K-04-0927

On December 23, 2004, the Arizona Corporation Commission ("Commission") opened a generic docket to investigate the use of Preferred Carrier Arrangements and other potential anti-competitive practices involving service to residential or business developments, Docket No. T-00000K-04-0927. As a result of the procedural conference that was held on October 9, 2007, Staff was ordered to develop a list of issues for the Parties to address in this investigation. Therefore, Staff is seeking comments on the attached list of questions.

It is requested that all industry participants or interested parties file an original and thirteen copies of any responses, information, comments, and/or data, to the attached issues with the Commission's Docket Control Center located at 1200 West Washington Street, Phoenix, Arizona 85007, on or before December 21, 2007. Please include a reference to Docket No. T-00000K-04-0927 and indicate the associated caption on your filing(s).

Thank you for your input into these important issues. Should there be any questions, please feel free to contact my office.

Sincerely,

*for Ernest G. Johnson*  
Ernest G. Johnson  
Director, Utilities Division

EGJ: PJG  
Attachment

Arizona Corporation Commission  
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**Preferred Provider Agreements Issues List, Docket No. T-00000K-04-0927**

- PPA 1-1      What do you believe the scope of this proceeding should be and what issues should the Commission address with respect to the use of preferred provider/preferred carrier/marketing agreements in master planned communities?
- PPA 1-2      Does your company enter into preferred provider/preferred carrier agreements with property owners/developers of master planned communities that address issues associated with:
- a.      The installation of telecommunications network facilities?
  - b.      The price associated with the installation of those facilities?
  - c.      Marketing of telecommunications services?
  - d.      Distribution of sales literature?
  - e.      Statements regarding the property owner/developer's "preferred" provider of telecommunications services?
  - f.      Incentives to the property owner/developer to encourage end user customers to obtain telecommunications service from the "preferred" provider of telecommunications services?
- PPA 1-3      Please describe what you would characterize as a preferred provider/preferred carrier agreement. Please describe in detail the provisions of any preferred provider/preferred carrier agreement that you have entered into with property owners/developers of master planned communities.
- PPA 1-4      If your response to PPA 1-2 is in the affirmative, please describe any revenue sharing provisions from such agreements. Are revenue sharing provisions a standard or typical provision in such agreements?
- PPA 1-5      Please describe what you would characterize as a marketing agreement. Please describe in detail the provisions of any marketing agreement that you have entered into with property owners/developers of master planned communities.
- PPA 1-6      Please provide the following information for each preferred provider/preferred carrier/marketing agreement with master planned communities signed since April 1, 1998 to current within the State of Arizona. Please provide all information in excel, spreadsheet, electronic file format. Each item named below should be taken to represent a column heading in an excel spreadsheet:
- a.      The name and date of each agreement.
  - b.      The name of the master planned community.
  - c.      The name of each party participating in the agreement.
  - d.      A contact name corresponding to the name of each party participating in the agreement.

- e. The address of the contact name corresponding to the name of each party participating in the agreement.
- f. The phone number of the contact name corresponding to the name of each party participating in the agreement.
- g. The signing (From) date of the agreement.
- h. The ending (To) date of the agreement.
- i. The number of residential units, homes, main accounts or lines expected to be covered by the agreement.
- j. The number of business units, main accounts or lines expected to be covered by the agreement.

PPA 1-7 Have you entered into an agreement that prohibits property owners/developers from marketing the services of other telecommunications service providers within such master planned communities?

PPA 1-8 Can property owners/developers who have preferred provider/preferred carrier/marketing agreements with you, distribute, or allow to be distributed, the advertising literature of any other telecommunications company within such master planned communities?

PPA 1-9 If your response to PPA 1-10 is negative, please indicate whether you consider such terms to be anti-competitive from the end-users' perspective and the rationale for your position.

PPA 1-10 Do your agreements include services other than telecommunications services?

PPA 1-11 What consideration do property owners/developers of master planned communities receive as compensation for entering into preferred provider/preferred carrier/marketing agreements with telecommunications carriers?

