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MEMORANDUM

TO: Docket Control

FROM: Ernest G. Johnson
Director
Utilities Division

DATE: November 04, 2008

RE: IN THE MATTER OF THE APPLICATION OF CONSUMER TELCOM INC. FOR
APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY
(DOCKET NO. T-20559A-07-0613)

Attached is the Staff Report for the above referenced Application. The Applicant is applying for approval of its petition for a Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Resold Long Distance Telecommunications Services

Staff is recommending approval of the CC&N.

EGJ: PJG:kdh

Originator: Pamela J. Genung

Attachment: Original and Thirteen Copies

Arizona Corporation Commission
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AZ CORP COMMISSION
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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**Application for a Certificate of Convenience and Necessity to Provide Resold
Interexchange Service and for Determination that Services of the Applicant are
Competitive**

Applicant: Consumer Telcom, Inc.
Docket No.: T-20559A-07-0613

On October 22, 2007, Consumer Telcom, Inc. ("CTI" or "Applicant") filed an Application for a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange long distance services within the State of Arizona.

Staff's review of this Application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange long distance telecommunications services. Staff's review considers the Applicant's technical and financial capabilities, and whether the Applicant's proposed rates will be just and reasonable.

REVIEW OF APPLICANT INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- The necessary information has been filed to process this Application, and the Applicant has authority to transact business in the State of Arizona.
- The Applicant has published legal notice of the Application in all counties where service will be provided. On October 1, 2007, Applicant filed Affidavits of Publication in the counties where the authority to provide resold long distance telecommunications services is requested.

REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- The Applicant is not currently providing service in Arizona.
- The Applicant is currently providing service in other states.

The Applicant is a switchless reseller.

In the event the Applicant experiences financial difficulty, end users can access other interexchange service providers.

The Applicant indicated that it **has obtained authority to provide resold interexchange services in a total of thirty-five states, excluding Arizona.** CTI indicated that it is currently providing resold long distance service in the following states: Arkansas, California, Georgia, Iowa, Maryland, Massachusetts, Minnesota, Mississippi, Montana, North Carolina, New Jersey, New Mexico, New York, Nevada, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming. CTI also indicated that the remainder of the states in which it has been granted authority to provide intrastate telecommunications services include: Alabama, Colorado, Delaware, Kansas, Louisiana, Maine, Michigan, North Dakota, New Hampshire, South Dakota, and Vermont.

Staff has contacted twelve of the thirty-five state Public Utility Commissions to verify if CTI is certificated or registered to provide resold long distance telecommunications services in the states listed in the Application. Staff also inquired whether there were any consumer complaints filed against CTI. The information that Staff has obtained indicates that there have been no consumer complaints filed against CTI, with the exception of three states. The State of Wyoming reported one alleged slamming complaint on June 26, 2008, but upon investigation found that the customer actually authorized the change on a third party verification. The State of Washington reported one alleged slamming complaint in 2007 and two disputed billing complaints, one each in 2007 and 2008. Research into the slamming complaint indicated a third party verification where the customer actually requested to switch providers and both disputed billing complaints were resolved as well. The State of New Jersey reported six alleged slamming complaints over the last twelve months. In each of the six cases, CTI provided a third party authorization whereby someone authorized the switch. A search of the Federal Communications Commission website found that there have been no complaints filed against CTI. The Consumer Services Section of the Utilities Division reports no complaints, inquiries, or opinions filed within Arizona from January 2004 through June 23, 2008. In Arizona, the Applicant intends to resell the telecommunications services of Global Crossing and Qwest Corporation.

Based on the above information, Staff has determined that the Applicant has sufficient technical capabilities to provide resold interexchange long distance telecommunications services in Arizona.

REVIEW OF FINANCIAL INFORMATION

The Applicant is required to have a performance bond to provide resold interexchange service in the State of Arizona.

