

ORIGINAL

OPEN MEETING



0000154147

MEMORANDUM

TO: THE COMMISSION

FROM: Utilities Division

DATE: November 28, 2014

RE: IN THE MATTER OF THE APPLICATION OF INTELICALL OPERATOR SERVICES INC. D/B/A ILD FOR APPROVAL OF TRANSFER OF CUSTOMERS TO WIMACTEL, INC. (DOCKET NOS. T-02623A-14-0356 AND T-20766A-14-0356)

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AZ CORP COMMISSION
DOCKET CONTROL

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On September 30, 2014, ILD Corporation and its regulatory subsidiary Intellicall Operator Services ("IOS") and WiMacTel, Inc. ("WiMacTel") (together, "Applicants") filed a joint application requesting approval from the Arizona Corporation Commission ("Commission") of the transfer of IOS'S aggregator operator services and postpaid calling card service customers in Arizona to WiMacTel. In addition, the Applicants seek approval of a waiver of the Commission's direct customer notice and the published notice requirement in affected counties as directed in Arizona Administrative Code ("A.A.C.") R14-2-1107, and any other necessary approvals.

In support of this filing, Applicants provide the following information.

Introduction

ILD Corporation and WiMacTel entered into an Asset Purchase Agreement ("Agreement") on June 16, 2014, whereby WiMacTel will obtain IOS'S aggregator service and postpaid calling card customers in the State of Arizona. The planned implementation date of the transfer is December 13, 2014, subject to all regulatory approvals. IOS will continue to offer conference calling related services within Arizona and is not requesting to cancel any of its Certificate of Convenience and Necessity ("CC&N") authority in this application.

Description of the Applicants

A. ILD Corporation and its regulatory subsidiary Intellicall Operator Services, Inc.

ILD Corporation is an alternate operator service, institutional, resell interexchange telecommunication service provider organized under the laws of the State of Delaware on December 31, 1996. Its principal office is located in Ponte Vedra Beach, Florida. IOS was authorized to provide intrastate reseller interexchange telecommunication services, operator service provider telecommunications services in Decision No. 59583, dated March 26, 1996, and reseller local exchange telecommunications services in Decision No. 62277, dated February 1, 2000. IOS is certified, registered or otherwise authorized to provide alternate or aggregator operator services in 50 states and Puerto Rico.

Arizona Corporation Commission

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B. WiMacTel, Inc.

WiMacTel was incorporated under the laws of the State of Delaware on May 4, 2010. Its principal office is located in Omaha, Nebraska. WiMacTel was authorized to provide intrastate reseller interexchange telecommunication services, operator service provider telecommunications services in Decision No. 73782 dated March 21, 2013, and payphone provider service in Decision No. 73832 dated September 6, 2012. WiMacTel is authorized to provide interexchange, alternate and/or aggregator operator services and competitive local services in 48 states.

The Transaction

The Applicants state that under the terms of the Asset Purchase Agreement, WiMacTel will acquire from ILD all of IOS's aggregator service contracts and postpaid calling card customers in the State of Arizona along with customer related data, databases, and customer records needed to support the provision of these services. IOS will continue to provide telecommunications services to all customers affected by this transaction pursuant to IOS's existing tariffs until the instant this Application is granted by the Commission.

The Proposed Transfer of Customers

WiMacTel will assume all managerial, technical and financial responsibilities in connection with the operation of the aggregator operator services and postpaid calling card services to be provided to the affected IOS customers in Arizona. Upon approval, WiMacTel will revise its tariffs to incorporate the rates, terms and conditions of services currently provided to IOS customers. IOS's customers affected by this transaction will continue to receive the same services from WiMacTel under the current rates, terms and conditions they receive from IOS. This transaction is being made in an almost seamless fashion that will cause no changes in customers' rates, terms and conditions of service and will be made at no charge to customers as they transition to WiMacTel.

