

ORIGINAL

MEMORANDUM



0000094572

RECEIVED

2009 MAR 13 P 3: 22

AZ CORP COMMISSION
DOCKET CONTROL

TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

EA for GGT

Date: March 13, 2009

RE: STAFF REPORT FOR THE ORDER TO SHOW CAUSE VS. TELLOGIC DBA
QUALITY TELEPHONE (DOCKET NO. T-04172A-03-0153)

Attached is the Staff Report for the Order to Show Cause versus TelLogic dba Quality Telephone. Staff recommends the revocation of the Company Certificate of Convenience and Necessity and or fines and penalties as the Commission deems fit.

EGJ:KDB:tdp

Originator: Kimberly Battista

Arizona Corporation Commission
DOCKETED

MAR 13 2009

DOCKETED BY	<i>MA</i>
-------------	-----------

Service List for: TelLogic dba Quality Telephone
Docket No. T-04172A-03-0153

Frank McGovern, Senior Manager
TelLogic dba Quality Telephone
Post Office Box 7310
Dallas, Texas 75209-0310
Via First Class Mail and Certified Mail
Return Receipt Requested

Ms. Janice Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Reporting Service, Inc.
2200 North Central Avenue, Suite 502
Phoenix, Arizona 85004-1481

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

ORDER TO SHOW CAUSE
TELLOGIC DBA QUALITY TELEPHONE
DOCKET NO. T-04172A-03-0153

MARCH 13, 2009

STAFF ACKNOWLEDGMENT

The Staff Report for the Order to Show Cause v. TelLogic dba Quality Telephone, Docket No. T-04172A-03-0153 was the responsibility of the Staff member listed below.

A handwritten signature in black ink, appearing to read "Kimberly Battista". The signature is fluid and cursive, with a large initial "K" and a stylized "B".

Kimberly Battista
Chief of Compliance

EXECUTIVE SUMMARY
TELLOGIC DBA QUALITY TELEPHONE
DOCKET NO. T-04172A-03-0153

On December 9, 2003, the Commission issued Decision No. 66611 which granted a CC&N to TelLogic dba Quality Telephone ("Quality") conditioned upon timely compliance. As of the filing of this Staff Report, Quality remains out of compliance with the requirement to file a \$25,000 performance bond with the Commission. Staff recommends that the Commission find Quality out of compliance with Decision No. 66611. Staff further recommends the Commission revoke the Certificate of Convenience and Necessity granted to Quality and assess fines and/or penalties as the Commission deems fit.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
COLLECTION OF COMPLIANCE	1
NATURE OF BUSINESS.....	2
COMPLAINTS IN OTHER STATES	2
COMPLIANCE WITH UNIVERSAL SERVICE FUND	3
CORPORATION STANDING IN ARIZONA.....	3
CONCLUSIONS AND RECOMMENDATIONS.....	3

INTRODUCTION

On March 12, 2003, TelLogic dba Quality Telephone ("Company" or "Quality") filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold local exchange telecommunications services with the State of Arizona. On December 9, 2003, the Commission issued Decision No. 66611 which granted a CC&N to Quality conditioned upon timely compliance. The following compliance item remains outstanding.

"...Quality's resold local exchange Certificate should be conditioned upon the Applicant procuring a performance bond...within 365 days from the date of an Order in this matter, or 30 days prior to providing service...the performance bond should remain in effect until further Order of the Commission."

"...procure a performance bond in the initial amount of \$25,000, with the minimum bond amount of \$25,000 to be increased if at any time it would be insufficient to cover all advances, deposits, or prepayments collected from its customers..."

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

COLLECTION OF COMPLIANCE

On December 9, 2004, Staff contacted the Company regarding the past due compliance item. The Company did not respond to Staff's call or notice. On September 19, 2005, Staff contacted Frank McGovern, Senior Manager of Quality, regarding the past due compliance item and emailed a copy of the order to Mr. McGovern.

On May 3, 2006, Staff again contacted Mr. Frank McGovern regarding the delinquent performance bond filing. Mr. McGovern stated that he would like an email sent to him. Staff did so and also mailed a Notice of Delinquency on July 7, 2006. On July 17, 2006 and October 12, 2007, Staff emailed Mr. McGovern regarding the Notice of Delinquency letter that was mailed. On November 12, 2007, Mr. McGovern contacted Staff in regards to the email. Mr. McGovern inquired about a letter of credit instead of a performance bond. Mr. McGovern stated that he would have his bank issue the \$25,000 bond/letter of credit and that it would take 4-5 weeks for the bond to be in place. The Commission should receive the filing by the end of the year.

