

ORIGINAL



0000098424

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

2009 MAY 28 A 9:37

ARIZONA CORPORATION COMMISSION
SECRET CONTROL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

STAFF of the Utilities Division,
Complainant,

vs.

TEL LOGIC dba QUALITY TELEPHONE
Respondent.

DOCKET NO. T-04172A-03-0153

STAFF'S NOTICE OF FILING

On December 9, 2003, the Arizona Corporation Commission ("Commission") issued Decision No. 66611, which directed Tel Logic ("Company") to file with the Commission's Compliance Section a performance bond in the amount of \$25,000 within 365 days of the order granting the company's Certificate of Convenience and Necessity ("CC&N"), or 30 days prior to beginning service.

Both time frames passed without Tel Logic having filed the bond.

On September 29, 2008, Commission Utilities Division Staff ("Staff") filed a Complaint requesting that the Commission find Tel Logic out of compliance with Decision No. 66611 and that the Company be ordered to appear before the Commission and explain the failure to comply.

On October 23, 2008, the Commission Issued Decision No. 70566, which directed the company to appear and show cause why it should not be found not in compliance with Decision No. 66611.

On January 26, 2009, the Commission Hearing Division issued a Procedural Order setting a procedural conference for February 12, 2009 and directing the Company to file a response to the Complaint on or before February 5, 2009.

The Company failed to timely file its response and did not appear at the February 12 procedural conference.

Arizona Corporation Commission

DOCKETED

MAY 28 2009

DOCKETED BY

1 On February 13, 2009, the Hearing Division issued a Procedural Order noting the
2 Company's failure to respond and setting an evidentiary hearing on the matter for April 16, 2009,
3 at which the Company would provide evidence as to why the Company should not be subject to
4 sanctions, including penalties and fines. The Company was further directed to file a response to
5 the Complaint on or before March 2, 2009.

6 The Company again failed to respond.

7 On March 13, 2009, Staff filed its Staff Report in this matter outlining the numerous
8 attempts Staff had made to contact the Company and to resolve the outstanding compliance issue.
9 Staff recommended at that time that the Commission revoke Tel Logic's CC&N and issue
10 sanctions against the Company.

11 On April 8, 2009, the company submitted the Compliance Section a bond in the amount of
12 \$25,000.

13 On April 10, 2009, Staff filed a motion requesting that the Commission dismiss the
14 Complaint.

15 Hearing was held in this matter on April 8, 2009. At the close of hearing the Hearing
16 Division directed Staff to investigate the Company's activities in other jurisdictions and to file an
17 updated Staff Report detailing Staff's findings.

18 Staff was directed to include in the filing its opinion regarding the potential ramifications
19 should the Commission revoke the Company's CC&N.

20 Staff hereby provides an updated Staff Report, as well as the requested opinion.

21 **CANCELLATION OF A TELECOMMUNICATIONS CC&N**

22 Pursuant to the Arizona Constitution, Article 15, Section 2, telecommunications service
23 providers are deemed "public service corporations", subject to the authority of the Corporation
24 Commission. In order to lawfully conduct utility operations in Arizona, utilities must receive from
25 the Commission a certification that the provision of such service would be necessary and
26 convenient and in the interest of the public. Once the Commission makes such a determination,
27 the utility receives a Certificate of Convenience and Necessity granting it the authority to begin
28 providing service.

1 If at some point the Commission determined that it would no longer be in the public
2 interest for a utility to provide service, the Commission may, after due process, revoke a utility's
3 CC&N. Once the CC&N is lost, the utility no longer enjoys protection from competition within its
4 designated service territory. While most utilities must nonetheless continue to serve their existing
5 customers, they are prevented from adding new customers.

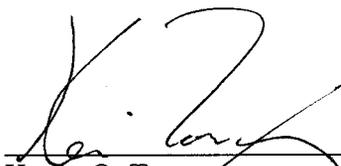
6 Telecommunications utilities present a slightly different situation. Telecommunications
7 utilities receive authorization to provide service over the entire State of Arizona. Their services
8 are typically competitive by nature. When a telecommunications utility ceases operations, it is
9 often readily replaceable with similar service.

10 Nonetheless, once the utility loses its authority to provide telecommunications services in
11 Arizona, the utility must cease all operations. However, the utility is prohibited from simply
12 "turning off" its service. The utility must still provide its customers with proper notice of its intent
13 to discontinue service as well as a list of alternative providers from which those customers could
14 arrange to receive service, as provided for in A.A.C. R14-2-1107. Only then may the company
15 discontinue service.

16 In the instant matter, should the Commission decide to revoke the Company's CC&N, Tel
17 Logic will be required to begin notifying its customers that it will be discontinuing service. Once
18 the notification process is complete, the Company will then be required to cease all
19 telecommunication service in Arizona. It is Staff's belief that due to the competitive nature of the
20 service Tel Logic provides, Arizona customers will be able to secure similar services without
21 excessive inconvenience.

22 RESPECTFULLY SUBMITTED this 28th day of May, 2009.

23
24
25
26
27
28



Kevin O. Torrey
Attorney, Legal Division
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

1 Original and Thirteen (13) copies
of the foregoing were filed this
2 28th day of May, 2009 with:

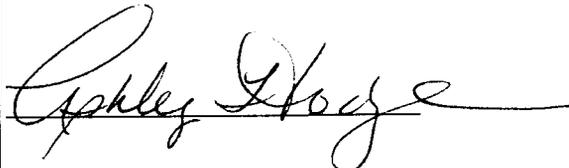
3 Docket Control
4 Arizona Corporation Commission
1200 West Washington Street
5 Phoenix, Arizona 85007

6 Copy of the foregoing mailed this
7 28th day of May, 2009 to;

8 Frank McGovern, Senior Manager
Tel Logic dba Quality Telephone
9 600 North Pearl Street, Suite 104
Dallas, Texas 75201

10 **Via First Class mail and**
11 **Certified Mail / Return Receipt Requested**

12 Tel Logic dba Quality Telephone
Post Office Box 7310
13 Dallas, Texas 75209-0310
14 **Via First Class mail and**
Certified Mail / Return Receipt Requested

15
16
17 
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM

TO: Docket Control

FROM: Ernest G. Johnson
Director
Utilities Division

EA for EGJ

Date: May 27, 2009

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

Attached is the Supplemental Staff Report for the Order to Show Cause versus TelLogic dba Quality Telephone. Prior to the hearing in this matter, the Company filed the delinquent Performance Bond as required by Decision No. 66611. Staff is filing this supplemental Staff Report to answer questions raised by the Administrative Law Judge during the hearing that was held on April 16, 2009.

