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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED

JAN 20 2012

DOCKETED BY *nr*

IN THE MATTER OF THE APPLICATION OF
MY TEL CO., INC. TO CANCEL ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD LONG
DISTANCE SERVICES IN ARIZONA.

DOCKET NO. T-20486A-11-0341

DECISION NO. 72749

ORDER

Open Meeting
January 10 and 11, 2012
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 September 12, 2011, My Tel Co., Inc. ("MTC" or "Company") filed with the Arizona Corporation Commission ("Commission") an application to cancel its Certificate of Convenience and Necessity ("CC&N") to provide resold long distance services in Arizona.¹ MTC's application states that on or about May 1, 2011, MTC filed a voluntary petition for protection under Chapter 11 of the United States Bankruptcy Code in the Middle District of Florida. The application states that on July 14, 2011, the bankruptcy court approved an Asset Purchase Agreement between Birch Communications, Inc., ("Birch") and MTC that provided for the sale of certain assets and customers of MTC located in seven (7) of the ten (10) jurisdictions where MTC is licensed to operate as a wireline telecommunications service provider. MTC's application further states that MTC

¹ MTC was granted a CC&N to provide resold local exchange and resold long distance services in Decision No. 71224 (August 8, 2009). On June 3, 2010, in Decision No. 71705, MTC's authority to provide resold local exchange services was cancelled.

1 desires to cancel its CC&N in Arizona due to the transaction with Birch; MTC has never had any
2 customers in Arizona; and MTC requests waiver of A.A.C. R14-2-1107, which requires a certificated
3 telecommunications company to provide a plan for the refund of deposits and to publish notice of its
4 application to cancel services prior to cancellation of its Certificate.

5 2. On September 20, 2011, the Commission's Utilities Division ("Staff") docketed, on
6 behalf of MTC, the affidavit of Wesly Minella, secretary for MTC, which affirmed that MTC has
7 never provided service to Arizona customers pursuant to the authority granted under its CC&N.

8 3. On October 26, 2011, Staff filed a memorandum in response to MTC's application,
9 recommending approval of the application to cancel MTC's CC&N and recommending a waiver of
10 A.A.C. R14-2-1107. Staff states that MTC has confirmed that it has never served Arizona customers
11 and that it is not holding customer deposits. Based on the above information, Staff recommends
12 approval of the application and recommends granting MTC a waiver of A.A.C. R14-2-1107.

13 4. A.A.C. R14-2-1107 requires a telecommunications company providing competitive
14 telecommunications service in Arizona to file an application for authorization with the Commission
15 before it discontinues service. The rule also requires the telecommunications company to verify that
16 its affected customers have been notified of the proposed discontinuance of service, to plan for the
17 refund of any deposits collected, to file with the Commission a list of alternate utilities providing the
18 same or similar service within the affected geographic area, and to publish legal notice of the
19 application to discontinue service. In Decision No. 67404 (November 2, 2004) the Commission stated
20 that it would render A.A.C. R14-2-1107 meaningless and would run afoul of the rule's intent and
21 plain language to exempt an Applicant from the requirements of the rule simply because the
22 Applicant is no longer providing service in Arizona. In the instant case, MTC has affirmed that it has
23 never served customers in Arizona and therefore it is not holding customer deposits related to the
24 provision of service. Therefore, based on the above information, requiring MTC to comply with the
25 provisions of A.A.C. R14-2-1107 serves no practical purpose as MTC has never provided resold long
26 distance service to any end-users in Arizona.

27 5. Staff's recommendations, as set forth herein, are reasonable and should be adopted.
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CONCLUSIONS OF LAW

1. MTC is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.
2. The Commission has jurisdiction over MTC and the subject matter of the application to cancel the Company's CC&N.
3. The cancellation of MTC's CC&N is in the public interest.
4. Staff's recommendations are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of My Tel Co., Inc. for the cancellation of its Certificate of Convenience and Necessity to provide resold long distance telecommunication service (approved in Decision No. 71224), is hereby cancelled.

1 IT IS FURTHER ORDERED that My Tel Co., Inc. is hereby granted a waiver of the notice
2 requirements contained in A.A.C. R14-2-1107.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5
6 *Gay L. Stein*
7 CHAIRMAN

EXCUSED
COMM. STUMP

COMMISSIONER

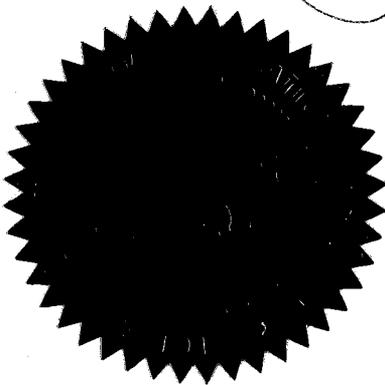
8
9 *Andrew D. Sanchez*
10 COMMISSIONER

EXCUSED
COMM. NEWMAN

Brenda Dunn

COMMISSIONER

COMMISSIONER



11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
12 Executive Director of the Arizona Corporation Commission,
13 have hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this 20th day of JANUARY, 2012.

E. G. Johnson

16 ERNEST G. JOHNSON
17 EXECUTIVE DIRECTOR

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19 DISSENT _____

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21 DISSENT _____

22 YBK:db

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1 SERVICE LIST FOR: MY TEL CO., INC.

2 DOCKET NO.: T-20486A-11-0341

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4 MY TEL CO. INC.
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