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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS ORIGINAL RECEIVED

GARY PIERCE, Chairman
BOB STUMP
PAUL NEWMAN
SANDRA D. KENNEDY
BRENDA BURNS

2011 APR -8 P 4:48

Arizona Corporation Commission

DOCKETED

APR - 8 2011

FOR COMMISSION DOCKET CONTROL

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF TELESPHERE ACCESS, LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD LONG DISTANCE, RESOLD LOCAL EXCHANGE, FACILITIES-BASED LOCAL EXCHANGE, AND FACILITIES-BASED LONG DISTANCE TELECOMMUNICATION SERVICES IN ARIZONA.

Docket No. T-20675A-09-0214

TELESPHERE ACCESS, LLC'S RESPONSE TO MOTION TO INTERVENE

Snell & Wilmer LLP

LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

On February 18, 2011, Charles Eastwood filed a Motion to Intervene ("Motion") in the above-captioned matter. On March 17, 2011, the Administrative Law Judge ("ALJ") issued a Procedural Order directing Telesphere Access, LLC ("Telesphere Access") and the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") to file a response to the Motion. Telesphere Access, through counsel undersigned, hereby submits this Response to the Motion.

The Motion Does Not Meet the Requirements of A.A.C. R14-3-105

A.A.C. R14-3-105 clearly provides that intervention is limited to "persons . . . who are directly and substantially affected by the proceeding" and that "no application for leave to intervene shall be granted where by so doing, the issues theretofore present will be unduly broadened." The application that is pending before the Commission is for a Certificate of Convenience and Necessity ("CC&N") for Telesphere Access to provide resold long distance, resold local exchange, and facilities-based local exchange and long distance telecommunications services in Arizona. The issues raised by Mr. Eastwood in

1 It should be noted that Mr. Eastwood previously filed public comments in this docket that contained issues similar to the issues raised in the Motion. Pursuant to the ALJ's December 7, 2010, Procedural Order, on December 30, 2010, Telesphere Access filed a response to Mr. Eastwood's comments. A copy of Telesphere Access' December 30, 2011, response is hereby incorporated herein as Attachment A.

1 the Motion are simply not relevant to this proceeding, and will unduly broaden the scope
2 of the proceeding in contravention to the requirements of A.A.C. R14-3-105.² For
3 example, the Motion states that Mr. Eastwood has had:

4 *previous communications to the Commissioners requesting a global*
5 *rule change regarding the way all TELCOS permitted to do business*
6 *in the State of Arizona handle such requests for the creation and*
7 *distribution of LISTINGS.*³

8 Although Telesphere Access and its affiliates deny that they have engaged in any conduct
9 that is in violation of any Federal or state law or regulation, to the extent Mr. Eastwood
10 has an issue with the way the entire telecommunications industry does business, such
11 issue should be addressed in the context of a “global” (to use Mr. Eastwood’s own word)
12 or generic state or Federal proceeding to include all telecommunication providers. It is
13 not relevant or appropriate to address such an issue in a state CC&N proceeding for a
14 single telecommunications provider. Telesphere Access has informed Mr. Eastwood that
15 it will continue to investigate any alleged improper or fraudulent use of its network or
16 services and will take any and all appropriate action as permitted by law.⁴

17 **Pending Lawsuit Against Telecommunications Providers**

18 Mr. Eastwood states in his Motion that he has already filed a lawsuit in Maricopa
19 County Superior Court (Case No. CV 2010-027605) against various telecommunications
20 providers in Arizona that are allegedly engaged in conduct in violation of Arizona law.⁵
21 Mr. Eastwood should not be permitted to waste Commission time and resources by using
22 this CC&N proceeding before the Commission to bolster his position in his lawsuit. He
23 should pursue whatever claims he allegedly has in the pending court proceeding and not
24 through a Commission CC&N proceeding.