EGJ:KDB:lhmm

Originator: Kimberly Battista

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

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

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

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

SUPPLEMENTAL
STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

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

MAY 27, 2009

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
COMPLAINTS IN OTHER STATES	1
ARIZONA	2
UNIVERSAL SERVICE FUND	2
CONSUMER COMPLAINTS	3
CORPORATION STATUS	3
COMPLIANCE.....	3
PERFORMANCE BOND	3
COMPETITIVE SERVICES.....	3
PREVIOUS DECISIONS.....	4

EXHIBITS

Public Utilities Commission of the State of Colorado – Decision No. R08-1076.....	A
Florida Public Service Commission – Proposed Order	B
Pubic Utilities Commission of Nevada – Order	C

STAFF ACKNOWLEDGMENT

The Supplemental 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 the first name "Kimberly" written in a larger, more prominent script than the last name "Battista".

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 the initial Staff Report, Quality remained out of compliance with the requirement to file a \$25,000 performance bond with the Commission. However, prior to the hearing, Quality filed the required performance bond with the Commission. Staff subsequently filed a motion to dismiss the Complaint and Order to Show Cause on April 10, 2009. This supplemental Staff report answers questions raised by the Administrative Law Judge during the hearing that was held on April 16, 2009.

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.

“...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.

On September 29, 2008, Staff filed a Complaint against Quality for failure to file the required performance bond in a timely manner. On October 23, 2008, the Commission issued Decision No. 70566, an Order to Show Cause. Prior to the hearing in this matter, Quality filed the required performance bond on April 8, 2009. Staff subsequently filed a motion to dismiss the Complaint and Order to Show Cause on April 10, 2009. The hearing in this matter was held on April 16, 2009. At the hearing, the administrative law judge asked Staff to investigate Quality in other jurisdictions as well as the ramifications if the Commission were to revoke the Certificate from the Company.

Complaints in other States

Staff contacted the Commissions in each of the 12 other states that Quality provides service and inquired as to its status and complaint history.

Arkansas – There were two billing complaints filed by the same consumer. Both have been resolved.

California – no response received from the Commission

Colorado – Quality Telephone was part of a complaint docket in 2008 related to delinquent reporting to the Commission’s high cost fund. Quality eventually made the

appropriate filing and was dismissed from the complaint. The Colorado Order is attached as Exhibit A.

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. The Florida Order is attached as Exhibit B.

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 not having paid their annual assessment fee, their surcharge for assistance to persons with impaired speech and hearing (TDD) and had not filed an annual report. The Nevada Order is attached as Exhibit C.

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 Commission list for revocation.

South Carolina – no response

Tennessee – no response

Texas – The Commission lists Quality as an active CLEC provider since July 31, 2000. No complaints were issued against the Company.

ARIZONA

Universal Service Fund

During Staff's investigation of Quality, it was noted that the Company had not been participating in the Arizona Universal Service Fund. This is in violation of Decision No. 66611, page 3, Finding of Fact 10(g). A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service Fund.

Staff contacted SOLIX, the administrator of the Arizona Universal Service Fund ("AUSF"), regarding Quality and its participation in the AUSF. SOLIX had not sent Quality correspondence regarding the AUSF because it had not been made aware that Quality was operating in the State of Arizona. According to SOLIX, most carriers contact them when they begin operating in a new state, however Quality did not do so. SOLIX has since added Quality to the fund database with a start date of 1/1/09.

Consumer Complaints

The Consumer Services section shows no complaints or inquiries for Quality from 2003 to present.

Corporation Status

The Corporations Division states that Quality is not in good standing for failure to file its 2009 annual report which was due on January 30, 2009.

Compliance

Quality has failed to file its calendar year 2008 utility annual report which was due on April 15, 2009.

Performance Bond

On April 8, 2009, Quality filed a performance bond in the amount of \$25,000 to cover advances, deposits and prepayments. However, Quality has never indicated in its annual reports to the Commission that it collects advances, deposits and prepayments. In the Company's application for service it indicated that it would not be requesting any deposits from customers, therefore customers would not be at risk. However, the tariff on file for Quality indicates the following:

- 1) Installation, connection, service and construction charges, where applicable, must be paid in advance of the establishment of service.
- 2) Recurring charges for service are billed monthly, 20 days or more in advance...

If Quality were to lose its Certificate to serve in Arizona, the performance bond on file with the Commission would be used to refund charges for services not received where the customer paid in advance.

Competitive Services

The interexchange market that Quality serves is one in which numerous facilities-based and resold interexchange carriers have been authorized to provide service throughout the State.

Quality, in this market, has to compete with those companies in order to obtain customers. If Quality were to lose its Certificate to serve in Arizona, its customers would have numerous other service providers to choose from.

Previous Decisions

Staff researched historical filings to find prior Commission Decisions where we have assessed penalties or fines against a telecom company in a similar situation. Staff was only able to find two recent cases that were similar in nature. No fines or penalties were assessed. The dockets are outlined below.

