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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF RE-INVENT TELECOM, LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD LONG DISTANCE RESOLD LOCAL EXCHANGE, FACILITIES-BASED LOCAL EXCHANGE, AND FACILITIES-BASED LONG DISTANCE TELECOMMUNICATION SERVICES IN ARIZONA.

DOCKET NO. T-20756A-10-0345

DECISION NO. 72673

OPINION AND ORDER

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

BY THE COMMISSION:

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

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

On January 5, 2011, Re-Invent submitted financial statements to the Commission's Utilities 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
29 appropriate, to protect the Company's customers and the public interest
30 and take any and all actions the Commission deems necessary, in its
31 discretion, including, but not limited to returning prepayments or
32 deposits collected from the Company's customers.

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

- 36 c. Re-Invent should abide by the Commission adopted rules that address
37 Universal Service in Arizona, which indicates that all telecommunications
38 service providers that interconnect into the public switched network shall
39 provide funding for the Arizona Universal Service fund. Re-Invent should
40 make the necessary monthly payments required under by A.A.C. R14-2-
41 1204(B).

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

- 44 d. That Re-Invent's Application be approved based upon its representation to the
45 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 through 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.

⁸ Id.

⁹ Id.

¹⁰ Tr. at 13.

25 ¹¹ Saddleback is an affiliate of Re-Invent; however, Saddleback only provides telecommunication services within the
 26 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.

27 ¹² Tr. at 21.

¹³ Tr. at 14.

¹⁴ Id.

28 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.

Complaint Information

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

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

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

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

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

Competitive Analysis

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

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

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

CONCLUSIONS OF LAW

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

³¹ Exhibit S-1 at 8.

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.

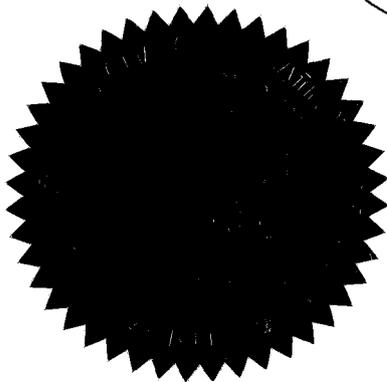
Gay S. Quinn
CHAIRMAN

Pat Stutz
COMMISSIONER

Janet A. Kennedy
COMMISSIONER

Paul Kern
COMMISSIONER

Bonnie Brown
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 17th day of November, 2011.

Ernest G. Johnson
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

YBK:db

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