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June 17, 2009

Arizona Corporation Commission

DOCKETED

Via Hand Delivery

Arizona Corporation Commission
Docket Control
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**Re: Docket Nos. T-20517A-07-0135 and T-04045A-07-0135,
Joint Application of STi Prepaid, LLC and Dialaround Enterprises Inc. -
Post-Hearing Brief**

Dear Sir or Madam:

STi Prepaid, LLC ("STi Prepaid") and Dialaround Enterprises Inc. ("Dialaround"), by their attorneys, respectfully submit an original and sixteen (16) copies of STi Prepaid's Post-Hearing Brief.

Please contact the undersigned if you have any questions.

Respectfully submitted,

Chérie R. Kiser

Counsel for STi Prepaid, LLC and
Dialaround Enterprises Inc.

Enclosures

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ARIZONA CORPORATION COMMISSION

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION
OF STI PREPAID, LLC AND DIALAROUND
ENTERPRISES, INC. FOR APPROVAL OF A
TRANSFER OF ASSETS AND
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE INTRASTATE
TELECOMMUNICATIONS SERVICES AND
APPROVAL OF TERMINATION OF
SERVICE BY DIALAROUND
ENTERPRISES, INC.

DOCKET NO. T-20517A-07-0135

DOCKET NO. T-04045A-07-0135

**APPLICANTS' POST-HEARING
BRIEF**

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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF STI PREPAID, LLC AND DIALAROUND
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DOCKET NO. T-20517A-07-0135

DOCKET NO. T-04045A-07-0135

**APPLICANTS' POST-HEARING
BRIEF**

Applicants, STi Prepaid, LLC (“STi Prepaid”) and Dialaround Enterprises, Inc. (“DEI”), by and through undersigned counsel, hereby submit the this Post-Hearing Brief pursuant to the instructions of Administrative Law Judge, Sarah Harpring, at the May 18, 2009 Evidentiary Hearing (“Hearing”).¹ Specifically, Commission Staff and STi Prepaid/DEI were requested to brief three issues: the applicability of 47 U.S.C. § 253 preemption to the adoption of conditions on only STi Prepaid in the context of its application for a Certificate of Convenience and Necessity (“CC&N”); whether a rulemaking is appropriate to implement the proposed Staff conditions on all providers of prepaid calling card service; and what the process should be for determining whether or when the performance bond should be increased.²

INTRODUCTION AND SUMMARY

Applicants are gratified that Staff asserted its confidence at the Hearing in the financial capacity of STi Prepaid to make full use of a CC&N and determined that STi Prepaid is “a fit

¹ May 18, 2009 Reporter’s Transcript of Proceedings (“Tr.”) 169.

² *Id.* This brief does not address the third issue beyond this note. The ALJ suggested Staff and STi Prepaid should reach an agreement on when it would be appropriate to increase the bond. As Staff indicated, in light of the low level of STi Prepaid’s anticipated intrastate revenue, the initial performance bond may be adequate. Tr. 157. STi Prepaid’s intrastate revenues for all states account for such a small share of the company’s business (1.5%) and Arizona alone will be account for an even smaller fraction of that share. Because STi Prepaid’s primary business is international calling, STi Prepaid anticipates the initial bond will likely be more than sufficient indefinitely, but it will work with Staff if STi Prepaid’s intrastate calling increases dramatically giving rise for a need to increase the bond at a later date. Tr. 50.

and proper entity” to provide its proposed telecommunications services in the State of Arizona.³ Nonetheless, Applicants must assert their continued objection to the recommendation of Staff to the Arizona Corporation Commission (“Commission”) that the transfer of DEI’s assets and CC&N to STi Prepaid and cancellation of DEI’s CC&N (collectively, the “Application”) be approved only with the imposition of 33 conditions drawn from STi Prepaid’s Assurance of Voluntary Compliance (“AVC”) Agreement with the State of Florida (the “Conditions”).⁴ Staff’s continued insistence on applying the Conditions only to STi Prepaid will result in reputational harm, competitive disadvantages, and substantial barriers to market entry. Should the Commission enact these Conditions, they will consequently be ripe for federal preemption pursuant to 47 U.S.C. § 253. Staff’s claim to the contrary - that the novel quality of STi Prepaid’s application for a CC&N affords the Commission extraordinary authority under state law - is directly refuted by Staff’s manifest experience in evaluating prospective and extant calling, travel, and prepaid card telecommunications service providers. As Applicants explained in their May 4, 2009 Exceptions to Staff Report (“Exceptions”), a rulemaking is the only alternative open to the Commission should it endorse the Conditions, as an equitable and uniform means of applying them to all Arizona prepaid calling card service providers. Such a rulemaking would not, however, affect the status of the pending Application before the Commission, given Staff’s determination that STi Prepaid has the financial, technical, and managerial qualifications necessary to receive a CC&N.

³ Tr. 130-131, 138-139, 145-146. Applicants are also gratified that Staff has withdrawn its recommendation for the posting of a second performance bond. *Id.* at 132-133.

⁴ Dockets Nos. T-20517A-07-0135 AND T-04045A-07-0135 - Memorandum from Ernest G. Johnson, Director, Utilities Division, to Docket Control, re: *In The Matter of The Application of STi Prepaid, LLC and Dialaround Enterprises Inc. For Approval Of A Transfer Of Assets And Certificate Of Convenience and Necessity For To Provide Intrastate Telecommunications Services And Approval of Termination Of Service By Dialaround* (Docket Nos. T-20517A-07-0135 And T-040405A-07-135, 13, Exhibit A (Jan. 9, 2009); Tr. 163.

I. STAFF'S CONDITIONS MAY BE PREEMPTED UNDER 47 U.S.C. § 253

“Pre-emption occurs when Congress, in enacting a federal statute, expresses a clear intent to pre-empt state law”⁵ 47 U.S.C. § 253 exemplifies such an intent per the federal concern that “in a market where carriers are offering the same services and competing for the same customers, disparate treatment of different types of carriers or types of traffic has significant competitive implications.”⁶ According to the Federal Communications Commission (“FCC”), Section 253 was intended “to ensure that no state or local authority could erect legal barriers to entry that would potentially frustrate the 1996 [Telecommunication] Act’s explicit goal of opening local markets to competition.”⁷ The FCC has found in this Congressional mandate a duty “to preempt not only express restrictions on entry, but also restrictions that indirectly produce that result.”⁸

Under Section 253(a), no state or local statutes, regulations, or requirements may prohibit or have the effect of prohibiting “the ability of any entity to provide any interstate or intrastate telecommunications service.”⁹ Section 253(b) permits a state to impose those “requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers,”

⁵ *Louisiana Pub. Serv. Comm. v. FCC*, 476 U.S. 355, 368 (1986).

⁶ *Developing a Unified Intercarrier Compensation Regime*, 20 FCC Rcd 4685, ¶ 21 (2005); *see also Appropriate Regulatory Treatment for Broadband Access to the Internet over Wireless Networks*, 22 FCC Rcd 5901, ¶ 53 (2007) (noting that the “disparate treatment” of competitors “would introduce competitive distortions into the marketplace”).

