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MEMORANDUM

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TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

JG

DATE: July 8, 2009

RE: IN THE MATTER OF THE APPLICATION OF SUNESYS, LLC FOR APPROVAL TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY FOR TELECOMMUNICATIONS SERVICES (DOCKET NO. T-20456A-08-0452)

Attached is the Staff Report for the above referenced Application. The Applicant is applying for approval to cancel its Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Facilities-based interexchange telecommunications services
- Facilities-based local exchange telecommunications services
- Private line telecommunication services

Staff recommends cancellation of the CC&Ns held by Sunesys, LLC.

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Originator: John F. Bostwick

Arizona Corporation Commission
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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

SUNESYS, LLC
DOCKET NO. T-20456A-08-0452

IN THE MATTER OF THE APPLICATION OF SUNESYS, LLC FOR APPROVAL
TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR TELECOMMUNICATIONS SERVICES

JULY 6, 2009

STAFF ACKNOWLEDGMENT

The Staff Report for Sunesys, LLC (Docket No. T-20456A-08-0452) was the responsibility of the Staff member listed below. John F. Bostwick was responsible for the review and analysis of Sunesys, LLC's Application to cancel its Certificate of Convenience and Necessity.



John F. Bostwick
Administrative Services Officer II

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Introduction

On August 29, 2008, Sunesys, LLC (“Sunesys”) submitted an Application to cancel its Certificate of Convenience and Necessity (“CC&N”) to provide facilities-based interexchange, facilities-based local exchange, and private line telecommunications services within the State of Arizona. The Application was not complete and Staff e-mailed its questions to Jeffery E. Rummel, Legal Representative for Sunesys, on June 5, 2009. On June 12, 2009, Mr. Rummel e-mailed a response to Staff’s questions.

Background

On April 24, 2008, in Decision No. 70292, the Commission granted Sunesys a CC&N to provide competitive facilities-based long distance, facilities-based local exchange and private line telecommunications services within the State of Arizona. In Decision No. 70292, Sunesys was required to provide a performance bond.

Staff’s Analysis

In its Application, Sunesys stated that it is not providing and never has provided telecommunications services in Arizona. In addition, Sunesys has no intention to provide telecommunications services in the State of Arizona in the future. Sunesys further stated that it does not serve any aspect of the telecommunications market in Arizona and that it does not have, nor has it ever had, any customers in Arizona.

Because Sunesys does not have any customers, the Application indicated that legal notice to cancel its CC&Ns was not provided as required by Arizona Administrative Code (“A.A.C.”) R14-2-1107. No notice was sent to customers and no customers were transferred to another carrier. A list of alternative providers was not provided. Also, Sunesys did not collect advance payments, deposits, and/or prepayments from customers in Arizona. Consequently, Sunesys believes that compliance with A.A.C. R14-2-1107, including subsection A.A.C. R14-2-503 (B), is not required in this matter.

According to Sunesys’ June 12, 2009 e-mail reply to Staff, Sunesys did not file its Utilities Division Confidential Annual Reports for the year ending December 31, 2008, because it filed its Application to cancel its CC&Ns in August 2008 and assumed that it would not be authorized to operate in Arizona before the end of 2008. In the same e-mail, Sunesys stated that it does not have any affiliates, employees, or facilities in Arizona.¹

¹ Sunesys has stated that it has an interest in a conduit under a Cost Sharing Metro IRU Agreement between Level 3 Communications, LLC and Adelphia Business Solutions, Inc. According to Sunesys, it has never used the conduit or the fiber installed in the conduit to provide services. Because the conduit and fiber has no economic value to Sunesys, Sunesys carries this asset on its books at a value of \$1.00. An asset value of a dollar is considered *de minimus* or zero.

Staff confirmed that Sunesys' Tariff No. 1 is on file with its amended Application dated October 11, 2007. The Compliance Section of the Utilities Division has indicated that Sunesys did not file conforming tariffs on or before April 24, 2009, as required in Decision No. 70292. This delinquency is not material because Sunesys requested cancellation of its CC&N on August 29, 2008 or approximately seven months before conforming tariffs were required to be filed with the Commission.

The Consumer Services Section of the Utilities Division reports that there have been no complaints, inquiries, or opinions against Sunesys from January 1, 2005 through June 8, 2009. In addition, Consumer Services states that Sunesys is in good standing with the Corporations Division of the Commission.

Since Sunesys has no Arizona customers and there are other carriers that offer similar services as Sunesys, Staff believes that approval of Sunesys' request to discontinue service is in the public interest. Sunesys' request to cancel its CC&N to provide competitive facilities-based long distance, facilities-based local exchange and private line telecommunications services should be approved by the Commission.

Recommendations

Staff recommends approval of Sunesys' Application to cancel its CC&N to provide competitive facilities-based long distance, facilities-based local exchange and private line telecommunications services in Arizona. Since Sunesys never provide service and has no Arizona customers, Staff recommends that a waiver of A.A.C. R14-2-1107 be granted in this matter.

Upon cancellation of its CC&N, Sunesys will no longer be authorized to provide facilities-based long distance, facilities-based local exchange and private line telecommunications services in Arizona and therefore, will no longer be subject to the requirements of Decision No. 70292.