

ORIGINAL

OPEN MEETING ITEM



0000092134

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



BRIAN C. McNEIL  
Executive Director

ARIZONA CORPORATION COMMISSION

DATE: DECEMBER 23, 2008

DOCKET NO.: C-00000A-08-0182

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 Opinion and Order on:

VARIOUS COMPANIES  
(FAILURE TO FILE 2006 ANNUAL REPORTS)

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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JANUARY 6, 2009

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 Open Meeting to be held on:

JANUARY 13, 2009 and JANUARY 14, 2009

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

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AZ CORP COMMISSION  
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Arizona Corporation Commission  
DOCKETED

DEC 23 2008

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 MIKE GLEASON, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE

8 IN THE MATTER OF THE COMMISSION ON ITS  
9 OWN MOTION INVESTIGATING THE FAILURE  
10 OF NUMEROUS UTILITIES TO FILE ANNUAL  
11 REPORTS FOR CALENDAR YEAR 2006.

DOCKET NO. C-00000A-08-0182  
DECISION NO. \_\_\_\_\_

12 **OPINION AND ORDER**

13 DATE OF PRE-HEARING: August 28, 2008  
14 DATE OF HEARING: October 21, 2008  
15 PLACE OF HEARING: Phoenix, Arizona  
16 ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
17 APPEARANCES: Ms. Nancy Scott, Staff Attorney, Legal Division, on  
18 behalf of the Utilities Division of the Arizona  
19 Corporation Commission.

20 **BY THE COMMISSION:**

21 On May 16, 2008, the Arizona Corporation Commission ("Commission") issued Decision No.  
22 70346, a Complaint and Order to Show Cause ("Complaint" or "OSC") against the following named  
23 Respondents<sup>1</sup> for failing to file their 2006 Utilities Division Annual Reports ("Annual Reports"):

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>
T-04097A	ACCXX COMMUNICATIONS, LLC
T-03600A	ALLCOM USA dba ALLCOM / ALLCOM INTERNATIONAL
W-02250A	ARIZONA WINDSONG REALTY, INC.
T-03299A	BUEHNER-FRY, INC. dba DIRECTDIAL USA
T-02764A	BUEHNER-FRY, INC. dba RESORT OPERATOR SERVICES
W-02391A	CERBAT WATER COMPANY
W-01558A	CROWN KING WATER COMPANY, INC.
T-03822A	FREEDOMSTARR COMMUNICATIONS
W-02271A	GREEN ACRES WATER COMPANY
W-02077A	HOPEVILLE WATER COMPANY, INC.
T-04095A	INFONET TELECOMMUNICATIONS CORPORATION
T-04140A	JLS MARKETING dba JLS
W-01557A	LAKE VERDE WATER COMPANY
T-03303A	MARTIN N. MOHAMED dba DESERT TELECOM

28 <sup>1</sup> The named Respondents shall hereinafter be referred to as the Non-filing Respondents.

1	W-02504A	MEADOW WATER COMPANY
	W-01849A	MOBILE WATER COMPANY
2	W-02164A	MORRISTOWN WATER COMPANY
	T-04054A	NATIONAL TELEPHONE COMPANY, LLC
3	W-01642A	PETER O'CROTTY dba DESPOBLADO WATER COMPANY
	T-03583A	PREFERRED CARRIER SERVICES, INC. dba PHONES FOR ALL / TELEFONOS PARA TODOS
4	T-04255A	R. SCOTT DELONG dba DELONG INDUSTRIES GROUP, INC.
	T-04193A	R2C COMMUNICATIONS, INC.
5	T-04064A	RANDY HEINSOHN
	W-01407A	STRAWBERRY WATER COMPANY
6	T-02972A	SYUFY ENTERPRISES / CENTURY THEATRES c/o CINEMARK THEATRES, INC.
7	W-01344A	TACNA WATER MANAGEMENT COMPANY
	T-04027A	TELEFYNE INCORPORATED
8	T-04172A	TELLOGIC dba QUALITY TELEPHONE
	T-04068A	THOMAS TWISS dba AMERICAN COMMUNICATIONS OF OHIO, INC.
9	T-03402A	TRANSAMERICAN TELEPHONE, INC.
	W-02168A	TRUXTON CANYON WATER COMPANY, INC.
10	T-04058A	UNITED SYSTEMS ACCESS TELECOM, INC.
	W-02372A	VERDE LAKES WATER CORPORATION
11	T-20425A	V-GLOBAL COMMUNICATIONS, LLC
	W-01084A	WILLIAM P. FARR dba SALOME WATER COMPANY