Written notice of the proposed asset transfer has been provided to IOS customers via First Class United States mail beginning on or about May 22, 2014, pursuant to Section 64.1120(e), Verification of Orders for Telecommunications Services, as amended, of Federal Communications Commission ("FCC") rules.¹ A copy of the Customer Notification is provided in Exhibit 1 of the Application. WiMacTel will post and brand all services per the Commission requirements for customer owned payphone service as listed in Exhibit 2 of the Application.

Staff's Analysis

¹ 47 C.F.R. §64.1120(e). *In the Matter of 2000 Biennial Review - Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket Nos. 00-251, 94-129 *First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129*, FCC 01-156 (rel. May 15, 2001).

Waiver of Arizona Administrative Code ("A.A.C.") R14-2-1107(A)(2) and (B)

The Applicants request that the Commission waive the customer notice section of A.A.C. R14-2-1107(A)(2) and the publication requirement specified in A.A.C. R14-2-1107(B). The Applicants state, as noted above, customers are receiving direct notice of the change in service provider as required by the FCC. Because the customers will continue to receive service, a second notice of a change of service provider will be confusing to customers and in this instance should not be required. To clarify, services will not be discontinued to any customer because IOS's former customers will be served by WiMacTel. Following the transfer, IOS will continue to offer conference calling related services in Arizona.

Staff believes that a waiver of A.A.C. R14-2-1107(A)(2) and (B) is appropriate in this application as service to IOS's customers will not be abandoned or discontinued and IOS's customers will continue to receive service under the same rates, terms and conditions.

Complaints and Compliance

The Consumer Services Section of the Utilities Division reports that from January 1, 2011, to October 15, 2014, there have been no complaints, inquiries, or opinions filed about either company. According to the Corporations Division, both IOS and WiMacTel are in good standing. Both IOS and WiMacTel have filed their respective 2013 Utilities Annual Reports. The Compliance Section of the Utilities Division reports both IOS and WiMacTel are in compliance.

Staff Recommendations

Staff recommends approval of the application of IOS and WiMacTel for WiMacTel to acquire IOS's aggregator operator services and postpaid calling card service customers in Arizona.

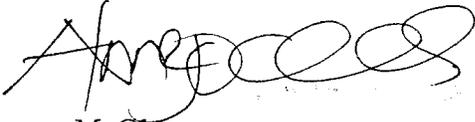
Staff further recommends that approval be conditioned on the following:

- The Applicants provide written notice to Docket Control within thirty (30) days following completion of the transfer of customers from IOS to WiMacTel; and
- WiMacTel file tariff revisions to its existing tariffs to incorporate the rates, terms and conditions of services currently provided to IOS customers.

Staff believes the Commission's Discontinuance Rules all apply to this transaction. However, based on the above, Staff recommends the following:

- A waiver of A.A.C. R14-2-1107(A)(2), which governs a telecommunications company's verification that all affected customers have been notified of the proposed discontinuance of service and that all affected customers will have access to an alternative interexchange service provider; and

- A waiver of A.A.C. R14-2-1107(B), which requires that the Applicant publish legal notice of the application in all counties affected by the application describing with particularity the substance of the application.



for

Steven M. Otea
Director
Utilities Division

SMO:LLM:sms\MAS

ORIGINATOR: Lori L. Morrison

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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman
GARY PIERCE
Commissioner
BRENDA BURNS
Commissioner
BOB BURNS
Commissioner
SUSAN BITTER SMITH
Commissioner

IN THE MATTER OF THE APPLICATION
OF INTELICALL OPERATOR SERVICES
INC. D/B/A ILLD FOR APPROVAL OF
TRANSFER OF CUSTOMERS TO
WIMACTEL, INC.

DOCKET NOS. T-02623A-14-0356
T-20766A-14-0356

DECISION NO. _____

ORDER

Open Meeting
December 11 and 12, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On September 30, 2014, ILLD Corporation and its regulatory subsidiary, Intellicall Operator Services ("IOS"), and WiMacTel, Inc. ("WiMacTel") (together, "Applicants"), filed a joint application requesting approval from the Arizona Corporation Commission ("Commission") of the transfer of IOS's aggregator operator services and postpaid calling card service customers in Arizona to WiMacTel.