PPA 1-12 Do your agreements include items such as exclusive marketing rights which limits the ability of your competitors to market their services in areas where you have entered into agreements with the property owners/developers of master planned communities?

PPA 1-13 Should preferred provider/preferred carrier/marketing agreements be allowed in master planned communities, and in your opinion, are they in the public interest? Please elaborate.

PPA 1-14 Please provide a copy of a "standard" preferred provider/preferred carrier/marketing agreement that you have entered into, and any associated or related agreements governing your provision of service to a master planned community.

- PPA 1-15 What are your standard terms for the installation of facilities in a master planned community?
- PPA 1-16 What are the benefits to the telecommunications service provider of entering into preferred provider/preferred carrier/marketing agreements in master planned communities? What, if any, are the disadvantages?
- PPA 1-17 What are the benefits to the property owner/developer of entering into preferred provider/preferred carrier/marketing agreements in master planned communities? What, if any, are the disadvantages?
- PPA 1-18 What is the standard term (months or years) of a preferred provider/preferred carrier/marketing agreement with a property owner/developer of a master planned community?
- PPA 1-19 Are third party telecommunications companies allowed to provide service over facilities that are used to provide services that are covered by a preferred provider/preferred carrier/marketing agreement in master planned communities? If your answer is in the affirmative, under what rates, terms and conditions is this allowed?
- PPA 1-20 Do you enter into other agreements, other than preferred provider/preferred carrier/marketing agreements, with property owners/ developers of master planned communities that relate to the provision of telecommunications services? If so, please describe these agreements.
- PPA 1-21 Do you believe preferred provider/preferred carrier/marketing agreements provide an impediment to the ability of end users to purchase telecommunications services in a competitive market? Please explain why you believe that they do or do not impede customers' access to a competitive telecommunications marketplace.
- PPA 1-22 Do you believe that the use of preferred provider/preferred carrier agreements in master planned communities are anti-competitive? Please explain the basis for your belief.
- PPA 1-23 Do you believe that exclusive marketing agreements which prevent property owners/developers from marketing a competitor's services in master planned communities are anti-competitive? Please explain the basis for your belief.
- PPA 1-24 Do your preferred provider/preferred carrier/marketing agreements used in master planned communities contain a condition that the terms and conditions of the agreement are confidential?
- PPA 1-25 Has the ability to access customers in master planned communities been impeded by the existence of a preferred provider/preferred carrier/marketing agreement between one of your competitors and a property owner/developer?

- PPA 1-26 Other than preferred provider/preferred carrier/marketing agreements, are there other customer access problems in master planned communities?
- PPA 1-27 Are there property owners/developers of master planned communities that impose restrictions on your ability to gain access to a right of way? Please describe any such restriction.
- PPA 1-28 Does your company utilize preferred provider/preferred carrier/marketing agreements in master planned communities within other States?
- PPA 1-29 Has the use of preferred provider/preferred carrier/marketing agreements in master planned communities been addressed or investigated by any other regulatory agency to your knowledge? If you are aware of any such proceeding, please provide the name of the agency, the docket number of the proceeding, and any other information you may have regarding the status of the case.
- PPA 1-30 Have there been any court proceedings involving preferred provider/preferred carrier/marketing agreements in master planned communities that you are aware of? If your response is in the affirmative, please provide a case number and cite, if available.
- PPA 1-31 Are you aware of any States that have enacted laws concerning the use of preferred provider/preferred carrier/marketing agreements in master planned communities? If yes, please provide a copy of the state laws with your response.
- PPA 1-32 Do you believe such arrangements should be, or are, unlawful? Please explain your response.
- PPA 1-33 Are business lines/customers treated differently than residential lines/customers within a master planned community that is under a preferred provider/preferred carrier/marketing agreement? If your response is in the affirmative, please explain how the treatment differs.
- PPA 1-34 Please provide a sample of all marketing literature distributed by the property owner/developer and your company regarding the provision of telephone service to a master planned community covered under a preferred provider/preferred carrier/marketing agreement.
- PPA 1-35 Please provide copies of all unique marketing compensation schedules that were included in final preferred provider/preferred carrier/marketing agreements for all master planned communities served by your company. Each unique marketing compensation schedule should be accompanied with the name of the master planned community for which it applies. (For the purposes of this proceeding, please assume that a marketing compensation schedule is any description of revenue sharing terms and conditions or payments to property owners/developers

of master planned communities by providers for services intended to increase or facilitate the penetration of telecommunications products and services.)

