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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

Arizona Corporation Commission

DOCKETED

OCT 23 2008

DOCKETED BY
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STAFF of the Utilities Division,

Complainant,

vs.

TELLOGIC dba QUALITY TELEPHONE
Respondent.

DOCKET NO. T-04172A-03-0153

DECISION NO. 70566

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.

11 6. On September 19, 2005, Staff contacted Frank McGovern, Senior Manager of
12 Quality, regarding the past due compliance item. Staff emailed a copy of the order to
13 Mr. McGovern.

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

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

23 9. On June 11, 2008, Staff called and left a message for Mr. McGovern regarding the
24 status of the performance bond as well as the delinquency of the Company's filing of its 2006 and
25 2007 annual reports.

26 10. On June 12, 2008, Staff contacted Mr. McGovern once again. Mr. McGovern
27 advised Staff that the performance bond filing had not been a priority for him. Staff advised
28 Mr. McGovern that the compliance delinquencies are a priority of the Commission especially due

1 to the extreme delinquent status and also of the delinquency of the 2006 and 2007 annual reports.
2 Mr. McGovern stated that he would send both the 2006 and 2007 annual reports by June 20, 2008,
3 and that he plans to send a Letter of Credit for the \$25,000 bond requirement. Mr. McGovern
4 further stated that it would take a couple of weeks for him to obtain the letter of credit from the
5 bank. Staff asked Mr. McGovern to call back with more precise information about obtaining the
6 letter of credit or bond by June 16, 2008. Mr. McGovern stated that he would do so. Staff
7 received the 2006 and 2007 annual reports on June 19, 2008.

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

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

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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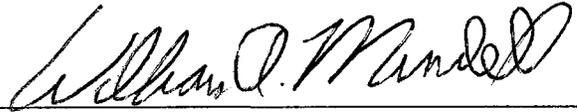
1 IT IS FURTHER ORDERED that if Quality intends to appear as ordered above, it shall file
 2 within 10 days of the effective date of this Order a preliminary statement explaining its position.
 3 This filing must include an Answer to Staff's Complaint if the Respondent has not yet filed an
 4 Answer.

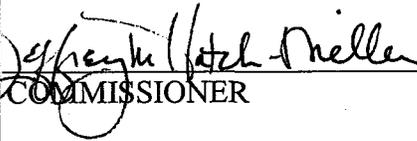
5 IT IS FURTHER ORDERED that the Hearing Division shall schedule further appropriate
 6 proceedings.

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

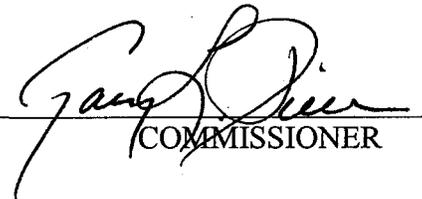
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 9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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 12 CHAIRMAN

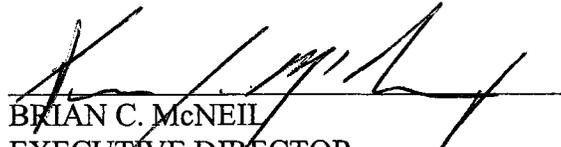

 COMMISSIONER

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 15 COMMISSIONER


 COMMISSIONER


 COMMISSIONER

16 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 17 Director of the Arizona Corporation Commission, have
 18 hereunto, set my hand and caused the official seal of this
 19 Commission to be affixed at the Capitol, in the City of
 20 Phoenix, this 23rd day of October, 2008.

21 
 22 BRIAN C. McNEIL
 23 EXECUTIVE DIRECTOR

24 DISSENT: _____

25 DISSENT: _____

26 EGJ:KDB:lhm\KOT

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