⁷ *The Public Utility Commission of Texas; The Competition Policy Institute, IntelCom Group (USA), Inc. and ICG Telecom Group, Inc., AT&T Corp., MCI Telecommunications Corporation, and MFS Communications Company, Inc.; Teleport Communications Group, Inc.; City of Abilene, Texas; Petitions for Declaratory Ruling and/or Preemption of Certain Provisions of the Texas Public Utility Regulatory Act of 1995*, 13 FCC Rcd 3460, ¶ 41 (1997).

⁸ *Id.*

⁹ *See Sprint Telephony PCS, L.P. v. County of San Diego*, 543 F.3d 571, 576 (2008) (evaluating whether a regulatory structure that permits a city to bar a telecommunications provider from operating in the city “prohibit[s] or ha[s] the effect of prohibiting” the company’s ability to provide telecommunications services under 47 U.S.C. § 253(a)).

but only on a “competitively neutral basis.” Should either section be violated, Section 253(d) empowers the FCC to preempt the offending statute, regulation, or requirement.

Preemption is thus warranted when a state competitively advantages incumbent telecommunications service providers - even if it treats all new market entrants equally, special provisions in law for the former constitute an “insurmountable barrier to entry.”¹⁰ Preemption is likewise appropriate where a governing body “impose[s] a host of . . . provisions on one service provider without placing any on another.”¹¹ It may also be invoked where a governing body issues ordinances with several features that, “individually or in combination,” have the effect of prohibiting the provision of telecommunications services.¹²

In the Hearing, Staff argued that its refusal to extend the Conditions to prepaid calling card service providers operating under a CC&N does not amount to a “denial of process to STI . . .”¹³ Due to the absence of a “known mechanism” to evaluate the ongoing practices of these competing companies, Staff explained, a “case-by-case” approach must be taken, in which the Conditions would be imposed upon them in accordance with customer complaints.¹⁴ Staff also alleged its inability to extend the Conditions to prepaid calling card service providers operating in Arizona *without* a CC&N. While it vigorously denied the implication that these providers “are sort of getting around the rules by not coming in for a CC&N,” Staff admitted its lack of “control over whether these companies operate in any way,” and observed its lack of knowledge as to the activities or even the existence of these companies.¹⁵

¹⁰ *RT Communications, Inc. v. F.C.C.*, 201 F.3d 1264, 1268 (10th Cir. 2000) (internal citations and quotation marks omitted).

¹¹ *TC Systems, Inc. and Teleport Communications New York v. Town of Colonie, New York*, 263 F. Supp. 2d 471, 489 (N.D. N.Y. 2003) (ellipses in original) (citing *TCG New York, Inc. v. City of White Plains*, 305 F.3d 67, 80 (2nd Cir. 2002)) (determining that a municipal ordinance that permitted a town to consider, *inter alia*, public interest factors in assessing telephone and telecommunications system applications violated 47 U.S.C. § 253(a)).

¹² *Sprint Telephony*, 543 F.3d at 579.

¹³ Tr. 25.

¹⁴ *Id.* at 25-26, 153.

¹⁵ *Id.* at 24-26, 152-153.

In essence, Staff claims that it is powerless to enact any operational condition on a prepaid calling card service provider unless wrongful practices are explicitly brought to its attention. In the case of STi Prepaid, Staff has *no* evidence of *any* wrongdoing on the part of STi Prepaid that would justify the imposition of the Conditions. Staff admitted that it is not aware of any complaints filed against STi Prepaid in Arizona or an instance in which STi Prepaid engaged in an unfair or deceptive trade practice.¹⁶ Staff also noted that STi Prepaid participated “admirably” in the context of the Florida AVC.¹⁷ STi Prepaid, one of nine prepaid calling card service providers that agreed to the AVC, appeared only by virtue of its asset purchase of Telco Group, Inc. (“Telco”),¹⁸ and neither admitted guilt or wrongdoing in¹⁹ nor altered any of its advertising practices as a result of the agreement.²⁰ Of the three outstanding court cases filed against STi Prepaid, two concern it as a successor in liability to Telco. All three focus on allegedly wrongful conduct by Telco that predated the asset purchase.²¹ Simply put, Staff had no basis to insist upon Conditions that would ostensibly “protect Arizona consumers [and] make sure that the same practices that had just been litigated in Florida and all along the East Coast . . . weren't brought into Arizona” because it failed to identify *even one* harmful practice that could potentially be “brought into Arizona.”²² As STi Prepaid is, as Staff concluded, “a good apple in a bad barrel,” ameliorative efforts should be confined to the rest of the orchard.²³

¹⁶ *Id.* at 154, 160-161.

¹⁷ *Id.* at 14. Staff erred in terming this proceeding “litigation.” *Id.* at 19, 70-71.

¹⁸ *Id.* at 19-20, 71-72.

¹⁹ *Id.* at 72.

²⁰ *Id.* at 76, 89-95, 97-100.

²¹ *Id.* at 54-55, 69.

²² *Id.* at 15. Staff claimed that STi Prepaid’s tariff was not compliant with the customer service compliance provisions of the Conditions (paragraphs 14-20 of Exhibit A). *Id.* at 150. Yet it was clearly stated that STi Prepaid did follow those conditions in Florida and “intend[s] to perform the same way in Arizona.” *Id.* at 101. Staff later admitted that this did not amount to an “inconsistency,” but was instead a question of “detail” not necessarily found in a typical tariff. *Id.* at 161-162.

²³ *Id.* at 160.

Staff's willingness to impose onerous conditions on STi Prepaid and not on a single other prepaid calling card service provider - including the 11 documented by STi Prepaid operating without state authorization²⁴ - is a "disparity in the treatment of classes of providers" that renders this matter facially amenable to preemption.²⁵ Staff's intent to use this matter as a "landmark case that would move this [regulation] forward to other companies coming in and applying for the same type of service," coupled with its refusal to extend this regulation to existing companies, and its acknowledgement that STi Prepaid had done nothing to merit imposition of the Conditions, is the very sort of capricious state regulation that Section 253 was intended to prevent.²⁶

Nor can Staff avail itself of Section 253(b) to argue that the Conditions are a proactive measure in the name of Arizona consumers - a preemptive measure to "secure" the public safety and welfare or consumer rights - because it cannot make the crucial showing that these measures are competitively neutral.²⁷ The Conditions in this matter are not, as was the case in Florida, specific enforcement of preexisting statutory protections for prepaid calling card service providers.²⁸ Nor are they a case of ensuring a basic standard of quality from a new entrant. STi Prepaid has presented extensive evidence attesting to its best practices.²⁹ There is no indication that Staff has compared the level of service STi Prepaid has demonstrated in other states with that of the Arizona prepaid calling card service market as a whole.³⁰ As a result, Staff has no

²⁴ Late-Filed Hearing Exhibit No. 1.

²⁵ *Silver Star Telephone Company, Inc. Petition for Preemption and Declaratory Ruling*, 12 FCC Rcd 15639, ¶ 42 (1997).

²⁶ Tr. 162-164.

²⁷ *Id.* at 134-135.

²⁸ *Id.* at 27-28; Hearing Exhibit A-30.

²⁹ Tr. 53, 76-77, 89-95, 97-101.