13       Therein, the Commission ordered a hearing to be conducted at a date and time set by the  
14 Hearing Division.

15       On June 12, 2008, by Procedural Order, a pre-hearing conference was scheduled on the  
16 Complaint against the above-named Non-filing Respondents. The Commission's Utilities Division  
17 ("Staff") was ordered to file a Memorandum by August 25, 2008, to indicate which, if any,  
18 Non-filing Respondents filed their 2006 Annual Reports so they could be dismissed from the  
19 proceeding.

20       On August 25, 2008, Staff filed its Memorandum indicating that as of that date twelve utilities  
21 had filed their 2006 Annual Reports and requested that they be dismissed from the proceeding. Staff  
22 further disclosed that at that time three utilities had filed applications for the cancellation of their  
23 Certificate(s) of Convenience and Necessity ("Certificate").

24       On August 28, 2008, a pre-hearing conference was held at the Commission's offices in  
25 Phoenix, Arizona. Staff appeared with counsel. No appearances were entered by any of the  
26 Non-filing Respondents. By Procedural Order, a hearing was scheduled for October 21, 2008.

27       On October 20, 2008, Staff filed its second Memorandum indicating that as of that date three  
28 more utilities had filed their 2006 Annual Reports and one more utility had filed an application for

1 the cancellation of its Certificate and Staff recommended their dismissal from the proceeding.

2 On October 21, 2008, a full public hearing was held by the Commission at its offices in  
3 Phoenix, Arizona before a duly authorized Administrative Law Judge of the Commission. Staff  
4 appeared with counsel. No other parties named in the proceeding appeared. At the conclusion of the  
5 hearing, the matter was taken under advisement pending submission of a Recommended Opinion and  
6 Order to the Commission.

7 On November 17 and 18, 2008, Staff filed its third and fourth memorandums, respectively,  
8 indicating that Staff had determined that one company no longer existed and has no customers and  
9 recommended that its Certificate be cancelled. Staff further indicated that three more of the Non-  
10 filing Respondents had late-filed their 2006 Annual Reports and should be dismissed from the  
11 proceeding.

12 \* \* \* \* \*

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

15 **FINDINGS OF FACT**

16 1. Pursuant to authority granted by the Commission, the Non-Filing Respondents were  
17 authorized to conduct business at various times in Arizona as public utilities.

18 2. On May 16, 2008, the Commission issued Decision No. 70346, a Complaint against  
19 the Non-filing Respondents described above due to their failure to file their 2006 Annual Reports.

20 3. On August 25 and October 20, 2008, Staff filed Memoranda in which Staff's witness,  
21 Ms. Kim Batista, the Chief of Compliance, indicated that the following companies had late-filed their  
22 2006 Annual Reports and should be dismissed from the proceeding: Arizona Windsong Realty, Inc.;  
23 Buehner-Fry, Inc. dba Directdial USA; Buehner-Fry, Inc. dba Resort Operator Services; Cerbat  
24 Water Company; Lake Verde Water Company; Peter O'Crotty dba Despoblado Water Company;  
25 R. Scott Delong dba Delong Industries Group, Inc.; Tacna Water Management Company; Tellogic  
26 dba Quality Telephone; Thomas Twiss dba American Communications of Ohio, Inc.; Truxton  
27 Canyon Water Company, Inc.; Verde Lakes Water Corporation; Syufy Enterprises/Century Theatres;

28

1 Freedomstarr Communications, Inc.; and Randy Heinsohn.<sup>2</sup>

2 4. Ms. Batista further indicated in Staff's Memoranda that three telephone utilities and  
3 one water utility named in the Complaint have filed applications for the cancellation of their  
4 Certificates and should be dismissed from the proceeding as follows: JLS Marketing dba JLS;  
5 Telefyne Incorporated; United Systems Access Telecom, Inc.; and Mobile Water Company.<sup>3</sup> Staff  
6 indicates their Certificates will be cancelled by subsequent proceedings.

7 5. Commission records reveal that of the above-named Non-filing Respondents, Crown  
8 King Water Company, Lake Verde Water Company, Meadow Water Company, Morristown Water  
9 Company and William P. Farr dba Salome Water Company have had their Certificates revoked by  
10 prior Commission Orders.

