

OPEN MEETING ITEM

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



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ARIZONA CORPORATION COMMISSION RECEIVED

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DOCKET NO.: T-20740A-10-0205

TO ALL PARTIES:

AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

JUL 25 2011

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

CENTRAL TELECOM LONG DISTANCE, INC.
(CC&N/RESELLER)

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:

AUGUST 3, 2011

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:

AUGUST 16, 2011 and AUGUST 17, 2011

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.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
CENTRAL TELECOM LONG DISTANCE, INC.
FOR APPROVAL OF A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE RESOLD LONG DISTANCE
TELECOMMUNICATION SERVICES IN
ARIZONA.

DOCKET NO. T-20740A-10-0205

DECISION NO. _____

ORDER

Open Meeting
August 16 and 17, 2011
Phoenix, Arizona

BY THE COMMISSION:

On May 18, 2010, Central Telecom Long Distance, Inc. (“CTL D” or “Applicant”) submitted to the Arizona Corporation Commission (“Commission”) an application for a Certificate of Convenience and Necessity (“Certificate”) to provide resold long distance telecommunication services in Arizona.

On July 22, 2010, CTL D docketed responses to the Commission’s Utilities Division (“Staff”) First Set of Electronic Data Requests.

On August, 24, 2010, CTL D docketed responses to Staff’s Second Set of Electronic Data Requests.

On February 10, 2011, CTL D filed an Affidavit of Publication showing that notice of its application had been published in the *Arizona Republic*, a newspaper of general circulation in the State of Arizona on January 27, 2011.

On March 4, 2011, Staff filed a Staff Report recommending approval of CTL D’s application with conditions.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. CTLD is a foreign C corporation, organized under the laws of Colorado, with its
4 principal place of business in Colorado Springs, Colorado.¹

5 2. CTLD is in good standing with the Arizona Corporation Commission.²

6 3. On May 18, 2010, CTLD filed an application with the Commission for a CC&N to
7 provide resold long distance telecommunication services in Arizona.

8 4. Staff recommends approval of CTLD's application for a CC&N to provide resold long
9 distance telecommunication services subject to the following conditions:

- 10 a. CTLD comply with all Commission Rules, Orders and other requirements
11 relevant to the provision of intrastate telecommunication services;
- 12 b. CTLD maintain its accounts and records as required by the Commission;
- 13 c. CTLD file with the Commission all financial and other reports that the
14 Commission may require, and in a form and at such times as the Commission
15 may designate;
- 16 d. CTLD maintain on file with the Commission all current tariffs and rates, and
17 any service standards the Commission may require;
- 18 e. CTLD file with the Commission tariffs which state that does not require
19 deposits from its customers;
- 20 f. CTLD comply with the Commission's rules and modify its tariffs to conform
21 to these rules if it is determined that there is a conflict between CTLD's tariffs
22 and the Commission's rules;
- 23 g. CTLD cooperate with Commission investigations including, but not limited to
24 customer complaints;
- 25 h. CTLD participate in and contribute to the Arizona Universal Service Fund, as
26 required by the Commission;
- 27 i. CTLD be required to notify the Commission immediately upon changes to its
28 name, address, or telephone number;
- 29 j. CTLD's proposed rates be classified as competitive pursuant to A.A.C. R14-2-
1108;
- 30 k. The Commission authorize maximum rates as proposed in CTLD's proposed
31 tariff. That the minimum rates for CTLD's competitive services be its total
32 service long run incremental costs of providing those services as set forth in
33 A.A.C. R14-2-1109;
- 34 l. In the event that CTLD states only one rate in its proposed tariff for a

¹ Application at 1.

² Application at Attachment A.

competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate;

- m. CTLD's fair value rate base ("FVRB") information, as provided by Staff, not be given substantial weight in this analysis;
- n. If CTLD desires in the future to provide telecommunication services other than resold long distance services, CTLD be required to file an application with the Commission requesting such authorization; and
- o. If CTLD discontinues and/or abandons its service area it must provide notice to both the Commission and its customers in accordance with A.A.C. R14-2-1107.