³⁰ Staff's belief the AVC requirements would constitute enhanced regulation in Arizona, combined with the fact that STi Prepaid complies with the vast majority of them as a national matter of practice, suggests that STi Prepaid exceeds the level of service typical of the Arizona prepaid calling card industry. *Id.* at 76, 90-95, 97-100, 163-164.

grounds to posit that the Conditions are necessary to ensure a minimum level of performance per consumer expectations.

In fact, imposition of these Conditions will prove largely duplicative of STi Prepaid's industry-leading standards, as was the case in Florida, whilst simultaneously causing grievous harm to STi Prepaid's prospective business in Arizona.³¹ The most immediate impact will center on STi Prepaid's state and nationwide reputation. As David Larsen, STi Prepaid minority owner and vice president, explained in the Hearing, STi Prepaid would suffer a profound blow to its reputation in a "hypersensitive" prepaid calling card industry confronting selective regulatory enforcement - "if [STi Prepaid] were to be the only one to agree to something in Arizona, [it] would absolutely be painted as [though] something is wrong with [it]."³² STi Prepaid's reputation would be tarnished even before it began service in Arizona, a point upon which its non-restricted competitors could seize in marketing to Arizona consumers. Staff's own treatment of the Florida AVC agreement clearly demonstrates this point. Despite the fact that STi Prepaid entered into the AVC alongside nine other providers without an admission of guilt, Staff seeks to complicate STi Prepaid's market entry, due to its erroneous perception of the company as somehow representative of an industry with "a *bad reputation* in terms of the number of lawsuits and . . . settlements being surfaced by attorneys general's office[s] . . ."³³

STi Prepaid will also confront fundamental competitive disadvantages as its business develops in Arizona. Assessing the ramifications of the Florida AVC, Mr. Larsen noted the tendency of those prepaid calling card service providers not subject to special conditions to "take advantage of [their] customers without [the customers] realizing what is happening."³⁴ Existing companies have the option of limiting consumer disclosures and increasing fees, drawing on a

³¹ *Id.* at 89-95, 97-101.

³² *Id.* at 123.

³³ Staff Report at 7, 13; Tr. 134.

³⁴ Tr. 57.

customer expectation that the Conditions have been applied to the Arizona prepaid calling card market as a whole.³⁵ The purpose with which Staff promulgated its Conditions - that “the industry would be operating on a level playing field or the market . . . would be operating on a level playing field” - would be the starting point for unscrupulous gain in the Arizona prepaid calling card market.³⁶

Assuming that the Commission grants STi Prepaid an unqualified CC&N, STi Prepaid will still confront at least 11 prepaid calling card service providers operating without authorization who presently enjoy reduced operational costs by not paying into 911 or universal service funds.³⁷ Imposition of the Conditions would further strengthen the advantages enjoyed by these non-certificated providers - not only would STi Prepaid be penalized in its decision to seek a CC&N (meeting the standard that Staff should enforce for all providers, per A.A.C. R14-2-1103), but it would incur additional costs, delays, and limitations in complying with them as well. Furthermore, in light of the laxity with which the CC&N requirement is enforced in Arizona, it is likely that new prepaid calling card service providers will begin operating in the state without authorization, maximizing fees by exploiting consumer expectations.

Even if certificated and non-certificated providers resist temptation to prey on consumer expectations, STi Prepaid will still be at a competitive disadvantage in regards to card fees. Testifying about the impact of the Florida AVC, Mr. Larsen explained that variable fee structures permit the production of a variety of prepaid calling cards tailored to individual customer needs.³⁸ “When you eliminate the type of fee,” he concluded, “you eliminate the ability to design cards that are more attractive to one customer unit base than another.”³⁹ Staff’s attempt to prohibit “percentage based fees” and limit minute rounding practices will hamper STi Prepaid’s

³⁵ *Id.* at 57, 79, 88.

³⁶ *Id.* at 130.

³⁷ Staff itself identified three such providers. *Id.* at 147, 165-166.

³⁸ *Id.* at 96-97.

³⁹ *Id.* at 97.

efforts to effectively market products to a diverse customer base.⁴⁰ Instead of offering several types of cards that specifically address the needs of individual ethnic groups - a practice upon which the prepaid calling card industry relies - STi Prepaid will be forced to sell a "one-size-fits-all" product that is to no one's benefit.

The collective impact of the Conditions is to raise sizeable barriers to STi Prepaid's entry into the Arizona telecommunications market. Staff's attempt to use STi Prepaid as a test subject for prospective regulations (or "leader," in Staff's parlance, for "breaking new ground") by making it solely responsible, amongst all Arizona prepaid calling card service providers, for complying with restrictive rules issued in an entirely different context, is ripe for preemption.⁴¹ The demonstrated disparity in treatment and consequential competitive harms flowing from the Conditions leave STi Prepaid little recourse but to invoke Section 253, should Staff continue to insist on their implementation in the context of this proceeding and applicable only to STi.

II. THIS IS NOT A CASE OF FIRST IMPRESSION JUSTIFYING EXTRAORDINARY AUTHORITY; THERE HAS BEEN EXTENSIVE EXPERIENCE WITH PREPAID, CALLING, AND TRAVEL CARDS IN ARIZONA

In its May 18, 2009 Response to Exceptions to the Staff Report ("Staff Response"), Staff claimed that STi Prepaid "presented an application which presents a fairly unique set of circumstances" and alleged that "[t]here simply are no other similarly-situated telecommunications providers at this time."⁴² Staff also stated at the Hearing that it "is not aware of other companies that have asked for CC&Ns to provide service in conjunction with their phone card activity" and, as such, "this is not a typical situation."⁴³ Staff later admitted

⁴⁰ Staff Report at Exhibit A. Mr. Larsen explained that some consumers, such as those calling high-cost destinations like Cuba, desire a product that maximizes the value of a single call. Other consumers, such as those calling relatively inexpensive countries like Mexico, want a card that permits several calls at low rates. Tr. 96-97, 105, 109.

⁴¹ Tr. at 163.

⁴² Staff Response at 4.

⁴³ Tr. 15-16.

“that prepaid calling card services are listed in some of the carriers’ tariffs on file at the Commission” and that “in the tariffs you will find *a few* that say prepaid calling card services.”⁴⁴ In any case, Staff concludes that its application of *Arizona Corporation Commission v. Palm Springs Utility Co., Inc.*⁴⁵ - which putatively affords “the Commission the discretion to act on a case-by-case basis when the circumstances dictated such an approach”⁴⁶ - is justified in this “case of first impression.”⁴⁷

Staff contentions as to STi Prepaid’s apparent uniqueness in Arizona are groundless. As Applicants explained in the hearing, STi Prepaid offers intrastate long-distance services with which Staff has extensive familiarity. The prepaid calling card service is merely a billing and collection method, specifically tailored to those Arizona consumers who may lack the inclination or credit basis to presubscribe to a long-distance carrier.⁴⁸

Moreover, a tariff-by-tariff examination of regulated telecommunications companies in Arizona clearly demonstrates Staff’s experience with all manner of phone cards.⁴⁹ Applicants’ own investigation, a summary of which is attached hereto as Post-Hearing Exhibit 1, identified 126 companies that have provided for some form of card-based calling service in their tariffs. In addition, 39 of these companies provide for prepaid calling card service. The relevant pages from the tariff of a typical prepaid calling card provider, Entrix Telecom, Inc., attached hereto as Post-Hearing Exhibit 2, illustrates rechargeable prepaid calling card service offered for “placing calls within the State” available “at a variety of retail outlets or through other distribution channels . . . in face values of \$5.00, \$10.00, and \$20.00 . . .” Staff’s experience with card-

⁴⁴ *Id.* at 148, 167 (emphasis added).