11 6. Notice of the proceeding was given in the manner prescribed by law.

12 7. A number of the Procedural Orders which contained the notice of the proceeding's  
13 pre-hearing conference and the hearing that were mailed to the Non-filing Respondents' last known  
14 address were returned to the Commission with notations such as "return to sender, no forwarding  
15 order on file," "moved, left no address, unable to forward," and "forwarding order expired." Those  
16 Non-filing Respondents include as follows: ACXX Communications, LLC; AllCom USA dba  
17 AllCom/AllCom International; Crown King Water Company, Inc.; Green Acres Water Company;  
18 Hopeville Water Company, Inc.; Infonet Telecommunications Corporation; Martin N. Mohamed dba  
19 Desert Telecom; Meadow Water Company; Morristown Water Company; National Telephone  
20 Company, LLC; Preferred Carrier Services, Inc. dba Phones For All / Telefonos Para Todos; R2C  
21 Communications, Inc.; Strawberry Water Company; Transamerican Telephone, Inc.; V-Global  
22 Communications, LLC; and William P. Farr dba Salome Water Company.

23 8. Ms. Batista testified that the Complaint had been filed because the various utility  
24 companies and/or entities that were described above as the Non-filing Respondents had failed to file  
25 their 2006 Annual Reports by April 15, 2007, in violation of Arizona law and the Commission's  
26 rules.

27 \_\_\_\_\_  
28 <sup>2</sup> These Respondents are hereinafter known as the Late-filed Respondents.

<sup>3</sup> These Respondents are hereinafter known as the Cancellation Respondents.

1           9.       Ms. Batista indicated that the Commission sent out delinquent notices to all of the  
2 above-referenced utilities and/or entities to advise them that they had failed to file their 2006 Annual  
3 Reports. Following the mailing of the delinquent notices, personal phone calls to each of the utilities  
4 along with follow-up phone calls were made in an attempt to secure compliance with the requirement  
5 that the utilities file their 2006 Annual Reports. Since there was continued non-compliance, the  
6 Complaint was prepared and filed.

7           10.       While Staff believes the Non-filing Respondent water utilities are providing service,  
8 there is no evidence whether the telecommunications utilities are still providing service.

9           11.       Staff is recommending that the Certificates of the Non-filing Respondents which have  
10 either failed to file their 2006 Annual Reports and/or failed to advise the Commission of their proper  
11 mailing addresses be revoked and the utility and/or entity be penalized financially. Staff further  
12 recommends that any Non-filing Respondents which have previously had their Certificates revoked  
13 should be penalized financially.

14           12.       On November 17 and 18, 2008, Staff filed its third and fourth memorandums,  
15 respectively. Therein, Staff recommended that the Certificate of Meadow Water Company should be  
16 cancelled because Staff, after visiting the Company's service area, found that it is non-existent and  
17 has no customers.<sup>4</sup> Staff further recommended that since Green Acres Water Company, Hopeville  
18 Water Company, Inc. and Strawberry Water Company had late-filed their 2006 Annual Reports, they  
19 should be classified as Late-filed Respondents and should be dismissed from the proceeding.

20           13.       Based upon our review of the record, we believe that Staff's recommendations with  
21 respect to the Late-filed and Cancellation Respondents are appropriate and they should be dismissed  
22 from the proceeding. With respect to the above-described Non-filing Respondents, their Certificates  
23 should be revoked and they should also be assessed financial penalties. The Non-filing Respondents  
24 which have had their Certificates revoked previously should also be assessed financial penalties.  
25 However, if any affected Non-filing Respondent files, within 60 days of the effective date of this  
26 Decision, its 2006 Annual Report, then the Order of revocation and penalty as to that utility and/or

27 <sup>4</sup> Although Staff is recommending that Meadow Water Company's Certificate should be cancelled, this is a moot issue  
28 since the Commission, in Decision No. 69180 (December 5, 2006), revoked the Certificate of Meadow Water Company  
for failing to file its 2002 Annual Report.

1 entity should be rendered null and void without further Order by the Commission.

2 **CONCLUSIONS OF LAW**

3 1. The above-referenced Non-filing Respondents are public service corporations within  
4 the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

5 2. The Commission has jurisdiction over the Non-filing Respondents and of the subject  
6 matter of the Complaint herein.