On June 11, 2008, Staff called and left a message for Mr. McGovern regarding the status of the performance bond. On June 12, 2008, Staff contacted Mr. McGovern once again. Mr. McGovern advised Staff that the performance bond filing had not been a priority for him. Staff advised Mr. McGovern that the compliance delinquencies are a priority of the Commission especially due to the extreme delinquent status. Mr. McGovern stated that he planned to send a

Letter of Credit for the \$25,000 bond requirement. Mr. McGovern further stated that it would take a couple of weeks for him to obtain the letter of credit from the bank. Staff advised him that the wording of the original order stated "performance bond" and that a letter of credit would not suffice unless the Commission voted to change the order.

On June 26, 2008, Staff received a call from Mr. McGovern. He stated that he is in the process of obtaining a bond from Chase Bank and it will take about another two weeks due to he is in travel status until after the 4th of July. He advised that he will call back as soon as possible if information changes. On July 9, August 18, September 12, October 2, and October 16, 2008, Staff left a voice message with Mr. McGovern following up on the status of the Performance Bond without response from the Company.

On February 10, 2009, Staff left a voice message for Mr. McGovern as well as an email regarding the procedural conference set for February 12, 2009. On February 11, 2009, Staff left two voice messages for Mr. McGovern. On February 12, 2009, Staff left a voice message for Mr. McGovern. On February 24, 2009, Staff left a voice message as well as sent an email and physical letter to the Company.

On February 25, 2009, Staff received a return call from Mr. McGovern. He stated that he had been really busy and asked if the Commission would allow him to provide a Letter of Credit instead of a bond. Staff reminded Mr. McGovern again that the Decision specifically requires a performance bond. Mr. McGovern advised he would have to get back with us. Staff discussed the evidentiary hearing coming up April 16, 2009, but also strongly advised Mr. McGovern that it would be easier if the bond was provided and the hearing could be avoided. On March 2, 2009, Staff contacted Mr. McGovern to follow up on the progress. Mr. McGovern stated that he would need to call back. On March 3, 2009, Staff spoke with Mr. McGovern and he stated that he is working on the bond.

NATURE OF BUSINESS

Quality provides competitive resold local exchange telecommunications services with the State of Arizona and 12 other states. According to the Company's most recent annual report for calendar year 2007, it serves 130 customers and reports \$173,830 of Arizona Intrastate gross operating revenues.

COMPLAINTS IN OTHER STATES

As stated previously, Quality offers resold local exchange telecommunications services in 13 states including Arizona. Staff investigated complaints filed in each of the 12 other states and submits the following:

Arkansas – 2 billing complaints that have been resolved

California – no response

Colorado – There is an open complaint docket relating to the Company's delinquent reporting of the High Cost Fund.

Florida – The Company was fined \$500 for not complying with the Regulatory Assessment Fee rule and \$10,000 for not responding to the Commission's data request for its annual competition report to the legislature. The Company subsequently complied in part with the Regulatory Assessment Fee portion (the company paid the 2007 fee and \$500 fine, but did not pay the late payment charges) and did not respond at all to the data request portion. Therefore, its CLEC certificate was cancelled effective October 21, 2008.

Kentucky – No complaints

Mississippi – The Company has had little to no customer development in Mississippi since 2005 and no complaints have been filed.

Nevada – The Company's Certificate was cancelled in May 2008 for non-compliance of the annual report, Mill Assessment and no TDD.

North Carolina – no response

Oklahoma – The Company is in non-compliance with the Oklahoma Universal Service Fund and annual report requirements. It is on the list for revocation.

South Carolina – no response

Tennessee – no response

Texas – The Commission could not find any records for Quality Telephone.

COMPLIANCE WITH UNIVERSAL SERVICE FUND

Staff's investigation found that Quality is not participating in and contributing to the Arizona Universal Service Fund as required by the Commission and ordered in Decision No. 66611.

CORPORATION STANDING IN ARIZONA

A check of the corporation standing for TelLogic dba Quality Telephone on March 5, 2009, indicated the Company was not in good standing for failure to file its 2009 annual report which was due on January 30, 2009.

CONCLUSIONS AND RECOMMENDATIONS

Staff recommends that the Commission find Quality out of compliance with Decision No. 66611. Staff further recommends the Commission revoke the Certificate of Convenience and Necessity granted to Quality and assess fines and/or penalties as the Commission deems fit.