⁴⁵ 24 Ariz. App. 124 (1975).

⁴⁶ Staff Response at 2.

⁴⁷ Tr. 15.

⁴⁸ *Id.* at 10.

⁴⁹ This examination was undertaken in accordance with Staff’s own testimony. *Id.* at 148 (“A review of each carrier’s tariff will identify the carriers that offer to provide prepaid calling card services to their customers.”).

based telecommunications services is thus well-documented and widespread, encompassing prepaid, calling, and travel card services. To claim otherwise is to belie the plain language of numerous Arizona tariffs that provide rate schedules, definitions, terms, and conditions for the use of card services.⁵⁰

STi Prepaid is hardly the first long distance prepaid calling card service provider to request a CC&N. Applicants have identified several cases meeting this criteria including: applications by two interexchange carriers to expand their CC&Ns to provide intrastate services including prepaid calling card service;⁵¹ an application of a switchless reseller to provide competitive resold interexchange telecommunications service (which was ultimately exercised in the sale of prepaid calling cards);⁵² an application by a prepaid calling card service provider to provide customer-owned pay telephone service to correctional facility inmates (with service limited to collect calling and facility-issued prepaid calling cards);⁵³ and the transfer of a resold long distance service provider's CC&N to a newly formed subsidiary, on the condition that the latter honor any existing prepaid calling cards issued by the former.⁵⁴ In each of these matters, Staff recommended approval of the application or transfer, which was ultimately granted by the Commission. Neither the transfer nor the CC&N requested by Applicants amounts to a "case of

⁵⁰ Calling, travel, or prepaid card service that has been defined but not yet implemented in practical terms has been noted in Applicants' summary.

⁵¹ Docket No. U-2428-94-413, *AT&T Communications of the Mountain States, Inc.*, Opinion and Order (Dec. 20, 1995); Docket No. U-2431-95-337, *MCI Telecommunications Corporation*, Opinion and Order (Dec. 20, 1995).

⁵² Docket No. T-03232A-96-0428, *Application of Transcommunications, Incorporated for a Certificate of Convenience and Necessity to Provide Competitive Resold Interexchange Telecommunications Services Except Local Exchange Services*, Order (Mar. 30, 2001). A later application by the same provider to cancel its CC&N indicated "that it provided discretionary prepaid calling cards to long haul truck drivers distributed through trucking companies." Docket No. T-03232A-05-0209, *Application of Transcommunications, Inc., for Approval to Cancel its Certificate of Convenience and Necessity to Provide Resold Long Distance Telecommunications Services in the State Of Arizona*, Order (Feb. 20, 2007).

⁵³ Docket No. T-04294A-04-0879, *Application of Inmate Calling Solutions, LLC for a Certificate of Convenience and Necessity to Provide Customer-Owned Pay Telephone Service*, Order (Dec. 9, 2005).

⁵⁴ Docket Nos. T-03887A-05-0909, T-20436A-05-0909, *Joint Application of Alltel Communications, Inc. and Alltel Holding Corporate Services, Inc. for Approval of the Transfer of the Certificate Of Convenience and Necessity to Provide Resold Long Distance Telecommunications Services and Assets to Alltel Holding Corporate Services, Inc., Approval of Termination of Service and Limited Waiver of the Slamming Rules*, Order (Sept. 21, 2006).

first impression,” when Staff has evaluated the fitness of telecommunications service providers to offer prepaid calling card service in Arizona since at least 1995.

Nor is STi Prepaid unique in seeking to provide intrastate long distance service pursuant to prepaid calling card service. Applicants’ analysis of 14 prepaid calling cards made available for purchase in Arizona, as recorded in Applicants’ Late-Filed Hearing Exhibit No. 1, found that all of them permitted intrastate long distance calling despite disclaimers to the contrary on two of the cards.⁵⁵

As a “general principle of administrative law,” *Palm Springs* explains, “rules and regulations of general applicability” are preferred over piecemeal policy generation.⁵⁶ Staff has assessed the application of several entities to offer prepaid calling card service in Arizona, and has evaluated the ongoing provision of prepaid, calling, and travel card services in the context of telecommunications tariffs filed with the Commission. Extraordinary jurisdiction cannot proceed from otherwise ordinary regulatory concerns.⁵⁷ The “rational basis” for disparate treatment is missing - Staff has failed to demonstrate any meaningful difference between the case of STi Prepaid (Staff’s erroneous interpretation of the Florida AVC and pending litigation having been addressed in the preceding section) and those of other Arizona card-based telecommunications service providers. Accordingly, an enabling instruction to the Commission “to act on an individual case-by-case basis where the facts and circumstances would seem to indicate that that is appropriate” is invalid.⁵⁸ STi Prepaid’s similarity to other prepaid calling card service providers, coupled with Staff’s dogged determination to unilaterally impose the

⁵⁵ See also *AT&T Communications* and *MCI Telecommunications*, *supra* n.51.

⁵⁶ 24 Ariz. App. at 128.

⁵⁷ See, e.g., *Carondelet Health Services, Inc. v. Arizona Health Care Cost Containment System Admin.*, 182 Ariz. 221, 229 (1994) (generating a rule for an individual company for “[u]nlike *Palm Springs Util.*, we are not dealing with a specialized situation that may be endangering the health of a *segment* of the public”) (emphasis added).

⁵⁸ Tr. 16.

Conditions despite having no authority to do so, further enhances Applicants' case for preemption.

III. A RULEMAKING PROCEEDING MAY BE APPROPRIATE BUT IT CAN HAVE NO EFFECT ON STI PREPAID'S RIGHT TO RECEIVE A CERTIFICATE OF CONVENIENCE AND NECESSITY

As Applicants explained in their Exceptions, a rulemaking is the only means by which the Commission may equitably and uniformly apply the Conditions to all Arizona prepaid calling card service providers.⁵⁹ According to statute, an agency may not "base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact."⁶⁰ When an agency nonetheless permits an enforcement action against third parties without such a legislative basis, it engages in formal rulemaking.⁶¹ Consequentially, the agency must comply with the due process protections of the federal and Arizona Constitutions⁶² and the notice and comment provisions of the federal and Arizona Administrative Procedure Acts.⁶³ As repeatedly noted during the Hearing, STi Prepaid welcomes the prospect of stricter regulation on the Arizona prepaid calling card industry, so long as it applies to every carrier, including those currently operating with and without a CC&N.⁶⁴ Should the Commission wish to pursue such a course, it must adhere to the "rudimentary requirements of fair play"⁶⁵ by affording all interested parties "a meaningful opportunity to be heard."⁶⁶

⁵⁹ Exceptions at 9-12.

⁶⁰ A.R.S. § 41-1030(B); accord A.R.S. § 41-1001.01(A)(7).

⁶¹ *Erringer v. Thompson*, 371 F.3d 625, 630 (9th Cir. 2004).