- 1) Total Call International – Docket No. T-04004A-01-0259, Decision No. 70344
- 2) KMC Data, LLC – Docket No. T-04014A-01-0340, Decision No. 69967

Decision No. R08-1076

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 08C-336T incorrectly referred to as 08C-032T

Comment [lp1]: The Docket Number was corrected by Errata Notice R08-1076-E.

IN THE MATTER OF ALLEGED VIOLATIONS OF THE RULES RELATING TO THE COLORADO HIGH COST SUPPORT MECHANISM REPORTING REQUIREMENTS FOR TELECOMMUNICATIONS SERVICE PROVIDERS AS PRESCRIBED IN 4 CCR 723-2-2846.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
REVOKING CERTIFICATES AND REGISTRATIONS
PURSUANT TO ORDER TO SHOW CAUSE**

Mailed Date: October 10, 2008

I. STATEMENT

1. The captioned proceeding was commenced on July 31, 2008, by the issuance of a Formal Complaint and Notice of Hearing (Complaint) by the Colorado Public Utilities Commission (Commission). *See*, Decision No. C08-0798. The Complaint ordered the telecommunications service providers listed in Attachment A of the Complaint (Respondents) to appear before the Commission to show cause why certain punitive actions should not be taken against them as a result of their failure to comply with Commission rules relating to Colorado High Cost Support Mechanism (CHCSM) reporting requirements. *See*, 4 *Code of Colorado Regulations* (CCR) 723-2-2846.

2. The Complaint was served on the Respondents and on the service providers listed on Attachment B of the Complaint via first class mail on August 5, 2008. The service providers listed on Attachment B are facilities-based carriers that connect Respondents to the public switched network. As a result, they are deemed to be indispensable parties to this proceeding.

3. The Complaint set this matter for hearing on October 7, 2008, commencing at 9:00 a.m.

4. On August 4, 2008, the Staff of the Commission (Staff) filed its Notice of Intervention, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Request for Hearing in this matter. On August 5, 2008, Staff filed its List of Witnesses and Exhibits.

5. On October 7, 2008, the matter was called for hearing at the assigned time and place by the undersigned Administrative Law Judge (ALJ). Staff appeared through its legal counsel. None of the Respondents appeared at the hearing.

6. During the course of the hearing Exhibits 1 through 4 were identified, offered, and admitted into evidence. Staff presented testimony from one witness, Ms. Susan Travis, a rate/financial analyst with the Commission who also serves as the CHCSM Administrator. At the conclusion of the hearing the ALJ took the matter under advisement.

7. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. FINDINGS AND CONCLUSIONS

8. The Respondents provide intrastate telecommunications services within the State of Colorado. Therefore, they are potentially required to contribute to the CHCSM. See §§ 40-15-208 and 40-15-502(5), C.R.S.; *Rule 2846 of the Rules Regulating Telecommunications Providers, Services, and Products*, 4 CCR 723-2.

9. In accordance with 4 CCR 723-2-2846(b)(1) each telecommunications service provider is required to provide the CHCSM Administrator with a verified accounting of its retail revenues, and such other revenues, as the Administrator shall request for purposes of determining

contributions and disbursements under the CHCSM Rules. The accounting is to be submitted via a form referred to as the CHCSM Worksheet.

10. Under 4 CCR 723-2-2846(b)(1) an exemption from the above-described reporting requirements applies to those telecommunications service providers whose annual contribution to the CHCSM for a given year is calculated to be less than \$10,000 (the *de minimis* exemption). Those telecommunications service providers qualifying for the *de minimis* exemption are required to file with the administrator only that portion of the CHCSM Worksheet that certifies their *de minimis* status. That certification must be accompanied by a corporate officer's affidavit attesting to the veracity of its self-certification.

11. Pursuant to 4 CCR 723-2-2846, each telecommunications service provider was required to file the CHCSM Worksheet, or that portion certifying *de minimis* status, on or before March 31, 2008, for the reporting period of January 1, 2007 through December 31, 2007. Respondents were reminded of this obligation on February 26, 2008, through the Commission's issuance of Decision No. C08-0176. *See*, Exhibit 1.

12. After the filing deadline passed, on May 12, 2008, the Commission's Director sent correspondence to each Respondent noting their failure to comply with the subject filing requirements, referring them to the required CHCSM Worksheet, and requesting a reply by May 31, 2008. *See*, Exhibit 2.

13. On June 17, 2008, the Commission's Director sent additional correspondence to the Respondents again notifying them of their continuing failure to comply with above-described reporting requirements. *See*, Exhibit 3. Among other things, that correspondence granted Respondents an additional 30 days to comply with these requirements and advised them that their failure to do so would result in the initiation of this Complaint proceeding.

14. The Commission initiated this proceeding as a result of Respondents' continued failure to comply with the subject filing requirements by Decision No. C08-0798. *See*, Exhibit 4.

15. Following issuance of the Complaint, three of the telecommunications service providers listed in Attachment A filed their respective CHCSM Worksheets thereby satisfying the filing requirements imposed by 4 CCR 723-2-2846. As a result, at the hearing Staff requested that Master Call Communications, Inc; New Horizons Communications, Corporation; and Quality Telephone, Inc. be dismissed from this proceeding. Additionally, Staff requested that Communicall, Inc. also be dismissed from this proceeding because it filed to discontinue operating in Colorado.

16. Staff recommends that the three remaining Respondents listed on Attachment A, Movida Communications, Inc. (Movida); Telecentrex, LLC (Telecentrex); and Winstar Communications, LLC (Winstar), be ordered to cease and desist from providing telecommunications services in the State of Colorado, that their Certificates of Public Convenience and Necessity to provide local exchange services and/or their Letters of Registration for emerging competitive telecommunications services be revoked, and that the underlying local exchange service providers be ordered to disconnect these Respondents from the public switched network.