7 3. The revocation of the Certificates of the remaining Non-filing Respondents as  
8 described above would benefit the public interest.

9 4. The Complaint against the Late-filed Respondents, and the Cancellation Respondents  
10 should be dismissed.

11 5. Pursuant to A.R.S. § 40-425, the remaining Non-filing Respondents should also each  
12 be penalized the sum of \$200 unless, within 60 days of the effective date of this Decision, the  
13 remaining Non-filing Respondent files its 2006 Annual Report.

14 **ORDER**

15 IT IS THEREFORE ORDERED that unless previously revoked, the Certificates of  
16 Convenience and Necessity of the remaining Non-filing Respondents and the authorizations therein  
17 be revoked as follows:

18	<b><u>DOCKET NO.</u></b>	<b><u>COMPANY NAME</u></b>
19	T-04097A	ACCXX COMMUNICATIONS, LLC
20	T-03600A	ALLCOM USA dba ALLCOM / ALLCOM INTERNATIONAL
21	T-04095A	INFONET TELECOMMUNICATIONS CORPORATION
22	T-03303A	MARTIN N. MOHAMED dba DESERT TELECOM
23	T-04054A	NATIONAL TELEPHONE COMPANY, LLC
24	T-03583A	PREFERRED CARRIER SERVICES, INC. dba PHONES FOR ALL / TELEFONOS PARA TODOS
25	T-04193A	R2C COMMUNICATIONS, INC.
26	T-03402A	TRANSAMERICAN TELEPHONE, INC.
27	T-20425A	V-GLOBAL COMMUNICATIONS, LLC

28 IT IS FURTHER ORDERED that the Complaint against the Late-filed Respondents: Arizona  
Windsong Realty, Inc.; Buehner-Fry, Inc. dba Directdial USA; Buehner-Fry, Inc. dba Resort  
Operator Services; Cerbat Water Company; Lake Verde Water Company; Peter O'Crotty dba  
Despoblado Water Company; R. Scott Delong dba Delong Industries Group, Inc.; Tacna Water

1 Management Company; Tellogic dba Quality Telephone; Thomas Twiss dba American  
2 Communications of Ohio, Inc.; Truxton Canyon Water Company, Inc.; Verde Lakes Water  
3 Corporation; Syufy Enterprises/Century Theatres; Freedomstarr Communications, Inc.; and Randy  
4 Heinsohn is hereby dismissed.

5 IT IS FURTHER ORDERED that the Complaint against the Cancellation Respondents as  
6 follows: JLS Marketing dba JLS; Telefyne Incorporated; United Systems Access Telecom, Inc.; and  
7 Mobile Water Company is hereby dismissed.

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1 IT IS FURTHER ORDERED that the above-named remaining Non-filing Respondents  
2 including Crown King Water Company, Lake Verde Water Company, Meadow Water Company,  
3 Morristown Water Company and William P. Farr dba Salome Water Company that have previously  
4 had their Certificates revoked shall each be penalized the sum of \$200 unless, within 60 days of the  
5 effective date of this Decision, the above-named Non-filing Respondent files its 2006 Utilities  
6 Division Annual Report with the Director of the Commission's Utilities Division, then said  
7 revocation and/or financial penalty shall be null and void without further Order by the Commission.

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

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
10  
11

12 CHAIRMAN \_\_\_\_\_ COMMISSIONER

13  
14 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

15  
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 the  
19 Commission to be affixed at the Capitol, in the City of Phoenix,  
20 this \_\_\_\_ day of \_\_\_\_\_, 2009.

21 \_\_\_\_\_  
22 BRIAN C. McNEIL  
23 EXECUTIVE DIRECTOR

24 DISSENT \_\_\_\_\_

25 DISSENT \_\_\_\_\_

26 MES:db  
27  
28

1 SERVICE LIST FOR:

2006 ANNUAL REPORTS

2 DOCKET NO.:

C-00000A-08-0182

3 ACCXX Communications, LLC  
4 100 S. Ashley Dr., #879  
5 Tampa, FL 33602

Preferred Carrier Services, Inc.  
Phones For All / Telefonos Para Todos  
c/o Prentice-Hall Corp System  
2338 W. Royal Palm Rd., Ste. J  
Phoenix, AZ 85021

6 AllCom USA  
7 AllCom / AllCom International  
8 c/o TCS Corporate Services, Inc.  
9 815 N. 1st Ave., #4  
10 Phoenix, AZ 85003