⁶² U.S. Const. amend. V, amend. XIV, § 1; Ariz. Const. art. 2, § 4.

⁶³ 5 U.S.C. § 553 *et seq.*; A.R.S. §§ 41-1013 *et seq.*, 41-1021 *et seq.*, 41-1023 *et seq.*

⁶⁴ Tr. 11-12, 21-22, 45-46, 56-57, 80-83, 85-86, 89-95, 97-101.

⁶⁵ *Western Gillette, Inc. v. Arizona Corp. Commission*, 121 Ariz. 541, 543 (Ariz. Ct. App. 1979).

⁶⁶ *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971); see also *Forman v. Creighton School Dist. No. 14*, 87 Ariz. 329, 332 (1960).

Yet the prospect of such rulemaking is entirely divorced from STi Prepaid's eligibility to receive a CC&N. Pursuant to A.R.S. § 40-282 and A.A.C. R14-2-1105 *et seq.*, STi Prepaid has demonstrated its technical, financial, and managerial capabilities as a "fit and proper entity" to receive a CC&N for operation in the public interest in Arizona. Staff determined this in its Report to the Commission, which concluded that STi Prepaid has the "customer service capability," financial resources, and "technical capability" to offer service in the public interest.⁶⁷ At the Hearing, Staff explicitly affirmed its confidence in STi Prepaid's "financial wherewithal," "technical expertise" and overall fitness to receive a CC&N.⁶⁸ It is therefore clear that however the Commission chooses to regulate prepaid calling card service in the future, STi Prepaid has met the present standard, and it is entitled to begin operations in Arizona.

Failure to issue STi Prepaid a CC&N on the basis of a proposed rulemaking would constitute undue discrimination, erecting a barrier to market entry that other certificated providers in Arizona never had to overcome. Such a decision would prohibit STi Prepaid's commencement of service in the state for an indefinite period of time, affording its competitors the opportunity to increase and strengthen market penetration. Applicants, accordingly, would be compelled to seek preemption should "this proceeding . . . be suspended until the Commission could engage in rulemaking."⁶⁹

CONCLUSION

Staff's Conditions, selectively applied and enforced and constituting a barrier to entry, are amenable to federal preemption, especially in light of Staff's failure to articulate a cognizable rationale under Arizona law why specialized treatment of a single prepaid calling card provider is necessary in this matter. The only means of imposing them is through a formal rulemaking proceeding, though suspension of a CC&N grant to an otherwise fit and proper recipient

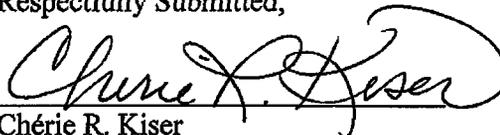
⁶⁷ Staff Report at 3, 12-13. Staff also found STi Prepaid's proposed rates to be "just and reasonable" *Id.* at 10.

⁶⁸ Tr. 130-131, 138-139, 145-146.

⁶⁹ *Id.* at 112.

pursuant to its outcome is likewise amenable to preemption. Should STi Prepaid not receive its CC&N in accordance with the results of Staff's investigation and testimony, it will have no choice but to resort to a Section 253 action to ensure fair and equitable competitive treatment in the Arizona prepaid calling card market.

Respectfully Submitted,



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Dated: June 17, 2009

Post-Hearing Exhibit 1

**Summary of Telecommunications Companies Offering
Calling, Travel, or Prepaid Card Services in Arizona**

**(all tariff information from Arizona Corporation Commission Telephone Tariffs website,
<http://www.cc.state.az.us/Divisions/Utilities/Tariff/util-tarrifs-telecom.asp>)**

Company Name	Tariff Number / Relevant Pages	Service Offering
1-800-RECONEX Inc.	Tariff 1: 21-22	Travel / Prepaid
ACN Communications Services	Tariff 1: 29, 32	Calling
Access Point, Inc.	Tariff 1: 7, 24-27, 33	Travel / Prepaid
Accipter Communications, Inc.	General Exchange Tariff: 56	Calling
ACCXX Communications, LLC	Tariff 1: 24, 29	Travel
Adelphia Telecommunications Inc.	Tariff 1: 7, 28-29	Calling, Debit, Travel (defined)
Advantage Telecommunications Corp.	Tariff 1: 20, Price List p. 3	Travel
Airespring, Inc.	Tariff 1: 20	Travel
Airnex Communications Inc.	Tariff 1: 7, 24-26, 29-30	Travel / Prepaid
AllCom International	Tariff 1: 7, 19, 22-23	Calling / Travel (defined)
Alliance Group Services	Tariff 1: 32, 37	Calling
American Fiber Network Inc.	Tariff 1: 27-29, 33-34	Travel / Prepaid
American Cyber	Tariff 1: 27, 30	Calling
Americatel Corporation	Tariff 1: 24.4-24.11, 32.3-32.4	Prepaid
AmeriVision Communications Inc.	Tariff 4: 9, 38	Debit
Andiamo Telecom, L.L.C.	Tariff 1: 9	Debit (defined)
Asian American Association	Tariff 1: 29, 32	Calling
AT&T Communications of the Mountain States, Inc.	Custom Network Services Tariff: <i>Passim</i> Local Exchange Services Tariff: 7.22-7.23, Telecommunications Services Price List: 4.5.1.1-4.5.2, 4.5.4-4.5.5, 4.5.8, 5.1-5.3, 5.5-5.7, 5.27-5.28 Telecommunications Services Tariff: 1.2, 4.2-4.4, 4.11.1-4.11.1.0.4, 4.11.1.1., 4.21, 5.22, 5.4-5.7, 5.11-5.13, 5.15-5.16, 5.19, 5.27-5.30, 5.38-5.42, 5.52 Residential Local Exchange Services Tariff: 5.12, 5.36, Price List pp. 5.6, 5.8	Calling / Calling (grandfathered) Prepaid
Atlas Telecommunications	Tariff 1: 27, 35-36	Calling
ATMC, Inc.	Tariff 1: 20, Price List	Travel
BCGI Communications Corp	Tariff 1: 5, 17-22	Prepaid / Postpaid Calling (defined)
BCN Telecom, Inc.	Tariff 1: 31, 38	Calling
BellSouth Long Distance, Inc.	Tariff 1: 7, 39, 45-46 (revised) Tariff 2: 10, 40-41, 45, 49.2, A-4, A-9, A-10	Calling / Travel
Better World Telecom, Inc.	Tariff 1: 5, 17	Postpaid Calling
Broadwing Communications LLC	Tariff 3: 37, 41, 45, 83, 85-86, 88, 89	Travel

