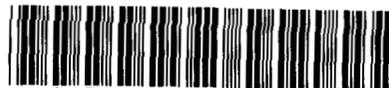


OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: OCTOBER 13, 2011

DOCKET NO.: T-20756A-10-0345

TO ALL PARTIES:

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

RE-INVENT TELECOM, LLC
(CC&N/RESELLER/FACILITIES-BASED)

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 24, 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:

NOVEMBER 8, 2011 and NOVEMBER 9, 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.

Arizona Corporation Commission

DOCKETED

OCT 13 2011



[Signature]
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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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 OF
9 RE-INVENT TELECOM, LLC FOR APPROVAL
10 OF A CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE RESOLD LONG
12 DISTANCE RESOLD LOCAL EXCHANGE,
13 FACILITIES-BASED LOCAL EXCHANGE,
14 AND FACILITIES-BASED LONG DISTANCE
15 TELECOMMUNICATION SERVICES IN
16 ARIZONA.

DOCKET NO. T-20756A-10-0345

DECISION NO. _____

OPINION AND ORDER

12 DATE OF HEARING: August 23, 2011
13 PLACE OF HEARING: Phoenix, Arizona
14 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
15 APPEARANCES: Ms. Joan S. Burke, LAW OFFICE OF JOAN S.
16 BURKE., on behalf of Applicant; and
17 Ms. Kimberly Ruht, Staff Attorney, Legal Division, on
18 behalf of the Utilities Division of the Arizona
19 Corporation Commission.

19 **BY THE COMMISSION:**

20 On August 20, 2010, Re-Invent Telecom, LLC ("Re-Invent" or "Company") filed with the
21 Arizona Corporation Commission ("Commission") an application for approval of a Certificate of
22 Convenience and Necessity ("CC&N") to provide resold long distance, facilities-based long distance,
23 resold local exchange, facilities-based local exchange, and private line telecommunications services
24 in Arizona. Re-Invent's application also requests a determination that its proposed services are
25 competitive.

26 On December 17, 2010, Re-Invent filed additional information related to its application.

27 On January 5, 2011, Re-Invent submitted financial statements to the Commission's Utilities
28 Division ("Staff").

1 On February 10, 2011, Re-Invent submitted a revised tariff to Staff.

2 On May 16, 2011, Re-Invent docketed its responses to Staff's First Set of Data Requests.

3 On June 2, 2011, Staff filed a Staff Report recommending approval of Re-Invent's application
4 subject to certain conditions.

5 On June 17, 2011, by Procedural Order, a hearing was scheduled for August 23, 2011, and
6 other filing deadlines were established. The Procedural Order also directed Re-Invent to publish
7 notice of its application and the hearing date by July 8, 2011.

8 On July 15, 2011, Re-Invent filed an Affidavit of Publication showing that notice of
9 Re-Invent's application and the hearing date had been published in the *Arizona Business Gazette*, a
10 newspaper of general circulation, on July 5, 2011.

11 On August 23, 2011, a hearing was held as scheduled before a duly authorized Administrative
12 Law Judge of the Commission. Re-Invent and Staff appeared through counsel and presented
13 testimony and evidence. At the conclusion of the hearing, the matter was taken under advisement
14 pending submission of a Recommended Opinion and Order to the Commission.

15 * * * * *

16 Having considered the entire record herein and being fully advised in the premises, the
17 Commission finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. Re-Invent is a domestic, limited liability company organized under the laws of Salt
20 River Pima-Maricopa Indian Community.¹ Re-Invent is in good standing with the Commission's
21 Corporation Division.²

22 2. Re-Invent is wholly-owned by Saddleback Communications Company
23 ("Saddleback"), a Division of the Salt River Pima-Maricopa Indian Community ("Salt River").³

24 3. Saddleback provides telecommunications services within the geographic boundaries of
25 the Salt River Pima-Maricopa Indian Community and serves approximately 3,000 residential
26 customers and approximately 500 commercial accounts.⁴

27 ¹ Exhibit R-1 at Attachment A.

28 ² Exhibit R-2.

³ Exhibit R-1.

1 4. By its application, Re-Invent intends to provide resold long distance, resold local
2 exchange, facilities-based local exchange, and facilities-based long distance telecommunication
3 services in Arizona. While Saddleback provides service only within the Salt River community, Re-
4 Invent plans to provide its proposed services statewide and does not intend to provide duplicate
5 services in the Salt River community.

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

7 6. Staff recommends that the Commission conditionally approve Re-Invent's application
8 for a CC&N to provide intrastate telecommunication services in Arizona.