17. The ALJ finds that Movida, Telecentrex, and Winstar received proper notice of this proceeding and of the hearing conducted on October 7, 2008. Staff was the only party to appear and present evidence at the hearing and, as a result, this case will be decided on the basis of that evidence.

18. The responsibility for filing a CHCSM Worksheet is on the provider. Movida, Telecentrex, and Winstar were provided several written notifications of their obligation to file the

worksheet for the reporting period of January 1, 2007 through December 31, 2007. Through those notifications and obligations under the Commission's rules, these Respondents knew or should have known that, although required to do so, they had not complied with the subject reporting requirements.

19. As of the date of the hearing, the Commission's records reflect that Movida, Telecentrex, and Winstar have not filed a CHCSM Worksheet for the above-described reporting period.

20. Movida, Telecentrex, and Winstar failed to appear for the hearing as ordered by the Commission and have not shown good cause for that failure.

21. Sections 40-15-208 and 40-15-502, C.R.S., and the Commission's rules and regulations implementing those sections, define enforcement remedies available if it is established to the satisfaction of the Commission that the provider failed to make timely reports or to pay, in a timely manner, its contribution when it is due and payable. A certificated provider's Certificate of Public Convenience and Necessity may be revoked, they may be denied interconnection to the public switched network, or other appropriate remedies may be imposed. Regarding non-certificated providers, a complaint may be filed with the Federal Communications Commission, damages may be pursued in court, or other appropriate remedies may be imposed. Section 40-15-502(5)(c), C.R.S., requires the Commission to revoke the certificate of any provider that fails to pay an assessment due and payable pursuant to § 40-15-502(5)(a), C.R.S.

22. Providers failing or refusing to fulfill responsibilities to the Commission and the CHCSM (*i.e.*, not filing the CHCSM Worksheet) frustrate the fund's purpose and jeopardize the

fund's ability to meet statutory goals. Further, the absence of information from providers interferes with proper administration of the CHCSM.

23. It is found and concluded that Movida, Telecentrex, and Winstar violated Commission rules by failing to file a CHCSM Worksheet on or before March 31, 2008 for the reporting period of January 1, 2007 through December 31, 2007, notwithstanding the fact that they were afforded a number of opportunities to do so. As a result, these Respondents' Certificates of Public Convenience and Necessity to provide local exchange services and/or Letters of Registration should be revoked.

III. ORDER

A. The Commission Orders That:

1. Communicall, Inc.; Master Call Communications, Inc.; New Horizons Communications Corporation; and Quality Telephone, Inc. are dismissed from this proceeding, with prejudice.

2. The Certificates of Public Convenience and Necessity to provide local exchange services and/or Letters of Registration issued to Movida Communications, Inc.; Telecentrex, LLC; and Winstar Communications, LLC are revoked as of the effective date of this Order.

3. Ordering paragraph no. 2 shall be void and this proceeding shall be dismissed as to Movida Communications, Inc. in the event it files a Colorado High Cost Support Mechanism Worksheet for the reporting period of January 1, 2007 through December 31, 2007 before the effective date of this Order.

4. Ordering paragraph no. 2 shall be void and this proceeding shall be dismissed as to Telecentrex, LLC in the event it files a Colorado High Cost Support Mechanism Worksheet for

the reporting period of January 1, 2007 through December 31, 2007 before the effective date of this Order.

5. Ordering paragraph no. 2 shall be void and this proceeding shall be dismissed as to Winstar Communications, LLC in the event it files a Colorado High Cost Support Mechanism Worksheet for the reporting period of January 1, 2007 through December 31, 2007 before the effective date of this Order.

6. Movida Communications, Inc.; Telecentrex, LLC; and Winstar Communications, LLC shall cease and desist the provisioning of telecommunications services in the State of Colorado under the certificates and/or registrations revoked by ordering paragraph no. 2.

7. If ordering paragraph no. 2 is not rendered void as to Movida Communications, Inc.; Telecentrex, LLC; and Winstar Communications, LLC, the underlying providers that were joined as indispensable parties by Decision No. C08-0798, are ordered to disconnect Movida Communications, Inc.; Telecentrex, LLC; and/or Winstar Communications, LLC from the public switched network as soon as is practicable following the effective date of this Order.

8. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

9. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

10. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Quality Telephone Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. DOCKET NO. 080446-TX

In re: Compliance investigation of WinSonic Digital Media Group, Ltd. Corp. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. DOCKET NO. 080453-TX

In re: Compliance investigation of Astrocom Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. DOCKET NO. 080454-TX

In re: Compliance investigation of Tel West Communications, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. DOCKET NO. 080455-TX
ORDER NO. PSC-08-0629-PAA-TX
ISSUED: September 24, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

PROPOSED AGENCY ACTION ORDER IMPOSING PENALTY FOR APPARENT VIOLATION OF SECTION 364.183(1), FLORIDA STATUTES

DOCUMENT NUMBER-DATE

09012 SEP 24 8

FPSC-COMMISSION CLERK

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

Section 364.386, Florida Statutes, Reports to the Legislature, requires us to submit a report on August 1st of each year to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives, on the status of competition in the telecommunications industry. Section 364.386(1)(b), Florida Statutes, specifically requires that we make a request to providers of local exchange telecommunications services on or before March 1 for the data required to complete the report. It also requires the providers of local exchange telecommunications services to file their responses to this Commission's request on or before April 15.

To fulfill these statutory mandates, on February 15, 2008, a data request was sent via certified mail to all certificated incumbent and competitive local exchange telecommunications companies (ILECs and CLECs) in Florida. The data request included, but was not limited to, explanations of the statutory requirements, the filing requirements, and the potential of penalties for failure to provide a response to the request.