25
26 ² In its March 30, 2011, Response to the Motion, Staff also indicated that it “is very concerned that the
27 issues Mr. Eastwood will inject into this proceeding will unduly broaden the scope of this proceeding”.
28 Staff Response at page 1, lines 24-25.

³ Motion at page 4, lines 5-8 (emphasis added).

⁴ See Attachment A, page 2.

⁵ It should be noted that neither the Applicant nor its affiliates are named parties to this lawsuit.

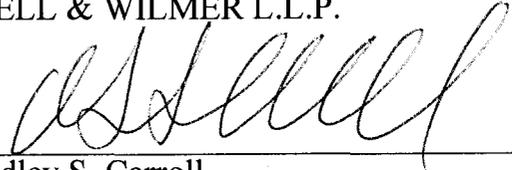
1 **Conclusion**

2 As this is a CC&N proceeding, Mr. Eastwood's stated grounds for intervention are
3 not relevant and do not meet the requirements of A.A.C. R14-3-105 in that he has not
4 demonstrated that he is "*substantially affected by the proceeding*" and his intervention
5 will "*unduly broaden*" the proceeding. Moreover, Mr. Eastwood has already
6 acknowledged that his alleged claims should be addressed by the Commission in a
7 "*global*" proceeding, and he has already filed a lawsuit against various
8 telecommunications providers where his claims are already being considered by the court.

9 On the basis of the foregoing, Telesphere Access requests that Mr. Eastwood's
10 Motion to Intervene be denied. Mr. Eastwood has already filed public comment
11 (including his Motion, which may also be considered as public comment), and he may still
12 provide additional oral comment at the May 9, 2011, hearing if he so chooses. If,
13 however, the ALJ decides to grant the Motion, Mr. Eastwood's intervention should be
14 strictly limited to issues that are relevant to the CC&N Application.

15 RESPECTFULLY SUBMITTED this 8th day of April, 2011.

16 SNELL & WILMER L.L.P.

17
18 By 

19 Bradley S. Carroll
20 One Arizona Center
21 400 East Van Buren
22 Phoenix, Arizona 85004-2202
23 Attorneys for Telesphere Access, LLC

24
25 ORIGINAL and 13 copies filed this
26 8th day of April, 2011, with:

26 Docket Control
27 ARIZONA CORPORATION COMMISSION
28 1200 West Washington
Phoenix, Arizona 85007

1 COPY of the foregoing hand-delivered
this 8th day of April, 2011, to:

2 Wesley C. Van Cleve, Staff Counsel
3 Legal Division
4 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

5 Steve Olea, Director
6 Utilities Division
7 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

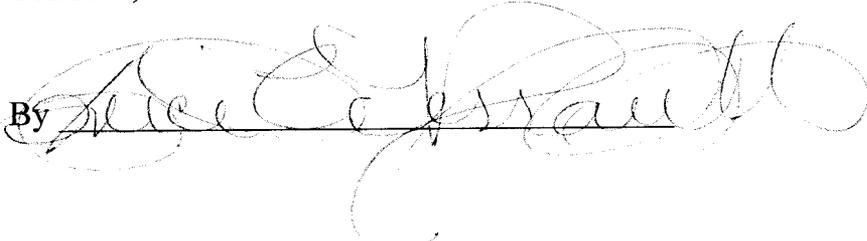
8 Yvette B. Kinsey, Administrative Law Judge
9 Hearing Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

11 COPY of the foregoing mailed/e-mailed
12 this 8th day of April, 2011, to:

13 Kristopher E. Twomey
14 LAW OFFICES OF KRISTOPHER E. TWOMEY, P.C.
1725 I Street N.W., Suite 300
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15 Michael Targett, Legal Counsel
16 TELESPHERE
1938 43rd Avenue East
17 Seattle, Washington 98112

18 Charles Eastwood
19 P.O. Box 832
Tolleson, Arizona 85353

20
21 By 
22
23

24
25
26
27
28

Attachment A

ORIGINAL



TELESPHERE

BUSINESS TELECOMMUNICATIONS. SIMPLIFIED.

