

ORIGINAL



0000110707

MEMORANDUM

TO: Docket Control
FROM: Steven M. Olea
Director
Utilities Division

EA for SMO

Arizona Corporation Commission
DOCKETED
MAY - 5 2010

DOCKETED BY *[Signature]*

DATE: May 05, 2010

RE: **ADMINISTRATIVE CLOSURE - IN THE MATTER OF THE APPLICATION OF AMERICAN FIBER NETWORK, INC. FOR APPROVAL TO TRANSFER CONTROL TO NEW EARTHSHELL CORPORATION (DOCKET NOS. T-20731A-10-0093 & T-03815A-10-0093)**

On March 12, 2010, New Earthshell Corporation ("NEC") and American Fiber Network, Inc. ("AFN") notified the Arizona Corporation Commission ("Commission") of their intent to consummate a transaction which will result in a transfer of control of AFN to NEC. NEC has entered into a purchase and sale agreement ("Sale Agreement") with YA Global Investments, L.P. ("YA Global") to purchase all issued and outstanding shares of common stock of AFN. At present, AFN is a wholly-owned subsidiary of MobilPro. MobilPro pledged the AFN common stock to YA Global to secure its obligations under certain financing arrangements. Events of default have occurred and are continuing under the financing arrangements, therefore YA Global has elected to sell to NEC all of MobilPro's right, title, and interest in and to the AFN common stock. Upon the closing of the Sale Agreement, AFN will become a wholly-owned subsidiary of NEC.

NEC and AFN have indicated that the transaction has been structured such that it will be transparent to AFN's customers in Arizona. Following the closing, AFN will continue to provide service to its customers in Arizona under the same name, rates, terms, and conditions of service.

Since this filing is a notification and not an application, the Commission has no obligation to rule on the transfer of control. Therefore, it does not require Commission approval. Staff requests that this docket be administratively closed.

SMO: PJG:kdh

Originator: Pamela J. Genung

Attachment: Original and Thirteen Copies

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2010 MAY - 5 P 4: 26
AZ CORP COMMISSION
DOCKET CONTROL

SERVICE LIST FOR: New Earthshell Corporation and American Fiber Network, Inc.
DOCKET NOS. T-20731A-10-0093 and T-03815A-10-0093

Mr. Robert E. Heath
American Fiber Network, Inc.
9401 Indian Creek Parkway, Suite 280
Overland Park, Kansas 66210

Mr. Troy Rillo
Senior Managing Director
Yorkville Advisors, LLC, Investment
Manager to YA Global Investments, L.P.
President
New Earthshell Corporation
101 Hudson Street, Suite 3700
Jersey City, New Jersey 07302

Ms. Tammy Martin
MobilePro Corporation
6701 Democracy Boulevard, Suite 202
Bethesda, Maryland 20817