5. Staff further recommends CTLD comply with the following conditions within the timeframes outlined or CTLD's CC&N should be considered null and void, after due process.

a. That CTLD:

- (i.) Docket conforming tariffs for the proposed services described in its application within 365 days of a Decision in this matter or 90 days prior to providing service, whichever comes first.
- (ii.) Notify the Commission as a compliance item in this docket, within 30 days of its first customer being served.

Technical Capabilities

6. CTLD is a provider of resold interexchange services in 29 states.³

7. CTLD indicates it will provide its resold long distance services through Global Crossing and Qwest.⁴

8. CTLD provided information stating its top executive has over 14 years experience in the telecommunications industry.⁵

9. CTLD will have no employees located in Arizona.⁶ CTLD's Arizona customers will have access to a Customer Service Call Center located in San Antonio, Texas, which will handle complaints, inquiries, and repairs.⁷ Customers may contact the Customer Service Call Center, via a toll-free telephone number and representatives will be available Monday through Friday, from 5:00 a.m. to 7:00 p.m. Pacific Standard Time.⁸

³Alabama, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Montana, New Jersey, New York, Nevada, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, Vermont, Washington and Wisconsin.

⁴Application (A-17).

⁵Applicant response to Staff's data request (STF 1.5).

⁶Id. at (STF 1.21).

⁷Applicant response to Staff's data request (STF 1.21).

⁸Applicant response to Staff's data request (STF 1.5).

1 10. Based on the above information, Staff concludes that CTLD has the technical
2 capabilities to provide the services it is requesting in its application.⁹

3 **Financial Capabilities**

4 11. CTLD provided unaudited financial statements for the 12-month periods ending
5 December 31, 2008 and December 31, 2009. As of December 31, 2009, CTLD listed its total assets at
6 \$53,708; total equity of \$53,708; and a net income of \$21,379.¹⁰

7 12. Staff states that if CTLD experiences financial difficulties, there will be minimal
8 impact to customers because there are many companies providing resold interexchange
9 telecommunication services and alternatively, customers may choose a facilities-based provider.¹¹
10 Further, Staff states that if customers desire alternative interexchange service, they can immediately
11 access it by using a dial around access code.¹²

12 13. CTLD filed proposed tariffs showing that it will not require deposits or advanced
13 payments from its customers in Arizona.¹³ Staff does not recommend a performance bond or
14 irrevocable sight draft letter of credit ("ISDLC") as a provision of service for CTLD.

15 14. However, Staff recommends that if CTLD desires in the future to collect deposits
16 and/or advanced payments from its customers, CTLD should file an application with Commission
17 requesting approval, referencing this Decision, and explaining its plans for procuring either a
18 performance bond or ISDLC.¹⁴

19 **Rates and Charges**

20 15. CTLD filed a proposed tariff for its proposed telecommunication services in Arizona.¹⁵

21 16. CTLD also filed revised tariff pages in response to Staff's data requests.¹⁶

22 17. Staff reviewed CTLD's revised tariff and states that in general rates for competitive
23 services are not set in the same manner as for non-competitive services and although CTLD's FVRB
24 was taken into account as part of Staff's analysis, Staff believes CTLD's FVRB is too small to be given

25 ⁹ Id.

26 ¹⁰ Id.

¹¹ Staff Report at 3.

27 ¹² Id.

¹³ Staff Report at 2.

¹⁴ Id.

¹⁵ Application at Attachment B.

28 ¹⁶ Applicant Response to Data Requests dated August 24, 2010.

