

OPEN MEETING ITEM



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Executive Director

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

ORIGINAL



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

SEP 27 2011

DOCKETED BY

DATE: SEPTEMBER 27, 2011

DOCKET NO.: T-03221A-10-0516

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:

D.D.D. CALLING, INC.
(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:

OCTOBER 6, 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:

OCTOBER 11, 2011 and OCTOBER 12, 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.

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EXECUTIVE DIRECTOR

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

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 GARY PIERCE - Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION
9 OF D.D.D. CALLING, INC. FOR APPROVAL
10 OF CANCELLATION OF ITS CERTIFICATE
11 OF CONVENIENCE AND NECESSITY FOR
12 RESOLD LONG DISTANCE
13 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03221A-10-0516

DECISION NO. _____

ORDER

14 Open Meeting
15 October 11 and 12, 2011
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. D.D.D. Calling, Inc. ("D.D.D." 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. 60524 (December 18, 1997).

24 2. On December 29, 2010, the Company filed with the Commission an application for
25 cancellation of its Certificate ("Application"). D.D.D. stated that it no longer intends to provide
26 service in Arizona and currently has no customers in Arizona.

27 3. On August 2, 2011, D.D.D. requested a waiver of the Commission's requirement in
28 Arizona Administrative Code ("A.A.C.") R14-2-1107(B) that the Company publish notice of the
Application.

4. On August 17, 2011, Commission's Utilities Division Staff ("Staff") filed its Staff
Report recommending approval of D.D.D.'s Application.

5. In its responses to Data Requests issued to the Company by Staff, D.D.D. stated that
it has not provided resold long distance telecommunications services in Arizona since 2009. The

1 Company also stated that it did not collect advances, deposits and/or prepayments from its former
2 customers, and it did not have a performance bond or irrevocable sight draft letter of credit on file
3 with the Commission. D.D.D. does not have any employees or facilities in Arizona.

4 6. According to Staff, D.D.D. reported that it is still providing service in seven
5 jurisdictions. D.D.D.'s affiliate, RRV Enterprises, Inc., currently offers telecommunications services
6 in Arizona pursuant to Decision No. 60530 (December 18, 1997).

7 7. The Commission's Consumer Services Section of the Commission's Utilities Division
8 reported that there were no customer complaints, inquiries or opinions filed against the Company
9 from January 1, 2008 through July 6, 2011. Staff noted that the Commission's Corporations Division
10 reported that D.D.D. is not in good standing and that the Company has requested withdrawal of its
11 business license.

12 8. The Company did not comply with the terms of A.A.C. R-14-2-1107, which require a
13 certificated telecommunications company to provide a plan for the refund of deposits and to publish
14 notice of the application prior to cancellation of its Certificate. Staff states that D.D.D. requested a
15 waiver of the publication requirement because the Company has not provided service since 2009 and
16 no customers will be affected by the cancellation of its Certificate.

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

24 10. The Company has no Arizona customers and did not collect any advances, deposits
25 and/or prepayments. Additionally, Staff notes that there are other telecommunications carriers
26 offering services in Arizona similar to those previously provided by D.D.D. Under these
27 circumstances, the requirements of A.A.C. R-14-2-1107 should be waived.

28 11. As such, Staff believes that approval of the Application is in the public interest and

1 recommends approval of D.D.D.'s Application, cancellation of the Company's Certificate and
2 cancellation of D.D.D.'s tariff on file with the Commission.

3 12. Staff's recommendations are reasonable and should be adopted.

4 **CONCLUSIONS OF LAW**

5 1. D.D.D. is a public service corporation within the meaning of Article XV of the
6 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

7 2. The Commission has jurisdiction over D.D.D. and the subject matter of the
8 Application.

9 3. The cancellation of D.D.D.'s Certificate is in the public interest.

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

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

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

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ORDER

IT IS THEREFORE ORDERED that D.D.D. Calling, Inc.'s Application for the cancellation of its Certificate of Convenience and Necessity to provide resold long distance telecommunications services in Arizona is approved.

IT IS FURTHER ORDERED that D.D.D. Calling, Inc.'s Certificate of Convenience and Necessity, as well as its tariff on file with the Commission, are 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 _____, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: D.D.D. CALLING, INC.

2 DOCKET NO.: T-03221A-10-0516

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