

OPEN MEETING ITEM



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

ARIZONA CORPORATION COMMISSION RECEIVED

2011 NOV 22 P 1:43

DATE: NOVEMBER 22, 2011 AZ CORP COMMISSION DOCKET CONTROL
DOCKET NO.: T-04267A-11-0242

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 Order on:

ANDIAMO TELECOM, LLC
(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:

DECEMBER 1, 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:

DECEMBER 13, 2011 and DECEMBER 13, 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

NOV 22 2011

DOCKETED BY

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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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
ANDIAMO TELECOM, LLC FOR THE
CANCELLATION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
ALTERNATIVE OPERATOR SERVICES,
COMPETITIVE RESOLD LOCAL EXCHANGE
AND INTEREXCHANGE SERVICES IN
ARIZONA.

DOCKET NO. T-04267A-11-0242

DECISION NO. _____

ORDER

Open Meeting
December 13 and 14, 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. On June 16, 2011, Andiamo Telecom, LLC ("Andiamo" or "Company") filed with the Commission an application to cancel its Certificate of Convenience and Necessity ("CC&N") to provide alternative operator services ("AOS"), competitive resold local exchange and interexchange telecommunication services Arizona.¹

2. Andiamo's application states that it is no longer in business and has no AOS, local exchange, or interexchange customers in Arizona. Further, Andiamo states that it believes the notice requirements pursuant to A.A.C. R14-2-1107 (B), which requires publication of legal notice in all counties affected by the cancellation of services is not applicable because the Company has no customers and is not offering service, as it is no longer in business. Accordingly, Andiamo's

¹ In Decision No. 67749 (April 11, 2005), Andiamo was granted a CC&N to provide AOS service in Arizona. In Decision No. 67948 (June 21, 2005), the Commission approved a CC&N to provide resold local exchange and resold interexchange telecommunications services for Andiamo.

1 application states there are no affected customers in any county, and therefore, the requirement to
2 publish legal notice is moot and the Company requests waiver of the requirement.

3 3. On September 14, 2011, the Commission's Utilities Division ("Staff") filed a Staff
4 Report in this matter recommending approval of Andiamo's application to cancel its CC&N.

5 4. According to Staff, Andiamo ceased providing telecommunications services in
6 Arizona on August 1, 2010; never collected advances, deposits, or prepayments from Arizona
7 customers; has no affiliate(s) offering telecommunications services in Arizona; and Andiamo is no
8 longer operating in any other state as the Company has been dissolved as a legal entity.

9 5. Staff also recommends that the Commission grant Andiamo a waiver from A.A.C.
10 R14-2-1107. According to Staff, Andiamo indicated that all of its Arizona customers transferred to
11 other service providers; Andiamo had no customer-specific service contracts; Andiamo provided a
12 copy of the customer notice that was sent out in its July 2010 bills; and that all of Andiamo's Arizona
13 customers have already switched to other service providers.

14 6. Based on the above information, Staff recommends approval of Andiamo's application
15 to cancel its CC&N and that the Commission grant Andiamo's request that legal notice be waived.

16 7. A.A.C. R14-2-1107 requires a telecommunications company providing competitive
17 telecommunications service in Arizona to file an application for authorization with the Commission
18 before it discontinues service. The rule also requires the telecommunications company to verify that
19 its affected customers have been notified of the proposed discontinuance of service, to plan for the
20 refund of any deposits collected, to file with the Commission a list of alternate utilities providing the
21 same or similar service within the affected geographic area, and to publish legal notice of the
22 application to discontinue service in all counties affected by the application. In Decision No. 67404
23 (November 2, 2004) the Commission stated that it would render A.A.C. R14-2-1107 meaningless and
24 would run afoul of the rule's intent and plain language to exempt an Applicant from the requirements
25 of the rule simply because it is no longer providing service in Arizona. Further, Decision No. 67404
26 states that the rule is intended to ensure that existing customers receive advance notice of a
27 telecommunications provider's pending plan to discontinue service so that they have an opportunity
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1 to procure service through an alternate provider before the discontinuance of service. Here, Andiamo
2 has requested waiver of the publication of legal notice, pursuant to A.A.C. R14-2-1107(B). Staff
3 confirmed that notice of the Company's intent to discontinue serve was provided to customers on
4 July 2010; all Andiamo's customers have been transferred or switched to alternate providers; and
5 Andiamo had no customer specific contracts in Arizona. Therefore, based on the above information
6 publication of legal notice of the application would serve no practical purpose as all Andiamo's
7 customers have been transferred or switched to alternate providers.

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

9 **CONCLUSIONS OF LAW**

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

12 2. The Commission has jurisdiction over Andiamo and the subject matter of the
13 application to cancel the Company's CC&N.

14 3. The cancellation of Andiamo's CC&N is in the public interest.

15 4. Under the circumstances described herein, waiver of A.A.C. R14-2-1107(B) is
16 appropriate.

17 5. Staff's recommendations are reasonable and should be adopted.

18 **ORDER**

19 IT IS THEREFORE ORDERED that the application of Andiamo Telecom, LLC for the
20 cancellation of its Certificates of Convenience and Necessity to provide alternative operator service
21 (approved in Decision No. 67749), and competitive resold local exchange and interexchange
22 telecommunication services in Arizona (approved in Decision No. 67948), are hereby cancelled.

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IT IS FURTHER ORDERED that Andiamo Telecom, LLC, is hereby granted a waiver of the notice requirements contained in A.A.C. R14-2-1107 (B).

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: ANDIAMO TELECOM, LLC

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