9 7. Staff further recommends that:

- 10 a. Re-Invent comply with all Commission Rules, Orders, and other requirements
11 relevant to the provision of intrastate telecommunications services;
- 12 b. Re-Invent abides by the quality of service standards that were approved by the
13 Commission for Qwest in Docket No. T-01051B-93-0183;
- 14 c. Re-Invent be prohibited from barring access to alternative local exchange
15 service providers who wish to serve areas where Re-Invent is the only local
16 provider of local exchange service facilities;
- 17 d. Re-Invent notify the Commission immediately upon changes to Re-Invent's
18 name, address or telephone number;
- 19 e. Re-Invent cooperate with Commission investigations including, but not limited
20 to customer complaints;
- 21 f. The rates proposed by Staff are for competitive services. In general, rates for
22 competitive services are not set according to rate of return regulation. Staff
23 obtained information from Re-Invent indicating that its net book value or fair
24 value rate base at the end of 12 months of operation would be \$20,000. Re-
25 Invent also provided a revenue projection of \$500,000 for fiscal year 2012.
26 Staff has reviewed the rates to be charged by the Company and believes they
27 are just and reasonable as they are comparable to other wholesale transport
28 providers offering service in Arizona. The rate to be ultimately charged by the
Company will be heavily influenced by the market. Therefore, while Staff
considered the fair value rate base information submitted by the Company, the
fair value information provided was not given substantial weight in Staff's
analysis;
- g. Re-Invent offer Caller ID with the capability to toggle between blocking and
unblocking the transmission of the telephone number at no charge;
- h. Re-Invent offer Last Call Return service that will not return calls to telephone
numbers that have the privacy indicator activated; and

⁴ Tr. at 16.

1 i. The Commission authorize Re-Invent to discount its rates and service charges
2 to the marginal cost of providing the services.

3 8. Staff recommends that Re-Invent's CC&N be considered null and void after due
4 process if Re-Invent fails to comply with the following conditions:

5 a. Re-Invent shall docket conforming tariffs for each of its proposed services
6 within 365 days from the date of a Decision in this matter, or 30 days prior to
7 providing service, whichever comes first. The tariffs submitted shall coincide
8 with the Application.

9 b. Re-Invent shall:

10 i. Procure either a performance bond or irrevocable sight draft letter of
11 credit ("ISDLC") equal to \$235,000. The minimum performance bond
12 or ISDLC of \$235,000 should be increased if at any time it would be
13 insufficient to cover advances, deposits, and/or prepayments collected
14 from Re-Invent's customers. The performance bond or ISDLC should
15 be increased in increments of \$117,500. This increase should occur
16 when the total amount of advances, deposits, and/or prepayments is
17 within \$12,500 of the total performance bond or ISDLC amount; and

18 ii. File the original performance bond or ISDLC with the Commission's
19 Business Office and copies of the performance bond or ISDLC with
20 Docket Control, as a compliance item in this docket, within 90 days of
21 the effective date of the Decision in this matter or 10 days before the
22 first customer is served, whichever comes first. The original
23 performance bond or ISDLC must remain in effect until further order of
24 the Commission. The Commission may draw on the performance bond
25 or ISDLC, on behalf of, and for the sole benefit of the Company's
26 customers, if the Commission finds, in its discretion, that the Company
27 is default of its obligations arising from its Certificate. The
28 Commission may use the performance bond or ISDLC funds, as
appropriate, to protect the Company's customers and the public interest
and take any and all actions the Commission deems necessary, in its
discretion, including, but not limited to returning prepayments or
deposits collected from the Company's customers.

iii. Re-Invent shall notify the Commission through a compliance filing
within 30 days of the commencement of service to end-user customers;
and

c. Re-Invent should abide by the Commission adopted rules that address
Universal Service in Arizona, which indicates that all telecommunications
service providers that interconnect into the public switched network shall
provide funding for the Arizona Universal Service fund. Re-Invent should
make the necessary monthly payments required under by A.A.C. R14-2-
1204(B).

9. Staff further recommends that approval of the Application be conditioned on the
following:

d. That Re-Invent's Application be approved based upon its representation to the
Commission that Re-Invent will be providing local exchange service, among

1 other services, directly to end-users in Arizona.⁵ Should Re-Invent not provide
 2 service directly to end-user customers, it shall notify the Commissions and file
 for cancellation of its CC&N.