Each of the four companies listed in Attachment A, had not filed a response as the April 15, 2008 deadline approached. We verified that three of the four companies had signed the certified mail receipt indicating delivery of the data request by the United States Post Office. Because the companies had not responded, a second request was mailed via first-class post on April 7, 2008, reiterating the response due date of April 15, 2008. In addition, attempts to contact each company via telephone or e-mail. Each company identified in Attachment A failed to provide a response to letters, telephone calls, or e-mails by the established due dates.

Additionally, as required by Rule 25-4.0161, Florida Administrative Code, each of the companies listed in Attachment A failed to pay its Regulatory Assessment Fee (RAF), including statutory late payment charges, within 15 days of receiving a delinquent notice. This Order addresses only the companies' failure to provide or timely provide the data required to complete the competition report, which is an apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. We have addressed the companies' failure to pay RAF in accordance with the procedures specified in Rule 25-4.0161, Florida Administrative Code.

We are vested with jurisdiction over these matters pursuant to Sections 364.183, 364.285 and 364.386, Florida Statutes.

II. Analysis

Section 364.386, Florida Statutes, provides specific dates for this Commission to request information from local exchange telecommunications providers and to submit a report to the Legislature on the status of competition in the telecommunications industry. It also provides a specific date by which local exchange telecommunications providers must submit information to us.

We need information contained in the company records of all Florida ILECs and CLECs to compile the annual competition report for the Legislature. Section 364.183(1), Florida Statutes, Access to Company Records, states in part:

The Commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the Commission's jurisdiction. The Commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing. The Commission may require a telecommunications company to file records, reports, or other data directly related to matters within the Commission's jurisdiction in the form specified by the Commission and may require such company to retain such information for a designated period of time.

In this instance, four companies failed to provide a response to our data request, effectively denying access to its records. It is imperative that we receive 100% participation to fully reflect the status of local telecommunications competition in its report to the Legislature. All of the companies listed in Attachment A were made aware of our authority to impose penalties as prescribed by Section 364.285(1), Florida Statutes, should they fail to provide the requested information.

Pursuant to Section 364.285(1), Florida Statutes, we are authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have *refused to comply with* or to have *willfully violated* any lawful rule or order of this Commission, or any provision of Chapter 364, Florida Statutes.

Section 364.285(1), Florida Statutes, however, does not define what it is to "willfully violate" a rule or order or any provision of this chapter. Nevertheless, it appears plain that the intent of the statutory language is to penalize those who affirmatively act in opposition to a Commission order or rule or any provision of this chapter. See, Florida State Racing Commission v. Ponce de Leon Trotting Association, 151 So.2d 633, 634 & n.4 (Fla. 1963); c.f., McKenzie Tank Lines, Inc. v. McCauley, 418 So.2d 1177, 1181 (Fla. 1st DCA 1982) (there must be an intentional commission of an act violative of a statute with knowledge that such an act is likely to result in serious injury) [citing Smit v. Geyer Detective Agency, Inc., 130 So.2d 882, 884 (Fla. 1961)]. Thus, a "willful violation of law" at least covers an act of commission or an intentional act.

However, "willful violation" need not be limited to acts of commission. The phrase "willful violation" can mean *either* an intentional act of commission or one of omission, that is *failing* to act. See, Nuger v. State Insurance Commissioner, 238 Md. 55, 67, 207 A.2d 619, 625 (1965)[emphasis added]. As the First District Court of Appeal stated, "willfully" can be defined as:

An act or omission is 'willfully' done, if done voluntarily and intentionally and with the specific intent to do something the law forbids, or *with the specific intent to fail to do something the law requires to be done*; that is to say, with bad purpose either to disobey or to disregard the law.

Metropolitan Dade County v. State Department of Environmental Protection, 714 So.2d 512, 517 (Fla. 1st DCA 1998)[emphasis added]. In other words, a willful violation of a statute, rule or order is also one done with an intentional disregard of, or a plain indifference to, the applicable statute or regulation. See, L. R. Willson & Sons, Inc. v. Donovan, 685 F.2d 664, 667 n.1 (D.C. Cir. 1982).

Thus, the failure of each of the companies listed in Attachment A to allow access to its respective company records meets the standard for a "refusal to comply" and "willful violation" as contemplated by the Legislature when enacting Section 364.285, Florida Statutes.

"It is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833); see, Perez v. Marti, 770 So.2d 284, 289 (Fla. 3rd DCA 2000) (ignorance of the law is never a defense). Moreover, in the context of these dockets, all competitive local exchange telecommunications companies, like the companies listed in Attachment A, are subject to the statutes published in the Florida Statutes. See, Commercial Ventures, Inc. v. Beard, 595 So.2d 47, 48 (Fla. 1992).

III. Decision

Further, the amount of the proposed penalty is consistent with penalties previously imposed by us upon other telecommunications companies that have failed to provide a response to a data request, thereby denying access to their records. Therefore, we find it appropriate to impose a penalty in the amount of \$10,000 or cancel the respective certificate of each company listed in Attachment A for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

This Order will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this Commission's decision in a given docket files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. If any of the companies listed in Attachment A fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket shall be deemed admitted, the right to a hearing waived, and the penalty shall be deemed assessed. If any of the companies listed in Attachment A fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC certificate, as listed in Attachment A, shall be canceled. If a company's certificate is canceled in accordance with this Order, that company shall be required to immediately cease and desist providing telecommunications services in Florida. A protest in one docket shall not prevent the action in a separate docket from becoming final. These dockets shall remain open.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that a penalty in the amount of \$10,000 be imposed to each company listed in Attachment A for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business of the date set forth in the "Notice of Further Proceeding attached hereto. It is further

ORDERED that if any of the companies listed in Attachment A fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket shall be deemed admitted, the right to a hearing waived, and the penalty shall be deemed assessed. It is further

ORDERED that a protest in one docket shall not prevent the action in a separate docket from becoming final. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. It is further

ORDERED that if any of the companies listed in Attachment A fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC certificate, as listed in Attachment A, shall be canceled. It is further

ORDER NO.PSC-08-0629-PAA-TX
DOCKET NOS. 080446-TX, 080453-TX, 080454-TX, 080455-TX
PAGE 6

ORDERED that if a company's certificate is canceled in accordance with this Order, that company shall be required to immediately cease and desist providing telecommunications services in Florida. It is further

ORDERED that these dockets shall remain open.

