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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

- KRISTIN K. MAYES, Chairman
- GARY PIERCE
- PAUL NEWMAN
- SANDRA D. KENNEDY
- BOB STUMP

JUL 29 2009

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IN THE MATTER OF THE APPLICATION OF PHONE1, INC. FOR THE CANCELLATION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. T-04297A-08-0584

DECISION NO. 71187

ORDER

Open Meeting
June 23 and 24, 2009
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. Phone1, Inc. ("Phone1" or "Company") has a Certificate of Convenience and Necessity ("Certificate") to provide resold interexchange telecommunications services and alternative operator services within Arizona pursuant to Decision No. 67988 (July 18, 2005).

2. On December 1, 2008, the Company filed with the Commission an application for cancellation of its Certificate ("Application"). The Company stated that it does not have presubscribed long distance customers. Phone1 sent to its remaining customer owned pay telephone providers a notice advising those customers of its intention to discontinue service as of December 15, 2008.

3. On April 29, 2009, the Commission's Utilities Division Staff ("Staff") filed its Staff Report recommending approval of the Application.

4. Staff reviewed the Company's Annual Reports and found that the Company never provided long distance service in Arizona. Phone1's revenues from its alternative operator services

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1 have been below \$1,000 annually.

2 5. The Decision granting Phone1's Certificate did not require the Company to procure a
3 performance bond or irrevocable sight draft letter of credit. The Decision did not permit Phone1 to
4 collect any advances, prepayments or deposits from its customers, and Phone1 confirmed to Staff that
5 it had not done so.

6 6. Staff concluded there would be no economic risk in cancelling the Company's
7 Certificate because the Company has no Arizona customers and the Company did not collect
8 advances, deposits and/or prepayments.

9 7. The Commission's Consumer Services Section of the Commission's Utilities Division
10 reported that there were no customer complaints, inquiries or opinions against the Company, and that
11 the Company is in good standing with the Commission's Corporations Division.

12 8. Although the Company did not comply with certain terms of A.A.C. R-14-2-1107
13 requiring it to provide to customers a plan for the refund of deposits, a list of alternate providers, and
14 to publish notice of the application, Staff recommends that, because the Company did not collect
15 advances, deposits and/or prepayments, and currently has no customers in Arizona, compliance with
16 A.A.C. R-14-2-1107 should not be required.

17 9. As discussed in Decision No. 67404 (November 2, 2004), it would render
18 A.A.C. R14-2-1107 meaningless and would run afoul of the rule's intent and plain language to
19 exempt a Company from the requirements of the rule because it has no customers due to its
20 discontinuation of service. However, as discussed in that Decision, the intent of the rule is to ensure
21 that existing customers have advance notice of a telecommunications provider's pending plan to
22 discontinue service such that they will be afforded an opportunity to procure service through an
23 alternative provider prior to such discontinuance.

24 10. The Company never had any presubscribed long distance Arizona customers and
25 currently has no alternative operator services customers. During its operations, Phone1 did not
26 collect any advances, deposits and/or prepayments from its alternative operator services customers.
27 As noted earlier, Phone1 did provide notice to its alternative operator services customers of its
28 intention to discontinue service prior to doing so. Under these circumstances, the requirements of

1 A.A.C. R-14-2-1107 should be waived.

2 11. Staff recommends approval of Phone1's Application for cancellation of its Certificate.

3 12. Staff's recommendation is reasonable.

4 **CONCLUSIONS OF LAW**

5 1. The Company is a public service corporation within the meaning of Article XV of the
6 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

7 2. The Commission has jurisdiction over the Company and the subject matter of the
8 Application.

9 3. The cancellation of the Company's Certificate is in the public interest.

10 4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding
11 Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

12 5. Staff's recommendation is reasonable and should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the application of Phone1, Inc., for the cancellation of its Certificate of Convenience and Necessity to provide resold interexchange telecommunications services and alternative operator services in Arizona shall be, and is hereby, approved, and the Certificate of Convenience and Necessity is cancelled.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	
		
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 30th day of June, 2009.



 MICHAEL P. KEARNS
 INTERIM EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: PHONE1, INC.
2 DOCKET NO.: T-04297A-08-0584

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4 Monique Byrnes
5 TECHNOLOGIES MANAGEMENT, INC.
6 2600 Maitland Center Parkway, Suite 300
7 Maitland, Florida 32790

8 Janet Alward, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ernest G. Johnson, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, Arizona 85007
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