3 **Technical Capability**

4 10. Re-Invent was formed on May 12, 2010, and has not applied for authorization to
 5 provide its proposed services in any state except Arizona.⁶

6 11. Re-Invent intends to provide local exchange service, internet, data, and other
 7 telecommunication services to non-affiliate, end-user customers.⁷ Re-Invent states its typical end-
 8 user will be a communications reseller who relies on Re-Invent for a package of telecommunications
 9 services, and complex back office, tax, and regulatory and licensing services.⁸ Re-Invent also plans
 10 to offer its proposed services to enterprise customers located close to the Salt River community.⁹ Re-
 11 Invent will only offer services to business customers.¹⁰

12 12. Saddleback is a federally regulated incumbent local exchange carrier ("ILEC") and
 13 has been providing services similar to Re-Invent's proposed services since 1997.¹¹ Re-Invent and
 14 Saddleback share the same top executives. Re-Invent's witness testified that its three top executives
 15 have a combined total of approximately 75 years in the telecommunications industry.¹²

16 13. Re-Invent states that end-user inquiries will be handled through Saddleback's existing
 17 customer support center.¹³ Re-Invent's witness stated that to eliminate customer confusion as to
 18 which provider customers are speaking to, all Re-Invent and Saddleback customer inquiries will be
 19 handled though separate phone lines.¹⁴

20 14. Based on Staff's analysis of the Company, Staff concluded that Re-Invent has the
 21 technical experience to provide the proposed services described in its application.¹⁵

22 ⁵ During the hearing, Staff amended its recommendation to clarify that Re-Invent proposes to provide services other than
 local exchange. Tr. at 27.

23 ⁶ Exhibit R-1.

24 ⁷ Exhibit R-3.

25 ⁸ Id.

26 ⁹ Id.

27 ¹⁰ Tr. at 13.

28 ¹¹ Saddleback is an affiliate of Re-Invent; however, Saddleback only provides telecommunication services within the
 geographic boundaries of the Salt River community. Re-Invent will not provide its proposed services within the
 geographic boundaries of the Salt River community and therefore, Saddleback is not an "alternative provider" due to the
 geographic limitations of its services. Exhibit R-1.

¹² Tr. at 21.

¹³ Tr. at 14.

¹⁴ Id.

¹⁵ Exhibit S-1.

1 **Financial Capabilities**

2 15. Re-Invent was formed on May 12, 2010, and at the time it filed the above application
3 it had only been in existence for a few months. Re-Invent provided an unaudited financial statement
4 for the period ending November 30, 2010, and budgeted (forecasted) financials for September 30,
5 2011, showing Total Assets of \$335,929; Shareholder Equity of \$286,569; and a Net Income of
6 negative \$15,864.¹⁶

7 16. Staff notes that modest financials for an entity in operation for only a few months are
8 not unusual.¹⁷

9 17. Re-Invent's application states it will not rely on the financial resources of its parent
10 company to provide its proposed services in Arizona.¹⁸

11 18. Re-Invent filed a proposed tariff with its application. The proposed tariff states that
12 Re-Invent may require advance payments.¹⁹ Staff recommends protection of the advance payments
13 in the form of a performance bond or ISDLC in the amount of \$235,000.²⁰

14 **Rates and Charges**

15 19. Staff believes Re-Invent will have to compete with ILECs, various competitive local
16 exchange carriers ("CLECs") and interexchange carriers ("IXCs") to provide its proposed services.²¹

17 20. Staff reviewed Re-Invent's proposed tariff and concluded that Re-Invent's proposed
18 rates are comparable to other incumbent providers and other competitive providers doing business in
19 Arizona.²² Therefore, given the competitive environment in which Re-Invent will be providing
20 service, Staff believes Re-Invent will not be able to exert any market power and the competitive
21 process will result in rates that are just and reasonable.²³

22 21. Re-Invent requests a determination that its proposed rates are for competitive services.
23 Staff states that in general, rates for competitive services are not set in the same manner as for non-

24 ¹⁶ Exhibit R-1, Attachment B-3.

25 ¹⁷ Exhibit S-1 at 2.

26 ¹⁸ Exhibit R-1, Attachment B-3.

27 ¹⁹ Exhibit R-1.

28 ²⁰ Based on the Commission's bond requirements Staff recommends Telesphere procure a bond of \$10,000 for its resold long distance, \$25,000 for its resold local exchange, and \$100,000 each for its facilities-based long distance, and facilities-based local exchange services, for an aggregate amount of \$235,000. Exhibit S-1.

²¹ Exhibit S-1.

²² Id.

²³ Id.