By ORDER of the Florida Public Service Commission this 24th day of September, 2008.



ANN COLE
Commission Clerk

(SEAL)

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 15, 2008.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Docket No.	Company	Regulation Date	Certificate No.	Date Certified Mail Receipt Signed
080446-TX	Quality Telephone Inc.	4/17/2001	7782	2/24/2008
080453-TX	WinSonic Digital Media Group, Ltd. Corp.	5/29/2007	8683	2/21/2008
080454-TX	Astrocom Corporation	1/12/2007	8658	See Note 1
080455-TX	Tel West Communications, LLC	12/28/2001	4867	2/22/2008

Note 1: The certified mail receipt was not returned to us by the United States Post Office. The company was mailed a second letter via first-class post. We also contacted the company via multiple phone calls and e-mails.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Quality Telephone Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080446-TX

In re: Compliance investigation of WinSonic Digital Media Group, Ltd. Corp. for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080453-TX

In re: Compliance investigation of Astrocom Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080454-TX

In re: Compliance investigation of Tel West Communications, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records and apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080455-TX

ORDER NO. PSC-08-0698-CO-TX

ISSUED: October 21, 2008

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-08-0629-PAA-TX, issued September 24, 2008, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No protest has been filed to the order, in regard to the above mentioned dockets. It is, therefore,

DOCUMENT NUMBER-DATE

10013 OCT 21 8

FPSC-COMMISSION CLERK

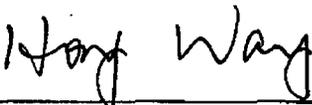
ORDER NO. PSC-08-0698-CO-TX
DOCKET NOS. 080446-TX, 080453-TX, 080454-TX, 080455-TX
PAGE 2

ORDERED by the Florida Public Service Commission that Order No. PSC-08-0629-PAA-TX has become effective and final. It is further

ORDERED that these dockets shall remain open.

By ORDER of the Florida Public Service Commission this 21st day of October, 2008.

ANN COLE
Commission Clerk

By: 

Hong Wang
Office of Commission Clerk

(S E A L)

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any judicial review of Commission orders that is available pursuant to Section 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re request for Orders to Appear and Show Cause why)
 Certificates of Public Convenience and Necessity)
 should not be revoked and/or why administrative fines)
 should not be imposed on public utilities that have not)
 paid their annual assessment fee, their surcharge for)
 assistance to persons with impaired speech and hearing,)
 and/or have not filed an annual report pursuant to NRS)
 703.191 and NAC 704.7483.)

Docket No. 07-12009

In re request for Orders to Appear and Show Cause why)
 administrative fines should not be imposed on)
 Commercial Mobile Radio Service providers for failure)
 to pay their annual licensing fee and/or their surcharge)
 for assistance to persons with impaired speech or)
 hearing.)

At a general session of the Public Utilities
 Commission of Nevada, held at its offices
 on April 8, 2008.

PRESENT: Chairman Jo Ann P. Kelly
 Commissioner Rebecca D. Wagner
 Commissioner Sam A. Thompson
 Commission Secretary Crystal Jackson

ORDER

The Public Utilities Commission of Nevada ("Commission") makes the following findings of fact and conclusions of law:

1. The General Counsel ("General Counsel") of the Commission brought to the Commission's January 24, 2008, Agenda Meeting an action item, designated as Docket No. 07-12009, requesting Orders to Appear and Show Cause why Certificates of Public Convenience and Necessity should not be revoked and/or why administrative fines should not be imposed on public utilities that have not paid their annual assessment fee, their surcharge for assistance to persons with impaired speech and hearing, and/or have

DOCUMENT REVIEW AND APPROVAL ROUTING

DRAFTED BY: SAD CRANE

FINAL DRAFT ON 4/9/08 AT _____

REVIEWED & APPROVED BY: _____

ADMIN/ASST. (_____)

COMM/COUNSEL JAR COLMAN 4/8/08

SECRETARY/ASST. SEC. _____

OTHER (_____) _____

not filed an annual report pursuant to Nevada Revised Statutes ("NRS") 703.191 and Nevada Administrative Code ("NAC") 704.7483. General Counsel further requested Orders to Appear and Show Cause why administrative fines should not be imposed on Commercial Mobile Radio Service ("CMRS") providers for failure to pay their annual licensing fee and/or their surcharge for assistance to persons with impaired speech or hearing.

2. This item was brought pursuant to the NRS and the NAC, Chapters 703 and 704, including but not limited to NAC 703.540.

3. At a duly noticed agenda meeting held on January 24, 2008, the Commission voted to accept General Counsel's recommendation to issue Orders to Show Cause why public utilities that have not paid their annual assessment fee, their surcharge for assistance to persons with impaired speech and hearing, and/or have not filed an annual report pursuant to NRS 703.191 and NAC 704.7483 should not have their Certificates of Public Convenience and Necessity ("CPC's") revoked and/or be found in violation of NRS 704.330 and fined pursuant to NRS 703.380. The Commission further voted to accept General Counsel's recommendation to issue Orders to Show Cause why administrative fines should not be imposed on Commercial Mobile Radio Service providers for failure to pay their annual licensing fee and/or their surcharge for assistance to persons with impaired speech or hearing.

