

OPEN MEETING ITEM



0000099130

MICHAEL P. KEARNS  
Interim Executive Director



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

ARIZONA CORPORATION COMMISSION

ORIGINAL

DATE: JUNE 9, 2009  
DOCKET NO: T-04297A-08-0584

Arizona Corporation Commission  
**DOCKETED**  
JUN - 9 2009

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

PHONE1, INC.  
(CANCEL CC&N)

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:

JUNE 18, 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:

JUNE 23, 2009 and JUNE 24, 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.

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MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

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

DOCKET NO. T-04297A-08-0584

DECISION NO. \_\_\_\_\_

12 ORDER

13 Open Meeting  
14 June 23 and 24, 2009  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

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

19 FINDINGS OF FACT

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

23 2. On December 1, 2008, the Company filed with the Commission an application for  
24 cancellation of its Certificate ("Application"). The Company stated that it does not have  
25 presubscribed long distance customers. Phone1 sent to its remaining customer owned pay telephone  
26 providers a notice advising those customers of its intention to discontinue service as of December 15,  
27 2008.

28 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

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 \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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

3  
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