

OPEN MEETING ITEM



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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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Chairman
- 3 WILLIAM A. MUNDELL
Commissioner
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Commissioner
- 6 GARY PIERCE
Commissioner

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AZ CORP COMMISSION
DOCKET CONTROL

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9 STAFF of the Utilities Division,

DOCKET NO. T-04172A-03-0153

Complainant,

10 vs.

Arizona Corporation Commission

11 TELLOGIC dba QUALITY TELEPHONE

COMPLAINT

DOCKETED

12 Respondent.

SEP 29 2008

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DOCKETED BY *mm*

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 against TelLogic dba Quality Telephone ("Company" or "Quality") for failure to comply with Commission Decision No. 66611.

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 TelLogic dba Quality Telephone is a public service corporation as defined by Article XV of the Arizona Constitution and A.R.S. § 40-282.

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1 3. On March 12, 2003, Quality filed with the Commission an application for a
2 Certificate of Convenience and Necessity ("CC&N") to provide competitive resold local exchange
3 telecommunications services within the State of Arizona.

4 4. On December 9, 2003, in Decision No. 66611, the Commission issued a CC&N to
5 Quality conditioned upon timely compliance.

6 5. The Decision ordered that Quality's CC&N be conditioned upon the filing of
7 performance bond in the amount of \$25,000 within 365 days from the date of an Order granting
8 the CC&N or 30 days prior to providing service, whichever comes first.

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

12 7. On December 9, 2004, Staff contacted the Company regarding the past due
13 compliance item. The Company did not respond to Staff's call or notice.

14 8. On September 19, 2005, Staff contacted Frank McGovern, Senior Manager of
15 Quality, regarding the past due compliance item. Staff emailed a copy of the order to
16 Mr. McGovern.

17 9. On May 3, 2006, Staff again contacted Mr. Frank McGovern regarding the
18 delinquent performance bond filing. Mr. McGovern stated that he would like an email sent to him.
19 Staff also mailed a Notice of Delinquency on July 7, 2006.

20 10. On July 17, 2006 and October 12, 2007, Staff emailed Mr. McGovern regarding the
21 Notice of Delinquency letter that was mailed. On November 12, 2007, Mr. McGovern contacted
22 Staff in regards to the email. Mr. McGovern inquired about a letter of credit instead of a
23 performance bond. Mr. McGovern stated that he would have his bank issue the \$25,000
24 bond/letter of credit and that it would take 4-5 weeks for the bond to be in place. The Commission
25 should receive the filing by the end of the year.

26 11. On June 11, 2008, Staff called and left a message for Mr. McGovern regarding the
27 status of the performance bond as well as the delinquency of the Company's filing of its 2006 and
28 2007 annual reports.

1 12. On June 12, 2008, Staff contacted Mr. McGovern once again. Mr. McGovern
2 advised Staff that the performance bond filing had not been a priority for him. Staff advised
3 Mr. McGovern that the compliance delinquencies are a priority of the Commission especially due
4 to the extreme delinquent status and also of the delinquency of the 2006 and 2007 annual reports.
5 Mr. McGovern stated that he would send both the 2006 and 2007 annual reports by June 20, 2008,
6 and that he plans to send a Letter of Credit for the \$25,000 bond requirement. Mr. McGovern
7 further stated that it would take a couple of weeks for him to obtain the letter of credit from the
8 bank. Staff asked Mr. McGovern to call back with more precise information about obtaining the
9 letter of credit or bond by June 16, 2008. Mr. McGovern stated that he would do so. Staff
10 received the 2006 and 2007 annual reports on June 19, 2008.

11 13. On June 17, 2008, Staff left a message for Mr. McGovern advising him of the
12 wording of the original order stated "performance bond" and that a letter of credit would not
13 suffice unless the Commission voted to change the order.

14 14. On June 26, 2008, Staff received a call from Mr. McGovern. He stated that he is in
15 the process of obtaining a bond from Chase Bank and it will take about another two weeks due to
16 he is in travel status until after the 4th of July. He advised that he will call back as soon as possible
17 if information changes.

18 15. On July 9, 2008, Staff left a message with Mr. McGovern following up on the status
19 of the Performance Bond. Mr. McGovern has yet to contact Staff in response.

20 16. According to the Company's 2007 Annual Report, Quality is currently doing
21 business in the State of Arizona.

22 17. The Company is in good standing with the Corporations Division of the
23 Commission.

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RECOMMENDATION

18. Staff recommends the Commission find TelLogic dba Quality Telephone out of compliance with Commission Decision No. 66611 and order fines or other penalties as the Commission deems fit.

RESPECTFULLY SUBMITTED this 29th day of September, 2008.