2. In addition, the Applicants seek approval of a waiver of the Commission's direct customer notice and the published notice requirement in affected counties as directed in Arizona Administrative Code ("A.A.C.") R14-2-1107, and any other necessary approvals.

3. In support of this filing, Applicants provide the following information:

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...

1 **Introduction**

2 4. ILD Corporation and WiMacTel entered into an Asset Purchase Agreement
3 (“Agreement”) on June 16, 2014, whereby WiMacTel will obtain IOS’s aggregator service and
4 postpaid calling card customers in the State of Arizona. The planned implementation date of the
5 transfer is December 13, 2014, subject to all regulatory approvals. IOS will continue to offer
6 conference calling related services within Arizona and is not requesting to cancel any of its Certificate
7 of Convenience and Necessity (“CC&N”) authority in this application.

8 **Description of the Applicants**

9 A. ILD Corporation and its regulatory subsidiary Intellicall Operator Services, Inc.

10 5. ILD Corporation is an alternate operator service, institutional, resell interexchange
11 telecommunication service provider organized under the laws of the State of Delaware on December
12 31, 1996. Its principal office is located in Ponte Vedra Beach, Florida. IOS was authorized to provide
13 intrastate reseller interexchange telecommunication services, operator service provider
14 telecommunications services in Decision No. 59583, dated March 26, 1996, and reseller local exchange
15 telecommunications services in Decision No. 62277, dated February 1, 2000. IOS is certified,
16 registered or otherwise authorized to provide alternate or aggregator operator services in 50 states and
17 Puerto Rico.

18 B. WiMacTel, Inc.

19 6. WiMacTel was incorporated under the laws of the State of Delaware on May 4, 2010. Its
20 principal office is located in Omaha, Nebraska. WiMacTel was authorized to provide intrastate
21 reseller interexchange telecommunication services, operator service provider telecommunications
22 services in Decision No. 73782, dated March 21, 2013, and payphone provider service in Decision No.
23 73832, dated September 6, 2012. WiMacTel is authorized to provide interexchange, alternate and/or
24 aggregator operator services and competitive local services in 48 states.

25 **The Proposed Transaction**

26 7. The Applicants state that under the terms of the Asset Purchase Agreement, WiMacTel
27 will acquire from ILD all of IOS’s aggregator service contracts and postpaid calling card customers in
28 the State of Arizona along with customer related data, databases, and customer records needed to

1 support the provision of these services. IOS will continue to provide telecommunications services to
2 all customers affected by this transaction pursuant to IOS's existing tariffs until the instant this
3 Application is granted by the Commission.

4 **Description of Transfer of Customers**

5 8. WiMacTel will assume all managerial, technical and financial responsibilities in connection
6 with the operation of the aggregator operator services and postpaid calling card services to be
7 provided to the affected IOS customers in Arizona. Upon approval, WiMacTel will revise its tariffs to
8 incorporate the rates, terms and conditions of services currently provided to IOS customers. IOS's
9 customers affected by this transaction will continue to receive the same services from WiMacTel
10 under the current rates, terms and conditions they receive from IOS. This transaction is being made
11 in an almost seamless fashion that will cause no changes in customers' rates, terms and conditions of
12 service and will be made at no charge to customers as they transition to WiMacTel.

13 9. Written notice of the proposed asset transfer has been provided to IOS customers via
14 First Class United States mail beginning on or about May 22, 2014 pursuant to Section 64.1120(e),
15 Verification of Orders for Telecommunications Services, as amended, of Federal Communications
16 Commission ("FCC") rules.¹ A copy of the Customer Notification is provided in Exhibit 1 of the
17 Application. WiMacTel will post and brand all services per the Commission requirements for
18 customer owned payphone service as listed in Exhibit 2 of the Application.

19 **Staff Analysis**

20 **Request for Waivers of A.A.C. R14-2-1107(A)(2) and (B)**

21 10. The Applicants request that the Commission waive the customer notice section of A.A.C.
22 R14-2-1107(A)(2) and the publication requirement specified in A.A.C. R14-2-1107(B). The Applicants
23 state, as noted above, customers are receiving direct notice of the change in service provider as
24 required by the FCC. Because the customers will continue to receive service, a second notice of a
25 change of service provider will be confusing to customers and in this instance should not be required.

