

OPEN MEETING ITEM



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

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ARIZONA CORPORATION COMMISSION

2010 SEP -3 P 12:36

DATE: SEPTEMBER 3, 2010

DOCKET NO.: T-04140A-08-0435

DOCKET CONTROL

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:

JLS MARKETING dba JLS
(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:

SEPTEMBER 13, 2010

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:

SEPTEMBER 21, 2010 and SEPTEMBER 22, 2010

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.

Arizona Corporation Commission

DOCKETED

SEP 3 2010

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DOCKETED BY

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

[WWW.AZCC.GOV](http://www.azcc.gov)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

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 JLS MARKETING DBA JLS FOR APPROVAL
10 OF CANCELLATION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY FOR
12 RESOLD LONG DISTANCE
13 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-04140A-08-0435

DECISION NO. _____

ORDER

14 Open Meeting
15 September 21 and 22, 2010
16 Phoenix, Arizona

17 **BY THE COMMISSION:**

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

20 **FINDINGS OF FACT**

21 1. JLS Marketing d/b/a JLS ("JLS" or "Company") has a Certificate of Convenience and
22 Necessity ("Certificate") to provide resold long distance telecommunications services in Arizona
23 pursuant to Decision No. 65988 (June 17, 2003).

24 2. On August 20, 2008, the Company filed with the Commission an application for
25 cancellation of its Certificate ("Application"). JLS stated that it no longer intends to provide service
26 in Arizona and currently has no customers in Arizona.

27 3. On June 23, 2009, the Commission's Utilities Division Staff ("Staff") sent its First Set
28 of Data Requests to JLS.

1 According to Staff, on September 29, 2009, JLS sent to Staff its responses to the Data
2 Requests to Staff via email.

3 On July 21, 2010, Staff filed its Staff Report recommending approval of JLS'
4 Application.

1 6. According to JLS, it ceased service to its last customer on September 1, 2005, three
2 years prior to filing the Application. The Company also stated that it does not have employees or
3 facilities in Arizona.

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

6 8. The Commission's Consumer Services Section of the Commission's Utilities Division
7 reported that there were no customer complaints, inquiries or opinions against the Company from
8 January 1, 2005 through October 2, 2009, and Staff noted that the Company is in good standing with
9 the Commission's Corporations Division.

10 9. The Company did not comply with the terms of Arizona Administrative Code
11 ("A.A.C.") R-14-2-1107, requiring the Company to provide notice to customers of its discontinuation
12 of service, a plan for the refund of deposits, a list of alternate providers, and to publish notice of the
13 application. Staff states, "JLS does not need to comply with the requirements of A.A.C. R14-02-
14 1107 because JLS does not have any customers in Arizona."¹

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

22 11. The Company has no Arizona customers and did not collect any advances, deposits
23 and/or prepayments. Under these circumstances, the requirements of A.A.C. R-14-2-1107 should be
24 waived.

25 12. Staff recommends approval of JLS' Application and cancellation of the Company's
26 Certificate.

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¹ Staff Report dated July 21, 2010, page 1.

1 13. Staff's recommendations are reasonable and should be adopted.

2 CONCLUSIONS OF LAW

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

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

7 3. The cancellation of the Company's Certificate is in the public interest.

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

10 5. The requirements of A.A.C. R14-2-1107 should be waived in this case.

11 6. Staff's recommendations are reasonable and should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the Application of JLS Marketing d/b/a JLS for the cancellation of its Certificate of Convenience and Necessity to provide long distance telecommunications services in Arizona is 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, 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 _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: JLS MARKETING DBA JLS

2 DOCKET NO.: T-04140A-08-0435

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