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MEMORANDUM

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FROM: Ernest G. Johnson  
Director  
Utilities Division

EA for EGJ

JUN 12 P 2:14

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DATE: June 12, 2009

RE: IN THE MATTER OF THE JOINT APPLICATION OF ACCERIS MANAGEMENT AND ACQUISITION LLC, NEW ACCESS COMMUNICATIONS LLC AND FIRST COMMUNICATIONS, LLC FOR APPROVAL OF THE TRANSFER OF ASSETS, INCLUDING CUSTOMERS, OF ACCERIS MANAGEMENT AND ACQUISITION LLC AND NEW ACCESS COMMUNICATIONS LLC TO FIRST COMMUNICATIONS, LLC (DOCKET NOS. T-20376A-07-0076, T-04006A-07-0076, AND T-20473A-07-0076)

Attached is the Staff Report for Acceris Management and Acquisition LLC, New Access Communications, and First Communications, LLC joint application for approval of a transfer of assets including customers. Staff recommends approval of this transfer. Staff further recommends that a hearing not be held in this matter.

EGJ:CLA:red

Originator: Candrea Allen

Attachment: Original and Thirteen Copies

Arizona Corporation Commission  
DOCKETED

JUN 13 2009

DOCKETED BY

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Docket Nos.T-20376A-07-0076 et al

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

ACCERIS MANAGEMENT AND ACQUISITION LLC, NEW ACCESS COMMUNICATIONS  
LLC AND FIRST COMMUNICATIONS, LLC

DOCKET NOS. T-20376A-07-0076, T-04006A-07-0076, AND T-20473A-07-0076

IN THE MATTER OF THE JOINT APPLICATION OF ACCERIS MANAGEMENT AND  
ACQUISITION LLC, NEW ACCESS COMMUNICATIONS LLC, AND FIRST  
COMMUNICATIONS LLC FOR APPROVAL OF THE TRANSFER OF ASSETS,  
INCLUDING CUSTOMERS, OF ACCERIS MANAGEMENT AND ACQUISITION LLC AND  
NEW ACCESS COMMUNICATIONS LLC TO FIRST COMMUNICATIONS LLC

JUNE 12, 2009

## STAFF ACKNOWLEDGMENT

The Staff Report for Acceris Management and Acquisition LLC, New Access Communications LLC and First Communications LLC, Docket Nos. T-20376A-07-0076, T-04006A-07-0076, and T-20473A-07-0076, was the responsibility of the Staff member listed below. Candrea Allen was responsible for the review and analyses of the Companies' application for approval of a transfer of assets.



CANDREA ALLEN  
Public Utilities Analyst

## **INTRODUCTION**

On February 1, 2007, Acceris Management and Acquisition, LLC (“Acceris” or “Company”), New Access Communications LLC (“New Access”), and First Communications LLC (“First Communications”), (together, “Applicants”), filed an application for approval of a transfer of assets, including customers, from Acceris and New Access to First Communications.

## **BACKGROUND**

On February 18, 2003, in Decision No. 65632, the Commission granted New Access a Certificate of Convenience and Necessity (“CC&N”) to provide resold local exchange and resold long distance telecommunications services. New Access also provided telecommunications services throughout the United States. On June 29, 2005, Acceris filed an application with the Commission for a CC&N to provide resold long distance telecommunications services in the state of Arizona. Acceris provided telecommunications services to residential and business customers throughout the United States. According to an Acceris representative, the Company is no longer providing service to customers in any jurisdiction and the Company has been dissolved.

On December 20, 2006, in Docket Nos. T-20376A-06-0795 and T-04258A-06-0795, Acceris and Cognigen Networks, Inc., (“Cognigen”) filed an application for approval of a transfer of assets from Cognigen to Acceris. The application for the transfer between Acceris and Cognigen is pending Commission approval. However, as of February 2007, the customers specified in this docket were transferred from Cognigen to Acceris.

On April 16, 2007, in Decision No. 69419, the Commission granted First Communications a CC&N to provide resold long distance telecommunications services. First Communications provides telecommunications services to residential and business customers in several states. On April 16, 2007, in Decision No. 69420, the Commission approved a transfer of assets, including customers, from Acceris to First Communications. The transfer consisted of business customers and certain assets specific to those customers. On February 6, 2009, in Decision No. 70750, the Commission granted First Communications a CC&N to provide resold local exchange telecommunications services in Arizona.

## **PROPOSED TRANSACTION**

In March 2007, First Communications acquired (i) the assets (except certain cash equivalent assets retained by Acceris) and the resold long distance customers of Acceris that were not transferred to First Communication in Docket No. T-20376A-06-0795, et al., and any related personal property from Acceris that was not acquired in the previous transfer from Acceris to First Communications in Docket No. T-20473A-06-0537 (Decision No. 69420), and (ii) the assets (except certain cash equivalent assets retained by New Access), all resold long distance customers, and related personal property such as equipment, switches, and a certain level of working capital (excluding accounts receivable) from New Access. In addition, the

applicants requested a waiver of the Commission's Unauthorized Carrier Changes Rules, A.A.C. R14-2-1901. Although the Applicants did not provide legal notice of the application, customers were notified in advance of the transaction. There were no complaints filed regarding the transfers.

According to the Responses to Staff's Data Request, the Applicants transferred a total of 187 commercial customers and 2,833 residential customers from Acceris and New Access to First Communications. Acceris has requested approval to withdraw its application for a CC&N to provide resold long distance telecommunications services. In addition, New Access requests authorization to cancel its CC&N and withdraw its tariffs that are on file with the Commission, upon approval of this transaction pursuant to A.A.C. R14-2-1107.

### **STAFF ANALYSIS**

In the application, First Communications states that amendments to its tariff will be made to incorporate the services, rates, terms, and conditions provided to the customers by Acceris and New Access. The Applicants submitted copies of the proposed written customer notice that was provided to the affected customers. Staff has reviewed the proposed customer notice and has determined that it is in accordance to Commission Rules.

Staff believes that this acquisition and transfer did not have a negative impact on the customers involved nor did it negatively impact the competitive nature of the market.

### **STAFF RECOMMENDATIONS**

Staff recommends:

1. That the joint Acceris, New Access, and First Communications application to transfer assets and customers be approved pursuant to A.R.S. §40-285 and A.A.C. R14-2-1107.
2. That Acceris' request to withdraw its application for a CC&N, in Docket No. T-20376A-05-0478, to provide resold long distance telecommunications services be approved. Therefore, Staff recommends that Docket No. T-20376A-05-0478 be closed.
3. That New Access' request to voluntarily cancel its CC&N, granted on February 18, 2003, in Decision No. 65632, to provide resold local exchange and resold long distance telecommunications services be granted. Upon cancellation of its CC&N, New Access will no longer be authorized to provide resold local exchange or resold long distance telecommunications services in Arizona. Therefore, New Access will no longer be subject to the requirements of Decision No.65632. In addition, Staff further recommends the withdrawal of New Access' tariffs on file with the Commission.