Company Name	Tariff Number / Relevant Pages	Service Offering
Budget Phone, Inc.	Tariff 2: 7, 24-26, 29-30	Travel / Prepaid
Bullseye Telecom, Inc.	Tariff 2: 36, 40	Calling
Business Network Long Distance, Inc.	Tariff 1: 24, 29	Travel
Cascade Access, LLC	Tariff 1: 7	Travel (defined)
Centurytel Long Distance LLC	Tariff 2: 8 Tariff 3: 10, 33, 42-43, 61-62, 71	Travel (defined) Calling / Debit
Cincinnati Bell Any Distance Inc.	Tariff 1: 21-22, 35	Postpaid Calling
Clear World Communications Corporation	Arizona Telecommunications Tariff: 7, 20, 22, 24, 26, 28, 30, 32, 32.2, 32.4, 32.6, 32.8, 32.10, 32.11, 32.12, 32.16, 32.18, 39-41	Travel
Coast International, Inc.	Tariff 1: 7, 10, 14	Calling / Travel
Cognigen Networks, Inc.	Tariff 1: 31, 34	Calling
Comcast Business Communications, Inc.	Tariff 2: 35, 38, 40, 47-49	Calling / Prepaid
Communications Network Billing, Inc.	Tariff 1: 28, 31	Calling
Covista, Inc.	Tariff 1: 7, 24-27, 29	Travel / Prepaid
Cox Arizona Telecom, L.L.C.	Tariff 3: 5, 18	Calling
CTI Long Distance, Inc.	Tariff 1: 9, 29, Price List p. 2	Travel
Custom Network Solutions, Inc.	Tariff 1: 25, 28	Travel
Cypress Communications Operating Company, Inc.	Tariff 1: 49, 54	Postpaid Calling
Dancris Telecom, L.L.C.	Tariff 1: 7, 34-35, 40, Price List p. 2 Tariff 2: 9	Calling / Travel / Prepaid / Debit (defined)
D.D.D. Calling, Inc.	Tariff 1: 21, 24-25, 27, 31, 33, 36, 38-39, Price List p. 1	Travel, Calling
Easton Telecom Services, Inc.	Tariff 1: 30, 36	Calling
Electric Lightwave, LLC	Tariff 2: 8, 139, 143 Tariff 3: 7	Calling (defined) Travel
Encompass Communications, L.L.C.	Tariff 1: 7, 24-26, 29-30	Travel / Prepaid
Enhanced Communications Group, L.L.C.	Tariff 1: 20, 22, Price List p. 2	Travel
Entrix Telecom, Inc.	Tariff 1: 8, 25-28, 30	Prepaid
Eschelon Telecom of Arizona, Inc.	Tariff 3: 83	Calling / Travel
Excel Telecommunications, Inc.	Tariff 1: 42, 45-46, 49, 51-58, 60-61, 67-70, 72-75, 96, 99-100, 103-112, 114-115, 121-124, 126-130, 133, 141, 146	Calling / Prepaid
Exergy Group, LLC	Tariff 1: 24, 29, 33	Travel

Company Name	Tariff Number / Relevant Pages	Service Offering
FreedomStarr Communications, Inc.	Tariff 1: 8, 31	Calling (defined) Travel (reserved)
Frontier Communications of America, Inc.	Tariff 1: 3.6-3.7, 3.14, 4.1, 4.3, 4.6, 4.10, 6.1-6.6, 7.1-7.4, 7.15	Calling / Travel Prepaid
Globalcom, Inc.	Tariff 1: 5, 25	Travel
Global Crossing Telecommunications, Inc.	Tariff 1: 41.02, 41.04, 41.10, 41.15, 41.17, 41.19-41.21, 41.23, 67-68, 71, 76.01, 80, 80.02-80.03, 80.09, 80.19-80.22	Calling / Travel
Global Telephone Corporation	Arizona Telecommunications Tariff: 7, 19-20, 25-26	Travel
Granite Telecommunications, LLC	Tariff 1: 66, 75, 81, 92, Rate Sheet p. 23	Calling / Travel
GTC Telecom	Tariff 1: 7, 24-26, 29-30	Travel / Prepaid
HJN Telecom, Inc.	Tariff 1: 7, 24-26, 29	Travel / Prepaid
IDT America, Corp.	Tariff 1: 6, 21-24, 26	Debit / Prepaid
Intellicall Operator Services, Inc.	Tariff 1: 7-8, 40-43, 53	Calling / Travel Prepaid
International Plus Tariff Office	Tariff 2: 15, 33.3, 34.2-34.3, 34.7.1-34.11, 47.3-47.5, 93, 109-110	Calling / Debit
Inter-Tel NetSolutions, Inc.	Tariff 2: 24-25, 27	Calling
ITC DeltaCom Communications, Inc.	Tariff 1: 34, 36, 54-56, 63-64.1, 66, 69, 72, 75, 75.4.1, 75.8-75.8.1, 75.12, 75.16, 75.19, 75.20, 75.23-75.24, 75.26, 75.28-75.29, 75.31-75.32, 75.34-75.35, 75.37, 75.39, 75.41-75.42, 75.46-75.47, 75.50-75.51, 75.55-75.56, 75.81-75.82, 75.85-75.86, Price List pp. 1, 1.1, 7, 11-14.2, 15, 18-18.14, 34-39, 48-51	Calling / Travel Prepaid
Legacy Long Distance International, Inc.	Arizona Telecommunications Tariff: 7, 28-29, 37	Travel
Legacy Telecommunications Corporation	Tariff 1: 7, 24-26, 29	Prepaid / Travel
Legent Communications Corporation	Tariff 1: 8	Travel (defined)
Lightyear Communications, Inc.	Tariff 4: 24-27, 62-65, 82	Calling Travel (grandfathered)
Long Distance Consolidated Billing Co.	Tariff 1: 24, 29, 33	Travel
Metracom Inc.	Tariff 1: 8, 24, 29, Price List p. 5	Calling

Company Name	Tariff Number / Relevant Pages	Service Offering
MCI Communications, Inc.	Tariff 1: 7, 42-54, 65-73, 86.21, 86.48-86.52, 91-96, 100-109, PL-1, PL-4, PL-21 Tariff 2: 12.1, 24, 25.3.1, 25.3.2, 25.3.5.A, 25.3.5.1, 25.3.6, 25.3.6.1, 25.3.7.1, 28, 28.1, Section 34 (<i>passim</i>), Price List (<i>passim</i>) Tariff 4: 6	Calling / Prepaid
Metropolitan Telecommunications of Arizona, Inc.	Tariff 2: 24	Travel (defined)
MGEN Services Corp.	Tariff 1: 24, 29, 33	Travel
Midvale Telephone Exchange, Inc.	Tariff 1: 62	Calling
NECC Telecom, Inc.	Tariff 1: 24, 29, 33	Travel
Network Billing Systems, L.L.C.	Tariff 1: 8, 23, 28	Calling
Network Operator Services, Inc.	Tariff 1: 8, 19	Travel
Neutral Tandem-Arizona, LLC	Tariff 2: 41-42	Calling / Prepaid
New Century Telecom, Inc.	Tariff 1: 18, 21-23, 25	Calling
Nobeltel, LLC	Tariff 1: 7, 24-26, 29, 33	Travel / Prepaid
OLS, Inc.	Tariff 1: 17, 19-20	Calling
Opex Communications, Inc.	Tariff 1: 28, 35	Calling
Paetec Communications, Inc.	Tariff 1: 28, 30	Travel
Paxx Telecom, LLC	Tariff 1: 24, 29, 33	Travel
Qwest Communications Corporation	Tariff 2: 3.3, 4.3, 4.5, 4.9, 4.22-4.24, 4.32, 4.42, 4.46, 4.52-4.53, 4.78, 4.80, 6.24-6.31, 104.1-104.2, Price List pp. 1, 14-20	Calling / Travel
Qwest Corporation	Services Catalog: 105.7 Service Quality Tariff: 2.18	Calling (obsolete) Calling
R2C Communications, Inc.	Tariff 1: 7, 24-26, 29, 33	Travel / Prepaid
Reduced Rate Long Distance, LLC	Tariff 1: 20, 22, Price List p. 1	Travel
RSL Com U.S.A., Inc.	Tariff 3: 91-93, 138-143	Calling / Travel

