



BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

**DOCKETED**

APR 14 2010

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

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IN THE MATTER OF THE APPLICATION  
 OF LDMI TELECOMMUNICATIONS, INC., D/B/A  
 CAVALIER BUSINESS COMMUNICATIONS FOR  
 THE CANCELLATION OF ITS CERTIFICATE OF  
 CONVENIENCE AND NECESSITY FOR  
 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03470A-09-0212

DECISION NO. 71650

**ORDER**

Open Meeting  
 March 31 and April 1, 2010  
 Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. LDMI Telecommunications, Inc., d/b/a Cavalier Business Communications ("LDMI" or "Company") has a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange telecommunications services in Arizona pursuant to Decision No. 61169 (October 8, 1998).

2. On May 4, 2009, the Company filed with the Commission an application for cancellation of its CC&N and its AZ.C.C. Tariff No. 3 ("Application"). LDMI stated in its Application that it currently has no customers in Arizona and does not hold any customers' advance payments or deposits.

3. On October 30, 2009, the Commission's Utilities Division Staff ("Staff") filed its Staff Report recommending approval of LDMI's Application.

4. Arizona Administrative Code ("A.A.C."), R-14-2-1107 requires the Company to provide notice to customers of its discontinuation of service, a plan for the refund of deposits, a list of

1 alternate providers, and to publish notice of the application.

2 5. LDMI filed an affidavit dated May 26, 2009, stating that as of April 30, 2009, the  
3 Company has no Arizona customers. On August 27, 2009, the Company provided to Staff a copy of  
4 correspondence dated August 19, 2009, that LDMI sent to customers who were previously served by  
5 LDMI. The letter advised the customers that the Company would no longer provide long distance  
6 services after October 1, 2009, and that the customer has a right to choose another provider other than  
7 LDMI's delegated LDMI affiliate, Talk America, Inc.

8 6. The Company requests a waiver from compliance with the requirements that it provide  
9 a plan for refund of deposits, that it provide a list of alternate providers, and that it publish notice of  
10 the Application because, as of the date of the Application, it no longer had any customers in Arizona  
11 and did not hold any advances, prepayments and/or deposits.

12 7. Staff concurs with LDMI's reasoning and recommends that Company compliance  
13 with these provisions should be waived.

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

21 9. The Company did not have any Arizona customers at the time of the Application and  
22 does not hold any customers' advances, prepayments and/or deposits. Under these circumstances, the  
23 requirements of A.A.C. R-14-2-1107(A)(3) & (4) and (B) should be waived.

24 10. The Commission's Consumer Services Section of the Commission's Utilities Division  
25 reported that there were no customer complaints, inquiries or opinions against the Company from  
26 January 1, 2005, through January 14, 2009.

27 11. The Commission's Corporations Division reported that LDMI is in good standing.

28 12. Staff recommends approval of LDMI's Application and cancellation of the

1 Company's CC&N and its AZ.C.C. Tariff No. 3.

2 13. Staff's recommendation is reasonable and should be adopted.

3 **CONCLUSIONS OF LAW**

4 1. The Company is a public service corporation within the meaning of Article XV of the  
5 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

6 2. The Commission has jurisdiction over the Company and the subject matter of the  
7 Application.

8 3. The cancellation of the Company's CC&N is in the public interest.

9 4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding  
10 Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

11 5. The requirements of A.A.C. R-14-2-1107(A)(3) & (4) and (B) should be waived in  
12 this case.

13 6. Staff's recommendation is reasonable and should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the Application of LDMI Telecommunications, Inc., d/b/a Cavalier Business Communications for the cancellation of its Certificate of Convenience and Necessity to provide resold interexchange telecommunications services in Arizona is hereby approved, and its Certificate of Convenience and Necessity and its AZ.C.C. Tariff No. 3 are hereby cancelled.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.



CHAIRMAN



COMMISSIONER

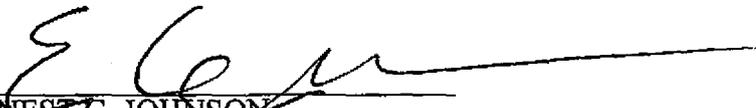


COMMISSIONER



COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON 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 14<sup>th</sup> day of April, 2010.



ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: LDMI TELECOMMUNICATIONS, INC, D/B/A  
2 CAVALIER BUSINESS COMMUNICATIONS

3 DOCKET NO.: T-03470A-09-0212

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