4. The Commission has authority pursuant to NRS 703.380 to issue fines when appropriate after investigation and hearing.

///

5. An Order to Appear and Show Cause was issued on February 20, 2008, and a hearing was held on March 14, 2008, regarding the allegations that ACCXX COMMUNICATIONS, LLC, (CPC 2734); ATMC, INC., (CPC 2662); CAT COMMUNICATIONS INTERNATIONAL, INC., (CPC 2635), COMMUNICATION EXPERTS, INC., DBA COMMEXX AND FRESHSTART TELEPHONE, (CPC 2626 SUB 1); DIALTEK, LLC (CPC 2541); FONES 4 ALL CORP, (CPC 2801); GALAXY COMMUNICATIONS, INC., (CPC 2256); GLD, GROUP LONG DISTANCE, INC., (CPC 2230 SUB 1); GREAT AMERICA NETWORKS, INC., (CPC 2691); INTANDEM COMMUNICATIONS CORP, (CPC 2809); METROPOLITAN TELECOMMUNICATIONS OF NEVADA, INC. DBA METTEL, (CPC 2614); NORSTAN NETWORK SERVICES, INC., (CPC 1017); QUALITY TELEPHONE INC., (CPC 2709); TELCENTREX, LLC, (CPC 2880); TOUCH 1 COMMUNICATIONS, INC., (CPC 2071); TRINSIC COMMUNICATIONS, INC., (CPC 2332 SUB 3); TTUSA ACQUISITION, INC., (CPC 2854); US IN TOUCH, INC., (CPC 2813); V&V INC., DBA THE LOCAL CONNECTION, (CPC 2685); VYCERA COMMUNICATIONS, INC., (CPC 2388 SUB 1); and YAK COMMUNICATIONS (AMERICA) INC., (CPC 2652) have not paid either their annual assessment fee, their surcharge for assistance to persons with impaired speech and hearing, and/or have not filed an annual report pursuant to NRS 703.191 and NAC 704.7483 and the allegations that I-WIRELESS, LLC., (CMRS 77); MOBILE ESPN, LLC, (CMRS 63); MOVIDA COMMUNICATIONS, INC., (CMRS 61); SMARTALK TELESERVICES, INC., DBA EN ROUTE (CMRS 7); UNLIMITED WIRELESS PCS, (CMRS 56); VERIZON WIRELESS MESSAGING SERVICES, LLC DBA VERIZON WIRELESS (CMRS 35);

WHERIFY WIRELESS, INC., (CMRS 73); and ZTAR MOBILE, INC., (CMRS 57) have not paid their annual licensing fee and/or their surcharge for assistance to persons with impaired speech or hearing.

6. General Counsel, the Regulatory Operations Staff ("Staff") of the Commission and VERIZON WIRELESS MESSAGING SERVICES, LLC DBA VERIZON WIRELESS ("Verizon") appeared at the hearing. No other parties appeared.

7. Verizon presented evidence that they had come into compliance, that the business had been sold and that Verizon was no longer a Commercial Mobile Radio Service provider in Nevada. Exhibits 1 and 2.

8. Based on the evidence presented and the Stipulation of the parties, the Presiding Officer dismissed the allegations pending against Verizon.

9. General Counsel and Staff presented evidence at the hearing showing that all of the companies listed in paragraph 5 were notified of the request for Order to Show Cause, the Order to Show Cause and the hearing. Exhibits 3-7. The Presiding Officer found that the notice requirements of NRS 233B.121 and NRS 241.034 were met and allowed the hearing to proceed with the above noted companies *in absentia* (excluding Verizon who appeared). The companies listed in paragraph 5 had notice of the hearing and an opportunity to respond and present evidence yet, apart from Verizon, failed to attend and do so.

10. General Counsel and Staff further presented evidence at the hearing showing that all of the remaining companies listed in paragraph 5 were in some way, and to varying degrees, delinquent in failing to pay either their annual assessment fee, their annual licensing fee, their surcharge for assistance to persons with impaired speech and

hearing, and/or failing to file an annual report pursuant to NRS 703.191 and NAC 704.7483.

11. General Counsel and Staff delineated requests for Commission action against the above named companies into four categories:

a. The first group consists of companies who came into compliance following the January 24, 2008, Agenda meeting, but before the present hearing. General Counsel and Staff recommended the Commission issue a \$250.00 fine to the companies in group one. The Companies in group one are: GALAXY COMMUNICATIONS, INC., (CPC 2256); GREAT AMERICA NETWORKS, INC., (CPC 2691); METROPOLITAN TELECOMMUNICATIONS OF NEVADA, INC. DBA METTEL, (CPC 2614); I-WIRELESS, LLC., (CMRS 77); and ZTAR MOBILE, INC., (CMRS 57).

b. The second group consists of companies who were in violation this year, as well as last year. General Counsel and Staff recommended the Commission revoke the CPC and/or License of the companies in group two, and issue a \$1000.00 fine to the companies in group two. The Companies in group two are: V&V INC., DBA THE LOCAL CONNECTION, (CPC 2685); MOBILE ESPN, LLC, (CMRS 63); and UNLIMITED WIRELESS PCS, (CMRS 56).

c. The third group consists of companies who are currently in violation; however Staff has gained information that the companies currently have customers and are planning on coming into compliance. General Counsel and Staff recommended the Commission revoke the CPC and/or License of the companies in group three, and issue a \$500.00 fine to the companies in group three; however, Staff requested the Commission hold the certificate/license revocation in abeyance for thirty (30) days to

allow the companies in group three to come into compliance and if said companies come into compliance within the 30 day period the certificate/license revocation would not be effective. The Companies in group three are: QUALITY TELEPHONE INC., (CPC 2709); VYCERA COMMUNICATIONS, INC., (CPC 2388 SUB 1); and YAK COMMUNICATIONS (AMERICA) INC., (CPC 2652).