In its initial Application, the Applicant provided **unaudited** financial statements of Consumer Telcom, Inc. for the 12 months ending December 31, 2005 and December 31, 2006. On July 15, 2008, CTI provided unaudited financial statements for six months ending June 2008. Unaudited financial statements for the twelve months ending December 31, 2007 were also provided to Staff on September 15, 2008. The 2008 financial statements list total assets of \$1,526,165; total equity of \$5,447; and net income of \$23,434. The 2007 financial statements list total assets of \$1,439,999; total negative equity of \$86,512 and a net loss of \$376,556. Meanwhile, the 2006 financial statements list assets of \$319,632; equity of \$272,705 and a net income of \$309,271. The 2005 financial statements list assets of \$13,118, negative equity of \$36,565 and a net loss of \$578. The Applicant did not provide notes related to the financial statements but did provide Staff with information pertaining to the year to year variances in CTI's financial statements.

The Applicant stated in its Tariff, Section 2.13 on page 23, that it does not collect advances, deposits and/or prepayments from its resold interexchange customers. If at some future date, the Applicant wants to collect advances, deposits and/or prepayments from its resold interexchange customers, Staff recommends that the Applicant be required to file an Application with the Arizona Corporation Commission ("Commission") for Commission approval. Such Application must reference the decision in this docket and must explain the Applicant's plans for procuring a performance bond.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many companies that provide resold interexchange telecommunications service or the customers may choose a facilities-based provider. If the customer wants interexchange service from a different provider immediately, that customer is able to dial a 101XXXX (dial around) access code. In the longer term, the customer may permanently switch to another company.

The Applicant has not had an Application for service denied in any state. The Applicant indicated that none of its officers, directors or partners have been involved in any civil or criminal investigations, formal or informal complaints. The Applicant also indicated that none of its officers, directors or partners have been convicted of any criminal acts in the past ten (10) years. The Consumer Services Section of the Utilities Division reports that CTI is in good standing with the Corporations Division of the Commission.

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

- The Applicant has filed a proposed tariff with the Commission.**
- The Applicant has filed sufficient information with the Commission to make a fair value determination.**

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information

from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to several long distance carriers operating in Arizona and comparable to the rates the Applicant charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value rate base information provided should not be given substantial weight in this analysis.

COMPETITIVE SERVICES' RATES AND CHARGES

Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with Arizona Administrative Code ("A.A.C.") R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

Minimum and Maximum Rates

A.A.C. R14-2-1109 (A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Application for a Certificate of Convenience and Necessity to offer intrastate interexchange long distance services as a reseller and the Applicant's petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange long distance services, Staff recommends approval of the Application. In addition, Staff further recommends that:

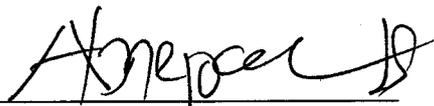
1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
6. The Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;
7. The Applicant should be ordered to participate in and contribute to the Arizona Universal Service Fund, as required by the Commission;
8. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's name address or telephone number;
9. If at some future date, the Applicant wants to collect advances, deposits and/or prepayments from its resold interexchange customers, Staff recommends that the Applicant be required to file an Application with the Commission for Commission approval. Such Application must reference the decision in this docket and must explain the Applicant's plans for procuring its performance bond;
10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

11. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
12. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate;
13. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to several distance carriers operating in Arizona and comparable to the rates the Applicant charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value rate base information provided should not be given substantial weight in this analysis;
14. In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107.

Staff recommends that the CC&N granted to the Applicant be considered Null and Void after due process if the Applicant fails to meet the conditions stated below:

1. The Applicant shall file conforming tariffs within 365 days from the date of an Order in this matter or 30 days prior to providing service, which ever comes first, and in accordance with the Decision.

This Application may be approved without a hearing pursuant to A.R.S. § 40-282.

for 
Ernest G. Johnson
Director
Utilities Division

Date: 11/4/08

Originator: Pamela J. Genung

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DOCKET NO.: T-20559A-07-0613

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