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December 30, 2010

AZ CORP COMMISSION
DOCKET CONTROL

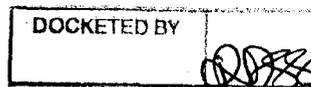
Via Hand Delivery

Arizona Corporation Commission

DOCKETED

DEC 30 2010

Chief Clerk
Docket Office
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007-2927



Re: In the Matter of the application of Telesphere Access, LLC for approval of a Certificate of Convenience and Necessity to Provide Resold Long Distance, Local Exchange, Facilities-Based Long Distance and Local Exchange Telecommunications Service. Docket No. T-20675A-09-0214

To Whom It May Concern:

Pursuant to ALJ Kinsey's December 7, 2010 order, Telesphere Access, LLC ("Telesphere") provides an original and thirteen (13) copies of the following response to Mr. Charles Eastwood's public comments filed on December 2, 2010. Telesphere understands the Commission's concerns regarding the issues raised by Mr. Eastwood and is engaged in an internal investigation to gather the facts and make a determination for future action.

At this point, Telesphere believes that there are three main aspects of Mr. Eastwood's public comments that warrant a specific response, as required by the order: (1) filing of the "locksmith scammer" lawsuit, (2) contacting Telesphere to demand termination of certain communications services and (3) Telesphere's providing telephone numbers to certain defendants named in his lawsuit. Telesphere is certainly willing to provide specific responses to other issues should the Commission so request.

Mr. Eastwood states that he has filed a lawsuit relating to "locksmith scammers". Telesphere is aware of the lawsuit and has fulfilled any and all obligations in connection therewith (including providing consent to defendant 360 Networks' subpoena response). Telesphere has advised Mr. Eastwood that it believes it would be inappropriate to discuss the lawsuit with Mr. Eastwood, or respond to Mr. Eastwood with regard to specific

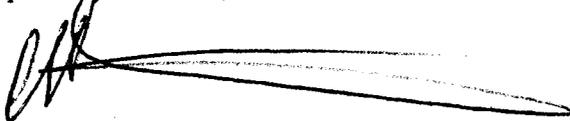
aspects of the lawsuit, and has no comment at this point on the litigation or merits of the underlying claims relating to allegations of consumer fraud or violation of Arizona law. Telesphere is not a named a party to the litigation, but will continue to cooperate with the court as the case goes forward.

Mr. Eastwood states that he contacted Telesphere on November 30, 2010. Telesphere can confirm that Mr. Eastwood contacted the company on that date and several times thereafter. On the November 30th telephone call with Telesphere's legal counsel, Michael Targett, Mr. Eastwood explained his position and made demands that Telesphere terminate service to certain of its customers that are named in the locksmith scammer lawsuit. Mr. Eastwood further threatened to file a complaint in the present docket if Telesphere did not immediately accept his demands. Mr. Eastwood was verbally abusive on the phone with several of Telesphere's employees and continued to contact Telesphere employees with unreasonable demands and threats. On advice of counsel, Telesphere's human resource department issued a general warning to all employees to avoid any contact or discussion with Mr. Eastwood.

Mr. Eastwood states that Telesphere provides communications services, including telephone numbers and directory listings, to certain of its customers that are named in his lawsuit. Telesphere acknowledges and has confirmed this fact. However, due to confidentiality restrictions in its contracts with customers and carriers, and to its obligations to protect CPNI, the company has not provided any further information relating to such customers or their accounts. It is important to note that Telesphere has stated clearly to Mr. Eastwood that it will, and continues to, investigate any improper or alleged fraudulent use of its network or services and will take any and all appropriate action.

Please advise if the Commission would like any further information regarding this or other issues regarding Telesphere's pending application in this docket.

Respectfully submitted,



Clark Peterson
Chief Executive Officer, Telesphere Networks Ltd.

cc: Maureen A. Scott (via email mscott@azcc.gov)
Michael Targett