1 substantial weight in this analysis.¹⁷

2 18. Given that CTLD is a reseller of services purchased through other telecommunication
3 companies, Staff believes CTLD will not be able to affect the intrastate interexchange market by
4 restricting output or raising market prices.¹⁸ Staff states that because the entities that CTLD will
5 purchase its services from are technically and financially capable of providing alternative services at
6 comparable rates and conditions, CTLD will have no market power and the competitive environment
7 will yield rates that are just and reasonable.¹⁹

8 19. Pursuant to A.A.C. R14-2-1019, CTLD may charge rates for services that are not less
9 than its total service long-run incremental costs of providing such service.²⁰

10 20. Staff concludes that CTLD's proposed rates, as presented in its revised tariffs, are just
11 and reasonable and Staff recommends that the rates be approved.

12 **Complaint Information**

13 21. According to CTLD's application, it has not had an application for service denied, or
14 revoked in any state where it has applied for a certificate to provide service.²¹

15 22. Staff confirmed that neither CTLD nor its officers, directors, or managers have been or
16 are currently involved in any civil or criminal investigation, nor have had judgments entered in any
17 civil matter, judgments levied by any administrative agency, or regulatory agency, or been convicted
18 of any criminal acts within the last ten years.²²

19 23. Staff also confirmed that neither CTLD or any of its officers, directors, partners, or
20 managers have been or are currently involved in any formal or informal complaint proceedings
21 pending before any state or federal regulatory commission, administrative agency, or law
22 enforcement agency.²³

23 24. The Commission's Consumer Services Section reported that no complaints were filed
24 from January 1, 2007 through May 27, 2010, against CTLD in Arizona.²⁴

25 ¹⁷ Staff Report at 3.

26 ¹⁸ Staff Report at 4.

¹⁹ Id.

²⁰ Id.

27 ²¹ Application at A-18.

²² Application at A-11.

28 ²³ Application at A-12.

²⁴ Staff Report at 2.

1 25. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

2 **CONCLUSIONS OF LAW**

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

5 2. The Commission has jurisdiction over CTLD and the subject matter of the application.

6 3. Notice of the application was given in accordance with the law.

7 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a
8 CC&N to provide competitive telecommunication services.

9 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
10 Statutes, it is in the public interest for CTLD to provide the telecommunication services set forth in
11 its application.

12 6. CTLD is a fit and proper entity to receive a CC&N authorizing it to provide resold
13 long distance in Arizona, subject to Staff's recommendations set forth herein.

14 7. The telecommunications services CTLD intends to provide are competitive within
15 Arizona.

16 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
17 it is just and reasonable and in the public interest for CTLD to establish rates and charges that are not
18 less than CTLD's total service long-run incremental costs of providing the competitive services
19 approved herein.

20 9. Pursuant to A.R.S. § 40-282, the application in this matter may be approved without a
21 hearing.

22 10. Staff's recommendations are reasonable and should be adopted.

23 **ORDER**

24 IT IS THEREFORE ORDERED that the application of Central Telecom Long Distance, Inc.
25 for a Certificate of Convenience and Necessity for authority to provide resold long distance
26 telecommunication services in Arizona, is hereby approved, subject to Staff's recommendations as
27 more fully described in Findings of Fact Nos. 4 and 5.

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IT IS FURTHER ORDERED that if Central Telecom Long Distance, Inc. fails to comply with the Staff recommendations described in Findings of Fact No. 5, the Certificate of Convenience and Necessity granted herein shall be considered null and void after due process.

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 _____, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

YBK:db

1 SERVICE LIST FOR: CENTRAL TELECOM LONG DISTANCE, INC.

2 DOCKET NO.: T-20740A-10-0205

3 Deborah Baker, President
CENTRAL TELECOM LONG DISTANCE, INC.
4 102 South Tejon Street, Suite 1100
5 Colorado Springs, CO 80903

6 Andrew Isar
MILLER ISAR, INC.
4423 Point Fosdick Drive, NW, Suite 306
7 Gig Harbor, WA 98335

8 Janice Alward, Chief Counsel
Legal Division
9 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
10 Phoenix, AZ 85007

11 Steven M. Olea, Director
Utilities Division
12 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
13 Phoenix, AZ 85007

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