

ORIGINAL

OPEN MEETING ITEM



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MICHAEL P. KEARNS  
Interim Executive Director

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



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

JUL - 1 2009

DATE: JULY 1, 2009  
DOCKET NO: T-04159A-09-0002

DOCKETED BY	<i>[Signature]</i>
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TO ALL PARTIES:

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

MASKINA COMMUNICATIONS, 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:

JULY 10, 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:

JULY 28, 2009 and JULY 29, 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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AZ CORP COMMISSION  
DOCKET CONTROL

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  
9 OF MASKINA COMMUNICATIONS, INC.,  
10 FOR THE CANCELLATION OF ITS  
11 CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY.

DOCKET NO. T-04159A-09-0002

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

ORDER

13 Open Meeting  
14 July 28 and 29, 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. Maskina Communications, Inc., ("Maskina" or "Company") has a Certificate of  
21 Convenience and Necessity ("Certificate") to provide resold interexchange telecommunications  
22 services within Arizona pursuant to Decision No. 65990 (January 6, 2003).

23 2. On January 5, 2009, the Company filed with the Commission an application for  
24 cancellation of its Certificate ("Application"). Maskina stated that it no longer intends to provide  
25 service in Arizona and currently has no customers in Arizona.

26 3. On February 17, 2009, Maskina filed its responses to Commission's Utilities Division  
27 Staff ("Staff") First Set of Data Requests ("Responses").

28 4. On May 5, 2009, Staff filed its Staff Report recommending approval of Maskina's  
Application.

5. According to Maskina, it ceased service to its last customer on September 30, 2008,  
three months before it filed its Application. Attached to the Company's Responses is an Affidavit

1 attesting that Maskina has no Arizona customers.

2         6.         In its Application, the Company stated that its parent company, Vyke Communications  
3 plc, a publicly traded company incorporated in the United Kingdom, has determined to terminate  
4 most of its operations in the United States. Maskina's Responses note that it has authority to provide  
5 telecommunications services in 41 states and is in the process of surrendering these authorizations.

6         7.         Staff verified with the Company that it did not collect advances, deposits and/or  
7 prepayments from its former customers.

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

11         9.         The Company did not comply with the terms of A.A.C. R-14-2-1107, requiring the  
12 Company to provide notice to customers of its discontinuation of service, a plan for the refund of  
13 deposits, a list of alternate providers, and to publish notice of the application. In its Responses,  
14 Maskina requested a waiver of these provisions because "it has not been actively providing services  
15 under its license in recent months and because the services it previously delivered are readily  
16 available from a lengthy list of competitive providers, no areas of the state are measurably 'affected  
17 by the application' to cancel its authorization."<sup>1</sup>

18         10.        Staff concurs with Maskina's reasoning and recommends that Company compliance  
19 with the provisions of A.A.C. R-14-2-1107 should be waived.

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

27  
28 <sup>1</sup> Responses, page 2.



ORDER

IT IS THEREFORE ORDERED that the Application of Maskina Communications, Inc., for the cancellation of its Certificate of Convenience and Necessity to provide resold interexchange telecommunications services in Arizona shall be, and is hereby, approved, and its 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: MASKINA COMMUNICATIONS, INC.

2 DOCKET NO.: T-04159A-09-0002

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