d. The fourth group consists of companies who are in violation this year. General Counsel and Staff recommended the Commission revoke the CPC and/or License of the companies in group four, and issue a \$500.00 to \$1000.00 fine to the companies in group four. The Companies in group four are: ACCXX COMMUNICATIONS, LLC, (CPC 2734); ATMC, INC., (CPC 2662); CAT COMMUNICATIONS INTERNATIONAL, INC., (CPC 2635), COMMUNICATION EXPERTS, INC., DBA COMMEXX AND FRESHSTART TELEPHONE, (CPC 2626 SUB 1); DIALTEK, LLC (CPC 2541); FONES 4 ALL CORP, (CPC 2801); GLD, GROUP LONG DISTANCE, INC., (CPC 2230 SUB 1); INTANDEM COMMUNICATIONS CORP, (CPC 2809); NORSTAN NETWORK SERVICES, INC., (CPC 1017); TELCENTREX, LLC, (CPC 2880); TOUCH 1 COMMUNICATIONS, INC., (CPC 2071); TRINSIC COMMUNICATIONS, INC., (CPC 2332 SUB 3); TTUSA ACQUISITION, INC., (CPC 2854); US IN TOUCH, INC., (CPC 2813); MOVIDA COMMUNICATIONS, INC., (CMRS 61); SMARTALK TELESERVICES, INC., DBA EN ROUTE (CMRS 7); and WHERIFY WIRELESS, INC., (CMRS 73).

12. The Commission considered the allegations of General Counsel and Staff, as well as the non-participation by any of the companies listed above in paragraph 5 (except for Verizon) and accepted the recommendation of General Counsel and Staff.

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. Allegations in the current Docket against VERIZON WIRELESS MESSAGING SERVICES, LLC DBA VERIZON WIRELESS (CMRS 35) are DISMISSED.
2. GALAXY COMMUNICATIONS, INC., (CPC 2256); GREAT AMERICA NETWORKS, INC., (CPC 2691); METROPOLITAN TELECOMMUNICATIONS OF NEVADA, INC. DBA METTEL, (CPC 2614); I-WIRELESS, LLC., (CMRS 77); and ZTAR MOBILE, INC., (CMRS 57) are each ASSESSED a \$250.00 administrative fine pursuant to NRS 703.380.
3. V&V INC., DBA THE LOCAL CONNECTION, (CPC 2685); MOBILE ESPN, LLC, (CMRS 63); and UNLIMITED WIRELESS PCS, (CMRS 56) are each ASSESSED an administrative fine of \$1000.00 pursuant to NRS 703.380 and their respective Certificates of Public Necessity and Convenience and/or Licenses to sell Commercial Mobile Radio Service in the State of Nevada are hereby REVOKED.
4. QUALITY TELEPHONE INC., (CPC 2709); VYCERA COMMUNICATIONS, INC., (CPC 2388 SUB 1); and YAK COMMUNICATIONS (AMERICA) INC., (CPC 2652) are each ASSESSED an administrative fine of \$500.00 pursuant to NRS 703.380 and their respective Certificates of Public Necessity and Convenience in the State of Nevada are hereby REVOKED. However, the revocation of the respective Certificates of Public Necessity and Convenience in the State of Nevada of QUALITY TELEPHONE INC., (CPC 2709); VYCERA COMMUNICATIONS, INC., (CPC 2388 SUB 1); and YAK COMMUNICATIONS (AMERICA) INC., (CPC 2652) is

SUSPENDED for a period of thirty (30) days from the date of this Order. If QUALITY TELEPHONE INC., (CPC 2709); VYCERA COMMUNICATIONS, INC., (CPC 2388 SUB 1); and YAK COMMUNICATIONS (AMERICA) INC., (CPC 2652) are in compliance by that time, their respective Certificates of Public Necessity and Convenience will not be revoked.

5. ACCXX COMMUNICATIONS, LLC, (CPC 2734); ATMC, INC., (CPC 2662); CAT COMMUNICATIONS INTERNATIONAL, INC., (CPC 2635), COMMUNICATION EXPERTS, INC., DBA COMMEXX AND FRESHSTART TELEPHONE, (CPC 2626 SUB 1); DIALTEK, LLC (CPC 2541); FONES 4 ALL CORP, (CPC 2801); GLD, GROUP LONG DISTANCE, INC., (CPC 2230 SUB 1); INTANDEM COMMUNICATIONS CORP, (CPC 2809); NORSTAN NETWORK SERVICES, INC., (CPC 1017); TELCENTREX, LLC, (CPC 2880); TOUCH 1 COMMUNICATIONS, INC., (CPC 2071); TRINSIC COMMUNICATIONS, INC., (CPC 2332 SUB 3); TTUSA ACQUISITION, INC., (CPC 2854); US IN TOUCH, INC., (CPC 2813); MOVIDA COMMUNICATIONS, INC., (CMRS 61); SMARTALK TELESERVICES, INC., DBA EN ROUTE (CMRS 7); and WHERIFY WIRELESS, INC., (CMRS 73) are each ASSESSED an administrative fine of \$1000.00 pursuant to NRS 703.380 and their respective Certificates of Public Necessity and Convenience and/or Licenses to sell Commercial Mobile Radio Service in the State of Nevada are hereby REVOKED.

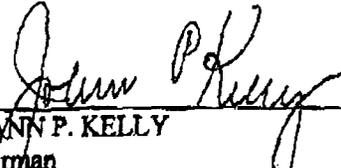
///

///

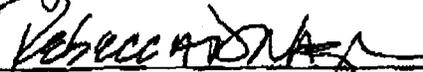
///

6. The Commission retains jurisdiction for the purpose of correcting any errors which may have occurred in the drafting or issuance of this order.

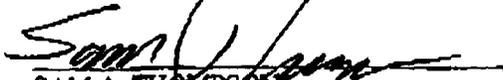
By the Commission,



JO ANN P. KELLY
Chairman



REBECCA D. WAGNER
Commissioner



SAM A. THOMPSON
Commissioner and Presiding Officer

Attest: 
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL) 4-15-08

