

ORIGINAL



0000123914

MEMORANDUM
RECEIVED

2011 MAR 21 P 3: 11

Arizona Corporation Commission

DOCKETED

MAR 21 2011

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division

EA for SMD
DOCKET CONTROL

DOCKETED BY
JDS

DATE: March 21, 2011

RE: IN THE MATTER OF THE APPLICATION OF AMERICAN FIBER NETWORK, INC. FOR APPROVAL TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY. (DOCKET NO. T-03815A-10-0520)

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:

- Resold Interexchange Services
- Resold Local Exchange Services
- Facilities-Based Local Exchange Services

Staff recommends cancellation of the CC&N.

SMO:LLM:kdh

Originator: Lori L. Morrison

Attachment: Original and Thirteen Copies

SERVICE LIST FOR: AMERICAN FIBER NETWORK, INC.
DOCKET NO.: T-03815A-10-0520

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

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

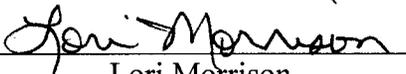
AMERICAN FIBER NETWORK, INC.
DOCKET NO. T-03815A-10-0520

IN THE MATTER OF THE APPLICATION OF AMERICAN FIBER NETWORK, INC. FOR
APPROVAL TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY

MARCH 21, 2011

STAFF ACKNOWLEDGEMENT

The Staff Report for the application of American Fiber Network, Inc., Docket No. T-04271A-10-0475, for approval to cancel its Certificates of Convenience and Necessity was the responsibility of the staff member listed below. Lori Morrison was responsible for the review and analysis of the application.


Lori Morrison
Utilities Consultant

INTRODUCTION

On December 30, 2010, American Fiber Network, Inc. ("AFNI" or "Company") submitted a letter requesting to relinquish its Certificates of Convenience and Necessity ("CC&N") to provide competitive intrastate telecommunications services in Arizona, effective February 20, 2011. AFNI also requested the withdrawal of its tariffs.

BACKGROUND

On June 30, 2000, in Decision No. 62178, the Commission granted AFNI a CC&N to provide resold interexchange telecommunications services within the State of Arizona.

On June 28, 2001, in Decision No. 63837, the Commission granted AFNI a CC&N to provide resold local exchange telecommunications services within the State of Arizona. In compliance with this Decision, the Company filed a \$25,000 performance bond.

On September 30, 2008, in Decision No. 70512, the Commission granted AFNI a CC&N to provide facilities-based local exchange and switched access telecommunications services. In compliance with this Decision, the Company was required to file a \$100,000 performance bond or irrevocable sight draft letter of credit ("ISDLC").

On January 20, 2009, in Decision No. 70693, the Commission granted AFNI an extension of time to obtain the \$100,000 performance bond or ISDLC. The Company has not filed a \$100,000 performance bond or ISDLC with the Commission.

STAFF'S ANALYSIS

In its December 30, 2010 letter, AFNI stated it had seven local exchange customers and twelve long distance customers and it intends to cease operations in Arizona on February 20, 2011. Customers were notified by direct mail of the discontinuance of service on December 15, 2010. On February 14, 2011, in its responses to Staff Data Requests, AFNI stated it did not have any switched access customers. The Company filed an affidavit of publication certifying that notice was provided as required in Arizona Administrative Code ("A.A.C.") R14-2-1107(A)(2). AFNI has affirmed, in response to Staff's Data Request, that it did not collect advances, deposits, and/or prepayments from customers in Arizona.

The Consumer Services Section of the Utilities Division reports that there have been zero (0) complaints, inquiries, or opinions against AFNI from January 1, 2008 to January 7, 2011. According to the Corporations Division, AFNI is not in good standing because their annual report was returned to the Company due to errors in the report and the Company never filled a corrected report. AFNI's 2009 utility annual report is currently on file with the Commission. The Compliance Section reports that there are three (3) current compliance delinquencies for AFNI. The delinquencies were: (1) not filing conforming tariffs as required in Decision No. 70512; (2) not posting a \$100,000 performance bond or ISDLC as required in Decision No.

70512 and (3) not renewing or reissuing a \$25,000 performance bond as required in Decision No. 63837.

RECOMMENDATION

Staff recommends that AFNI's CC&Ns to provide resold interexchange, resold local and switched access telecommunications services be cancelled. In addition, Staff recommends that the cancellation not become effective until a decision is issued by the Commission authorizing such cancellation. Upon cancellation of its CC&N, AFNI will no longer be authorized to provide telecommunications services in Arizona. Therefore, AFNI will no longer be subject to the requirements of Decision Nos. 62178, 63837, 70512 and 70693. In addition, Staff recommends approval of AFNI's request to cancel and withdraw its Arizona tariffs.