Kevin O. Torrey
Attorney, Legal Division
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

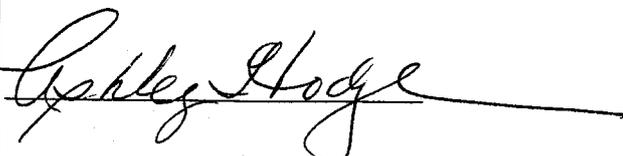
Original and Eighteen (18) copies of the foregoing were filed this 29th day of September, 2008 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copy of the foregoing mailed this 29th day of September, 2008 to;

Mr. Frank McGovern
Senior Manager
TelLogic dba Quality Telephone
600 North Pearl Street, Suite 104
Dallas, Texas 75201
**Via First Class mail and
Certified Mail / Return Receipt Requested**

TelLogic dba Quality Telephone
Post Office Box 7310
Dallas, Texas 75209
**Via First Class mail and
Certified Mail / Return Receipt Requested**



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BEFORE THE ARIZONA CORPORATION COMMISSION

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

STAFF of the Utilities Division,

Complainant,

vs.

TELLOGIC dba QUALITY TELEPHONE
Respondent.

DOCKET NO. T-04172A-03-0153
DECISION NO. _____
ORDER

Open Meeting
October 15 and 16, 2008
Phoenix, Arizona

BY THE COMMISSION:

BY THE COMMISSION:

On June 15, 2006, Staff ("Staff") of the Utilities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Complaint against TelLogic dba Quality Telephone ("Company" or "Quality"), an Arizona Public Service Corporation. Staff seeks various relief, including the issuance of an Order to Show Cause against the Respondent.

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

FINDINGS OF FACT

1. On March 12, 2003, Quality filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold local exchange telecommunications services within the State of Arizona.

1 2 On December 9, 2003, in Decision No. 66611, the Commission issued a CC&N to
2 Quality conditioned upon timely compliance.

3 3. The Decision ordered that Quality's certificate be conditioned upon the filing of
4 performance bond in the amount of \$25,000 within 365 days from the date of an Order granting
5 the certificate or 30 days prior to providing service, whichever comes first.

6 4. The Decision further ordered that if Quality failed to meet the timeframe for
7 compliance that the CC&N conditionally granted would become null and void without further
8 Order of the Commission.

9 5. On December 9, 2004, Staff contacted the Company regarding the past due
10 compliance item. The Company did not respond to Staff's call or notice.

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20 performance bond. Mr. McGovern stated that he would have his bank issue the \$25,000
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15 13. On July 9, 2008, Staff left a message with Mr. McGovern following up on the status
16 of the Performance Bond. Mr. McGovern has yet to contact Staff in response.

17 14. According to the Company's 2007 Annual Report, Quality is currently doing
18 business in the State of Arizona.

19 15. The Company is in good standing with the Corporations Division of the
20 Commission.

21 CONCLUSIONS OF LAW

22 1. TelLogic dba Quality Telephone is an Arizona public service corporation within the
23 meaning of Article XV, Section 2, of the Arizona Constitution.

24 2. The Commission has jurisdiction over Quality and over the subject matter of the
25 complaint.

26 ORDER

27 IT IS THEREFORE ORDERED that TelLogic dba Quality Telephone shall appear before
28 the Commission to explain:

- 1 (1) Why its actions do not constitute a violation of Commission Decision No. 66611.
- 2 (2) Why Quality has failed to file the Performance Bond as required by Decision
- 3 No. 66611.
- 4 (3) Why the Commission should not impose sanctions against Quality.
- 5 (4) Why the Commission should not render Decision No. 66611 null and void and
- 6 cancel the Certificate of Convenience and Necessity of Quality.
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IT IS FURTHER ORDERED that if Quality intends to appear as ordered above, it shall file within 10 days of the effective date of this Order a preliminary statement explaining its position. This filing must include an Answer to Staff's Complaint if the Respondent has not yet filed an Answer.

IT IS FURTHER ORDERED that the Hearing Division shall schedule further appropriate proceedings.

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

BY THE 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 this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2008.

BRIAN C. McNEIL
Executive Director

DISSENT: _____

DISSENT: _____

EGJ:KDB:lhmkOT

1 SERVICE LIST FOR: TelLogic dba Quality Telephone
2 DOCKET NO. T-04172A-03-0153

3
4 Mr. Frank McGovern
5 Senior Manager
6 TelLogic dba Quality Telephone
7 600 North Pearl Street, Suite 104
8 Dallas, Texas 75201
9 **Via First Class mail and**
10 **Certified Mail**
11 **Return Receipt Requested**

12
13 TelLogic dba Quality Telephone
14 Post Office Box 7310
15 Dallas, Texas 75209
16 **Via First Class mail and**
17 **Certified Mail**
18 **Return Receipt Requested**

19
20 Mr. Ernest G. Johnson
21 Director, Utilities Division
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25
26 Ms. Janice M. Alward
27 Chief Counsel, Legal Division
28 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007