Company Name	Tariff Number / Relevant Pages	Service Offering
SBC Long Distance, LLC	Tariff 13: 26 Tariff 15: 53, 58, 77-79, 83, 93, 104, 105-107, 109-110, 112, 121-122, 126-134, 263-264, 266, 269-270, 272-274, 276, 279, 280, 282, 287-289, 291-299, 301, 311-313, 317, 321-324, 327-328, 330-331, 334, 336-337, 340, 342, 345, 346-347, 350, 352, 354-355, 357-362, 364, 366-368, 370-371, 373-374, 377-378, 381, 384-385, 388-389, 391-392, 394-395, 397-398, 400-401, 403-404, 407-409, 412, 414, 416, 420-421, 423-425, 427-429, 431-433, 437-437.2, 437.4-437.8, 440, 441, Price List p. 2-7, 57-59, 61-66, 71-81, 85, 85.2-85.3	Calling
SNET America, Inc.	Tariff 2: 7, 19, 31-35.1, 40-47	Calling Travel (defined)
SNiP Link, LLC	Tariff 1: 7, 42-43	Calling Prepaid (defined)
Sprint Communications Company, L.P.	Tariff 2: <i>Passim</i>	Calling / Travel Calling (obsolete) Prepaid (STi) Prepaid (obsolete)
T.N.C., Inc.	Tariff 1: 27, 30	Travel
TDS Long Distance Corporation	Tariff 1: 4.11	Calling
TTI National, Inc.	Tariff 1: 19-20, 25-26, 26.9.2, Price List pp. 1-2	Calling / Travel
T-Netix Internet Services, Inc.	Tariff 1: 24, 29, 33	Travel
Telco Partners Inc.	Tariff 1: 27, 31	Calling
Teledias Communications, Inc.	Tariff 1: 15, 17	Calling
Telemanagement Systems, Inc.	Tariff 1: 20, 22, Price List p. 2	Travel
Teleuno, Inc.	Tariff 1: 18, 20	Calling
Teligent Services, Inc.	Tariff 1: 46 Tariff 2: 33,	Calling (defined)
Telliss, LLC	Tariff 1: 32, 39	Calling
Telrite Corporation	Tariff 1: 20, 22, Price List p. 1	Travel
Time Warner Telecom of Arizona, L.L.C.	Tariff 1: 130-133, 146.8, 205-206, 216.8	Calling Calling (grandfathered)
Total Call International, Inc.	Tariff 1: 7, 2-26, 29-30, 33	Prepaid
Trans National Communications International, Inc.	Tariff 1: 8, 24, 29, 33	Travel Prepaid (defined)
TMC Communications, Inc.	Tariff 1: 8	Calling

Company Name	Tariff Number / Relevant Pages	Service Offering
TON Services Inc.	Tariff 1: 6, 16, 19, 20-22, 24, 24.8-24.15, 26.1-27, 31.2-31.4	Debit / Prepaid
UCN, Inc.	Tariff 3: 14, 20, 23, 26-30	Calling
U.S. Telecom Long Distance, Inc.	Tariff 1: 6	Calling (defined)
VarTec Solutions, Inc.	Tariff 1: 24.20-24.21, 46-47	Calling
VarTec Telecom	Tariff 1: 50-54, 58, 64, 67, 68.2, 68.4, 68.7-68.8, 68.15, 78-79, 82-83, 92, 94, 94.2, 94.4, 94.5, 94.14, 100-102, 105-106, 116, 118, 118.1, 118.4-118.6, 118.12, 123, 124.8, 135, 137.6, 142, 144.6	Travel / Prepaid
Verizon Avenue	Tariff 2: 63-64 Price List: 14-16	Postpaid Calling / Prepaid
Verizon Enterprise Solutions	Tariff 4: 25, 28, 34, 66-66.0.1, 85.3, 86, 91, 97, Price List pp. 9-9.1,	Travel / Prepaid (defined)
Verizon Long Distance	Tariff 2: 34.4, 34.5.1-34.5.2, 34.5.7, 34.6, 34.11, 35-39, 61.4, 61.33, 61.39-61.41, 83-84, 87-88, 90, 96, 101, Price List pp. 3, 7-9	Calling / Travel
Verizon Select Services, Inc.	Tariff 1: 10.1, 14.1, 15-24.2, 25-31, 81.1, 135 Price List: 12-19	Postpaid Calling Calling (obsolete) Prepaid (obsolete) Prepaid
Vycera Communications, Inc.	Tariff 1: 32-33, 39-40, 43, 43.1,	Travel
WDT World Discount Telecommunications Co.	Tariff 1: 24, 29, 33	Travel
Wholesale Carrier Services, Inc.	Tariff 1: 24, 29, 33	Travel
WilTel Communications, LLC	Tariff 1: 40, 46, 51	Calling / Prepaid
Working Assets Funding Service, Inc.	Tariff 2: 10, 20-21, 24, 27-37, 39, 41-43, 45, 49-52	Calling
XO Communications Services, Inc.	Tariff 4: 93 Tariff 6: 11, 28, 48, 55, 76-80, 101, 110	Calling / Prepaid
XO Long Distance Services, Inc.	Interexchange Services Tariff: 66, 73, 84-87, 90, 98	Calling / Prepaid
Xspedius Management Co.	Tariff 2: 8, 45-46	Postpaid Calling / Prepaid (reserved)
Zone Telecom, Inc.	Tariff 1: 9, 23, 31-32	Prepaid

Post-Hearing Exhibit 2

Relevant Excerpts from Entrix Telecom, Inc., Arizona C.C. Tariff No. 1

**(original tariff available at Arizona Corporation Commission
Telephone Tariffs website, <http://www.cc.state.az.us/Divisions/Utilities/Tariff/util-tarrifs-telecom.asp>)**

ORIGINAL

ENTRIX TELECOM, INC.

Arizona C.C. Tariff No. 1
Original Page 8

SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Access Line - An arrangement from a local exchange telephone company or other common carrier, using either dedicated or switched access, which connects a Customer's location to Entrix's location or switching center.

Authorization Code - A numerical code, one or more of which may be assigned to a Customer, to enable Entrix to identify the origin of the Customer so it may rate and bill the call. Automatic number identification (ANI) is used as the authorization code wherever possible.

Commission - Used throughout this tariff to mean the Arizona Corporation Commission.

Customer - The person, firm, corporation or other legal entity which orders the services of Entrix or purchases a Entrix Prepaid Calling Card and/or originates prepaid calls using such cards, and is responsible for the payment of charges and for compliance with the Company's tariff regulations.

Company or Entrix - Used throughout this tariff to mean Entrix Telecom, Inc., a Delaware corporation.

Holiday - New Year's Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Holidays shall be billed at the evening rate from 8 a.m. to 11 p.m. After 11 p.m., the lower night rate shall go into effect.