R2C Communications, Inc.  
9532 Mission Rd., #25  
Overland, KS 66206

11 Crown King Water Company, Inc.  
12 6428 W. Garden Dr.  
13 Glendale, AZ 85304

Randy Heinsohn  
730 Kofa Ave.  
Parker, AZ 85344

14 Freedomstarr Communications, Inc.  
15 8383 Wilshire Blvd., Ste. 333  
16 Beverly Hills, CA 90211-2415

Strawberry Water Company  
Albert Hunt  
HC 1, Box 817  
Pine, AZ 85544-9719

17 Green Acres Water Co.  
18 P.O. Box 4995  
19 Yuma, AZ 85366

Syufy Enterprises/Century Theatres  
c/o Cinemark Theatres, Inc.  
3900 Dallas Pkwy., Ste. 500  
Plano, TX 75093

20 Hopeville Water Company, Inc.  
21 1415 S. Palo Verde Rd., Rt. 2  
22 Buckeye, AZ 85326

TransAmerican Telephone, Inc.  
209 E. University  
Denton, TX 76201

23 Infonet Telecommunications Corp.  
24 2160 E. Grand Avenue  
25 El Segundo, CA 90245

Buehner-Fry, Inc.  
Resort Operator Services  
40 NW Greenwood Ave.  
Bend, OR 97701

26 Desert Telecom  
27 Martin N. Mohamed  
28 P.O. Box 821  
Brawley, CA 92227

David F. Wright, CPA, PC  
2652 W. Guadalupe Rd., Ste. 102  
Mesa, AZ 85202

Mobile Water Company  
Garth Wieger  
6720 N. Scottsdale Rd., Ste. 335  
Scottsdale, AZ 85253

V-Global Communications, LLC  
800 Southwood Blvd., Ste. 212  
Incline Village, NV 89451

Morristown Water Company  
P.O. Box 156  
Morristown, AZ 85342

The CommLaw Group  
Jonathan S. Marashlian  
1483 Chain Bridge Rd., Ste. 301  
McLean, VA 22101

National Telephone Company, LLC  
3116 Garden Brook Dr.  
Farmers Branch, TX 75234

1 Salome Water Co.  
 William P. Farr  
 2 P.O. Box 550  
 Salome, AZ 85348  
 3  
 4 Arizona Wndsong Realty, Inc.  
 PO Box 261  
 Sanders, AZ 86512  
 5  
 6 Buehner-Fry, Inc.  
 Directdial USA  
 40 NW Greenwood Ave.  
 7 Bend, OR 97701  
 8 Cerbat Water Company  
 2409 Ricca Dr.  
 9 Kingman, AZ 86401  
 10 Lake Verde Water Company  
 PO Box 2777  
 11 Camp Verde, AZ 86322-2777  
 12 Peter O'Crotty  
 Despoblado Water Company  
 13 8815 N. Verch Way  
 Tucson, AZ 85737  
 14  
 15 R. Scott DeLong  
 DeLong Industries Group, Inc.  
 1031 Calle Recodo, Ste. A  
 16 San Clemente, CA 92673  
 17 Tacna Water Company  
 2993 S. Arizona Ave.  
 18 Yuma, AZ 85365  
 19 TelLogic  
 Quality Telephone  
 20 PO box 7310  
 Dallas TX 75209-0310  
 21  
 22 Thomas Twiss  
 American Communications Of Ohio, Inc.  
 PO Box 351  
 23 New Albany, OH 43504  
 24 Truxton Canyon Water Co., Inc.  
 2409 Ricca Dr.  
 25 Kingman, AZ 86401  
 26 Verde Lakes Water Corp.  
 2867 S. Verde Lakes Dr., #B  
 27 Camp Verde, AZ 86322  
 28

JLS Marketing, LLC  
 JLS  
 2024 N. 125th Ave.  
 Avondale, AZ 85323

Telfyne Incorporated  
 PO Box 2251  
 Milton, FL 32571-0451

United Systems Access Telecom, Inc.  
 5 Bradgon Lane, Ste. 200  
 Kennebunk, ME 04043

Janice Alward, Chief Counsel Legal Division  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington Street  
 Phoenix, AZ 85007

Ernest G. Johnson, Director Utilities Division  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington  
 Phoenix, AZ 85007