PPA 1-36 Has your company ever entered into preferred provider/preferred carrier/marketing agreements for master planned communities that included capital contributions provided to your company or any affiliates? (For the purpose of this proceeding, please assume that a capital contribution is any payment by cash, check or bank transfer.) If your response is in the affirmative, please provide the following:

- a. The amount of capital contribution.
- b. The name of the property owner/developer of the master planned community.
- c. The name of the master planned community for which the capital contribution applies.

PPA 1-37 Has your company ever engaged in discussions with property owners/developers of master planned communities that included any form of private easement? If your response is in the affirmative, please provide the following:

- a. The timeframe of such discussions.
- b. The name of the property owners/developers involved in such discussions.
- c. The name of the master planned community corresponding to such discussions.
- d. Who initiated such discussions.
- e. Whether or not your company entered into an agreement that included a private easement. If not, please explain why not.

PPA 1-38 Has your company ever entered into preferred provider/preferred carrier/marketing agreements with property owners/developers of master planned communities that included any form of private easement? If your response is in the affirmative, please provide the following:

- a. The timeframe of such discussions.
- b. The name of the property owners/developers involved in such discussions.
- c. The name of the master planned community corresponding to such discussions.

PPA 1-39 Has your company ever engaged in discussions with property owners/developers of master planned communities that included any form of license fees required to provide telecommunications services? If your response is in the affirmative, please provide the following:

- a. The timeframe of such discussions.
- b. The name of the property owners/developers involved in such discussions.

- c. The name of the master planned community corresponding to such discussions.
- d. Who initiated such discussions.
- e. Whether or not your company entered into an agreement that included license fees. If not, please explain why not.

PPA 1-40 Has your company ever entered into preferred provider/preferred carrier/marketing agreements with property owners/developers of master planned communities that included any form of license fees required to provide telecommunications services? If your response is in the affirmative, please provide the following:

- a. The timeframe of such discussions.
- b. The name of the property owners/developers involved in such discussions.
- c. The name of the master planned community corresponding to such discussions.

PPA 1-41 For each master planned community, from April 1, 1998 to current, in which your company provides telecommunications services but is not or was not the preferred carrier, please provide the following information in excel, spreadsheet, electronic file format. (Each item named below should be taken to represent a column heading in an excel spreadsheet.)

- a. The name of the master planned community.
- b. The date when your company initiated service in the master planned community.
- c. The name of the preferred provider/preferred carrier serving the master planned community.
- d. Whether the services are provided via resale, facilities-based or both.
- e. The number of units, homes, main accounts or lines that are being served by your company in the master planned community.

PPA 1-42 Do you believe area code boundary changes for master planned communities that cover multiple area codes are in the public interest? If yes, please explain as completely as possible.

PPA 1-43 Would your company support the elimination of preferred provider/preferred carrier/marketing agreements in master planned communities under any circumstance? If yes, please explain as completely as possible.

PPA 1-44 Has your company ever considered but not proceeded with filing a complaint before any Commission or taking legal action in matters concerning a preferred provider/preferred carrier/marketing agreement or the provision of services for a master planned community? If yes, please provide the following:

- a. The name of the master planned community.

- b. The relevant date(s) or timeframe.
- c. Why the company chose not to file a complaint before the Commission or take legal action.

PPA 1-45 Has your company ever filed a complaint with any Commission or taken legal action in matters concerning a preferred provider/preferred carrier/marketing agreement or the provision of services for a master planned community? If yes, please provide the following:

- a. The name of the master planned community.
- b. The date the actions or actions were taken.
- c. A copy of each application filed with the Commission and/or each legal proceeding.