Prepaid Account - An inventory of Telecom Units purchased in advance by the Customer, and associated with one and only one Authorization Code as contained in a specific Prepaid Calling Card.

Prepaid Calling Card - A card issued by the Company, containing an Authorization Code which identifies a specific Prepaid Account of Telecom Units, which enables calls to be processed, account activity to be logged, and balances to be maintained, on a prepayment basis.

Issue Date: October 10, 2003

Effective Date: November 9, 2003

Issued By:

Carl Wolf Billek, Associate General Counsel
520 Broad Street
Newark, New Jersey 07102-3111

APPROVED FOR FILING
DECISION #: 66233

ORIGINAL

SECTION 3 - DESCRIPTION OF SERVICE (Cont'd)

3.4 Billing Entity Conditions

When billing functions on behalf of Entrix or its intermediary are performed by local exchange telephone companies or others, the payment of charge conditions and regulations of such companies and any regulations imposed upon these companies by regulatory bodies having jurisdiction apply. Entrix's name and toll-free telephone number will appear on the Customer's bill.

3.5 Service Offerings

3.5.1 Prepaid Toll Free Calling Cards

This service permits the use of prepaid calling cards for placing calls within the State. Customers may purchase Prepaid Toll Free Calling Cards at a variety of retail outlets or through other distribution channels. These cards are available in face values of \$5.00, \$10.00, and \$20.00 and are non-refundable.

Prepaid Toll Free Calling Cards are accessed using a toll free number telephone number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code and then to enter the terminating telephone number. The Company's processor tracks the call duration on a real time basis to determine the cost consumed. The total consumed cost for each call is deducted from the remaining balance on the card.

All calls must be charged against a card that has a sufficient balance. These cards are not rechargeable, and all calls will be interrupted when the balance on the cards reaches zero. Cardholders may dial another telephone number while using the card by depressing the pound (#) button and entering in the new telephone number.

A credit allowance for Prepaid Toll Free Calling Cards is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. To receive proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the card and furnish the called number, the trouble experienced (e.g. cut off, noisy circuit, reached wrong number, etc.) and the approximate time the call was placed.

Issue Date: October 10, 2003

Effective Date: November 9, 2003

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Carl Wolf Billek, Associate General Counsel
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APPROVED FOR FILING
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ORIGINAL

ENTRIX TELECOM, INC.

Arizona C.C. Tariff No. 1
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SECTION 3 - DESCRIPTION OF SERVICE (Cont'd)

3.5 Service Offerings (Cont'd)

3.5.1 Prepaid Toll Free Calling Cards (Cont'd)

When a call charged to a Prepaid Toll Free Calling Card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one minute. Credit allowances for do not apply for interruptions not reported promptly to the Company or interruptions that are due to failure of power, equipment or systems not provided by the Company.

Certain calls may not be completed using the Prepaid Toll Free Calling Card. These include operator services, busy line verification service, interruption service, calls requiring time and charges, air-to-ground calls, marine/satellite calls, and calls placed via dialing a 700 or 900 number.

Prepaid Toll Free Calling Cards expire ninety (90) days after initial use.

Issue Date: October 10, 2003

Effective Date: November 9, 2003

Issued By:

Carl Wolf Billek, Associate General Counsel
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Newark, New Jersey 07102-3111

APPROVED FOR FILING
DECISION #: 66233

ORIGINAL

ENTRIX TELECOM, INC.

Arizona C.C. Tariff No. 1
Original Page 27

SECTION 3 - DESCRIPTION OF SERVICE (Cont'd)

3.5 Service Offerings (Cont'd)

3.5.2 Prepaid Local Access Calling Cards

This service permits the use of prepaid calling cards for placing calls within the State. Customers may purchase Prepaid Local Access Calling Cards at a variety of retail outlets or through other distribution channels. These cards are available in face values of \$5.00, \$10.00, and \$20.00 and are non-refundable.

Prepaid Local Access Calling Cards are accessed using a local access number telephone number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code and then to enter the terminating telephone number. The Company's processor tracks the call duration on a real time basis to determine the cost consumed. The total consumed cost for each call is deducted from the remaining balance on the card.

All calls must be charged against a card that has a sufficient balance. These cards are not rechargeable, and all calls will be interrupted when the balance on the cards reaches zero. Cardholders may dial another telephone number while using the card by depressing the pound (#) button and entering in the new telephone number.

A credit allowance for Prepaid Local Access Calling Cards is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. To receive proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the card and furnish the called number, the trouble experienced (e.g. cut off, noisy circuit, reached wrong number, etc.) and the approximate time the call was placed.

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APPROVED FOR FILING
DECISION #: 66233

ORIGINAL

ENTRIX TELECOM, INC.

Arizona C.C. Tariff No. 1
Original Page 28

SECTION 3 - DESCRIPTION OF SERVICE (Cont'd)

3.5 Service Offerings (Cont'd)

3.5.2 Prepaid Local Access Calling Cards (Cont'd)

When a call charged to a Prepaid Local Access Calling Card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one minute. Credit allowances do not apply for interruptions not reported promptly to the Company or interruptions that are due to failure of power, equipment or systems not provided by the Company.

Certain calls may not be completed using the Prepaid Local Access Calling Card. These include operator services, busy line verification service, interruption service, calls requiring time and charges, air-to-ground calls, marine/satellite calls, and calls placed via dialing a 700 or 900 number.

Prepaid Local Access Calling Cards expire ninety (90) days after initial use.

Issue Date: October 10, 2003

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APPROVED FOR FILING

DECISION #: 66233

ORIGINAL

ENTRIX TELECOM, INC.

Arizona C.C. Tariff No. 1
Original Page 30

SECTION 4 - RATES

4.1 Prepaid Toll Free Calling Cards

Prepaid Toll Free Calling Cards may be used as listed below, twenty-four hours a day, seven days a week, three hundred and sixty-five days a year.

The Intrastate Usage Rates for Prepaid Toll Free Calling Cards are:

\$0.50 per minute rate.

\$1.00 per-call connection rate.

A bi-weekly service charge of \$0.79 shall be applied after its first use and every fourteen (14) days thereafter.

A surcharge of \$0.65 shall be applied to each completed call made from a payphone using a Prepaid Toll Free Calling Card.

4.2 Prepaid Local Access Calling Cards

Prepaid Local Access Calling Cards may be used as listed below, twenty-four hours a day, seven days a week, three hundred and sixty-five days a year.

The Intrastate Usage Rates for Prepaid Local Access Calling Cards are:

\$0.50 per minute rate.

\$1.00 per-call connection rate.

A bi-weekly service charge of \$0.79 shall be applied after its first use and every fourteen (14) days thereafter.

4.3 Directory Assistance

A surcharge of \$1.00 per number requested shall apply.

Issue Date: October 10, 2003

Effective Date: November 9, 2003

Issued By:

Carl Wolf Billek, Associate General Counsel
520 Broad Street
Newark, New Jersey 07102-3111

APPROVED FOR FILING
DECISION #: 66233

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2009, a copy of STi Prepaid, LLC's Post-Hearing Brief in Docket Nos. T-20517A-07-0135 & T-04045A-07-0135, was served on all parties on the service list via hand delivery.



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