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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

JUN 27 2011

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION
OF AMERICAN FIBER NETWORK, INC. FOR
THE CANCELLATION OF ITS CERTIFICATES
OF CONVENIENCE AND NECESSITY FOR
TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03815A-10-0520

DECISION NO. 72442

ORDER

Open Meeting
June 21 and 22, 2011
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. American Fiber Network, Inc. ("AFNI" or "Company") has a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange telecommunications services in Arizona pursuant to Decision No. 62718 (June 30, 2000); a CC&N to provide resold local exchange telecommunications services in Arizona pursuant to Decision No. 63837 (June 28, 2001); and a CC&N to provide facilities-based local exchange and switched access telecommunications services in Arizona pursuant to Decision No. 70512 (September 30, 2008).

2. On December 30, 2010, the Company filed with the Commission an application for cancellation of its three CC&Ns ("Application").

3. On February 16, 2011, AFNI filed an Affidavit of Publication indicating that the Company had published notice of the Application on January 7, 2011, in the *Arizona Capitol Times*.

4. On March 21, 2011, the Commission's Utilities Division Staff ("Staff") filed its Staff Report recommending approval of the Application.

5. In its Application, AFNI states that on December 17, 2010, the Company completed a

1 transfer of the majority of its customers in states other than Arizona to another telecommunications
2 provider. AFNI is ceasing business and will discontinue services to its Arizona customers and
3 requests cancellations of its CC&Ns and its existing Arizona tariffs.

4 6. AFNI indicates that, at the time of the Application, it provided service to a total of 19
5 Arizona customers. Customers were advised by correspondence dated December 15, 2010, of the
6 Company's intention to discontinue service as of February 20, 2011.

7 7. AFNI notes that it did not collect customer deposits and any amounts owed to
8 customers for payment of service beyond February 20, 2011, will be refunded. In the Company's
9 correspondence to its customers, AFNI provided a link to the Commission's website providing a list
10 of alternate providers.

11 8. Based on the above, we find that AFNI has complied with the provisions for
12 cancellation of service pursuant to the Arizona Administrative Code ("A.A.C.") R14-2-1107.

13 9. The Staff Report states the Commission's Consumer Services Section of the
14 Commission's Utilities Division reported that there were no customer complaints, inquiries or
15 opinions against the Company from January 1, 2008, through January 11, 2011.

16 10. According to Staff, the Commission's Corporations Division reports that AFNI is not
17 in good standing because its last Annual Report contained errors and was returned to the Company,
18 but AFNI did not return a corrected Annual Report.

19 11. The Commission's Compliance Section noted that there are three compliance
20 delinquencies relating to the Company's failure: 1) to file conforming tariffs for its facilities-based
21 services, 2) to file a \$100,000 performance bond for those services, and 3) to renew a \$25,000
22 performance bond required for its resold local exchange services.

23 12. Staff recommends approval of AFNI's Application and cancellation of the Company's
24 CC&Ns and its Arizona tariffs.

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

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CONCLUSIONS OF LAW

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

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

6 3. The cancellation of the Company's CC&Ns is in the public interest.

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

9 5. The requirements of A.A.C. R14-2-1107 have been met.

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

11 **ORDER**

12 IT IS THEREFORE ORDERED that the Application of American Fiber Network, Inc. for the
13 cancellation of its Certificate of Convenience and Necessity to provide resold interexchange
14 telecommunications services in Arizona authorized in Decision No. 62718 (June 30, 2000), is hereby
15 granted.

16 IT IS FURTHER ORDERED that the Application of American Fiber Network, Inc. for the
17 cancellation of its Certificate of Convenience and Necessity to provide resold local exchange
18 telecommunications services in Arizona authorized in Decision No. 63837 (June 28, 2001), is hereby
19 granted.

20 IT IS FURTHER ORDERED that the Application of American Fiber Network, Inc. for the
21 cancellation of its Certificate of Convenience and Necessity to provide facilities-based local
22 exchange and switched access telecommunications services in Arizona authorized in Decision No.
23 70512 (September 30, 2008), is hereby granted.

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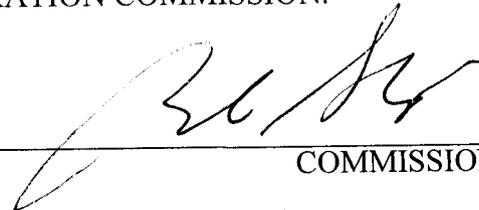
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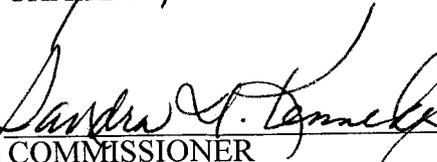
IT IS FURTHER ORDERED that American Fiber Network, Inc.'s tariffs on file with the Commission are hereby cancelled.

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

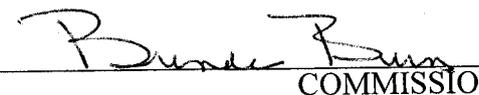
BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN

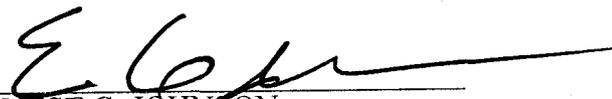

COMMISSIONER


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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 27th day of June, 2011.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: AMERICAN FIBER NETWORK, INC.

2 DOCKET NO.: T-03815A-10-0520

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