1 competitive services. Staff concluded that although Re-Invent's FVRB of \$20,000 was taken into
 2 account as part of Staff's analysis, Staff believes Re-Invent's FVRB is too small to be given
 3 substantial weight in this analysis.²⁴

4 **Local Exchange Carrier Specific Issues**

5 22. Staff recommends that pursuant to A.A.C. R14-2-1308(A) and federal laws and rules,
 6 Re-Invent should make number portability available to facilitate the ability of customers to switch
 7 between authorized local carriers within a given wire center without changing their telephone number
 8 and without impairment to quality, functionality, reliability, or convenience of use.²⁵

9 23. In compliance with A.A.C. R14-2-1204, all telecommunications service providers that
 10 interconnect into a public switched network shall provide funding for the Arizona Universal Service
 11 Fund ("AUSF"). Staff recommends that Re-Invent contribute to the AUSF and that Re-Invent make
 12 the necessary monthly payments as required under A.A.C. R14-2-1204(B).²⁶

13 24. In Commission Decision No. 59421 (December 20, 1995) the Commission approved
 14 quality of service standards for Qwest which imposed penalties for unsatisfactory levels of service.
 15 In this matter, Re-Invent does not have similar history of service quality problems, and therefore Staff
 16 recommends that the penalties outlined in the Qwest Decision not apply to Re-Invent at this time.²⁷

17 25. In areas where Re-Invent is the only local exchange service provider, Staff
 18 recommends that Re-Invent be prohibited from barring access to alternative local exchange service
 19 providers who wish to serve the area.²⁸

20 26. Re-Invent will provide all customers with 911 and E911 service where available, or
 21 will coordinate with ILECs and emergency service providers to facilitate the service.²⁹

22 27. Pursuant to prior Commission Decisions, Re-Invent may offer customers local
 23 signaling services such as Caller ID and Call Blocking, so long as the customer is able to block and
 24 unblock each individual call at no additional cost.³⁰

25 _____
 26 ²⁴ Exhibit S-1.

27 ²⁵ Id.

28 ²⁶ Id.

29 ²⁷ Id.

30 ²⁸ Id.

²⁹ Id.

³⁰ Id.

1 **Complaint Information**

2 28. Re-Invent states that it has not had an application for service denied, nor has it had
3 authority to provide service revoked in any state.

4 29. Re-Invent states that there have been no formal complaint proceedings, or civil or
5 criminal proceedings filed against the Company.

6 30. The Commission's Consumer Services Section reports that there is no complaint
7 history for Re-Invent in Arizona.

8 31. Re-Invent also stated that none of its officers, directors, or partners have been involved
9 in any criminal investigations, or any formal or informal complaints. Re-Invent also reported that
10 none of its officers, directors, or partners have been convicted of any criminal acts in the past ten
11 years.

12 32. Staff's research of the Company confirmed that there were no issues related to
13 Re-Invent's top executives.

14 **Competitive Analysis**

15 33. Re-Invent is seeking a determination that its proposed services are competitive in
16 Arizona.

17 34. Staff recommends approval of Re-Invent's proposed services as competitive. Staff
18 states that Re-Invent will have to convince customers to purchase its services; Re-Invent has no
19 ability to adversely affect the CLEC or ILEC markets as the ILECs have a virtual monopoly on local
20 exchange service in Arizona; and that alternative providers exist in the markets Re-Invent desires to
21 serve. Therefore, Staff believes Re-Invent has no market power in the markets it wishes to serve and
22 that Re-Invent's proposed services should be classified as competitive.³¹

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

24 **CONCLUSIONS OF LAW**

25 1. Re-Invent is a public service corporation within the meaning of Article XV of the
26 Arizona Constitution, A.R.S. § 40-281 and 40-282.

27
28

³¹ Exhibit S-1 at 8.

1 2. The Commission has jurisdiction over Re-Invent and the subject matter of the
2 application.

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

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

6 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
7 Statutes, it is in the public interest for Re-Invent to provide the telecommunication services set forth
8 in its application.

9 6. The telecommunication services Re-Invent intends to provide are competitive within
10 Arizona.

11 7. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
12 it is just and reasonable and in the public interest for Re-Invent to establish rates and charges that are
13 not less than Re-Invent's total service long-run incremental costs of providing the competitive
14 services approved herein.

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

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ORDER

IT IS THEREFORE ORDERED that the application of Re-Invent Telecom, LLC for a Certificate of Convenience and Necessity to provide resold long distance, facilities-based long distance, resold local exchange, facilities-based local exchange and private line telecommunication services in Arizona, is hereby conditionally approved, subject to Re-Invent's compliance with the requirements set forth in Findings of Fact Nos. 7, 8, and 9.

IT IS FURTHER ORDERED that if Re-Invent Telecom, LLC fails to comply with the Staff conditions described in Finding of Fact No. 8, 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	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: RE-INVENT TELECOM, LLC.

2 DOCKET NO.: T-20756A-10-0345

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