26
27 ¹ 47 C.F.R. §64.1120(e). *In the Matter of 2000 Biennial Review - Review of Policies and Rules Concerning*
28 *Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection*
Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of
Consumers Long Distance Carriers, CC Docket Nos. 00-251, 94-129 *First Report and Order in CC Docket No. 00-*
257 and Fourth Report and Order in CC Docket No. 94-129, FCC 01-156 (rel. May 15, 2001).

1 To clarify, services will not be discontinued to any customer because IOS'S former customers will be
2 served by WiMacTel. Following the transfer, IOS will continue to offer conference calling related
3 services in Arizona.

4 11. Staff believes that a waiver of A.A.C. R14-2-1107(A)(2) and (B) is appropriate in this
5 application as service to IOS's customers will not be abandoned or discontinued and IOS'S customers
6 will continue to receive service under the same rates, terms and conditions.

7 **Complaints and Compliance**

8 12. The Consumer Services Section of the Utilities Division reports that from January 1, 2011
9 to October 15, 2014, there have been no complaints, inquiries, or opinions filed about either
10 company. According to the Corporations Division, both IOS and WiMacTel are in good standing.
11 Both IOS and WiMacTel have filed their respective 2013 Utilities Annual Reports. The Compliance
12 Section of the Utilities Division reports both IOS and WiMacTel are in compliance.

13 **Staff Recommendations**

14 13. Staff recommends approval of the application of IOS and WiMacTel for WiMacTel to
15 acquire IOS'S aggregator operator services and postpaid calling card service customers in Arizona.

16 14. Staff further recommends that approval be conditioned on the following:

- 17 a. The Applicants provide written notice to Docket Control within thirty (30) days
18 following completion of the transfer of customers from IOS to WiMacTel; and
19 b. WiMacTel file tariff revisions to its existing tariffs to incorporate the rates, terms
20 and conditions of services currently provided to IOS customers.

21 15. Staff believes the Commission's Slamming and Discontinuance Rules all apply to this
22 transaction. However, based on the above, Staff recommends the following:

- 23 a. A waiver of A.A.C. R14-2-1107(A)(2), which governs a telecommunications
24 company's verification that all affected customers have been notified of the
25 proposed discontinuance of service and that all affected customers will have access
26 to an alternative interexchange service provider; and
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28

1 IT IS FURTHER ORDERED that within thirty (30) days following the completion of the
2 transfer of customers, Intellicall Operator Services and WiMacTel, Inc. shall inform the Commission
3 by filing an affidavit with Docket Control that customer transfer related activities are completed.

4 IT IS FURTHER ORDERED that WiMacTel, Inc. file an updated tariff, within thirty (30)
5 days of the effective date of a Decision in this matter, to incorporate the rates, terms and conditions
6 of service that were included in the Intellicall Operator Services tariff.

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

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9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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CHAIRMAN COMMISSIONER

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COMMISSIONER COMMISSIONER COMMISSIONER

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IN WITNESS WHEREOF, I, JODI JERICH, Executive
Director of the Arizona Corporation Commission, have
hereunto, set my hand and caused the official seal of this
Commission to be affixed at the Capitol, in the City of
Phoenix, this _____ day of _____, 2014.

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JODI JERICH
EXECUTIVE DIRECTOR

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DISSENT: _____

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DISSENT: _____

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SMO:LLM:sms\MAS

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1 SERVICE LIST FOR: INTELICALL OPERATOR SERVICES INC. D/B/A ILD AND
WIMACTEL, INC.

2 DOCKET NOS. T-02623A-14-0356 AND T-20766A-14-0356

3 Thomas M. Forte, Consultant
4 Technologies Management, Inc.
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5 Maitland, FL 32751

6 Dennis Stoutenburgh, President
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7 5000 Sawgrass Village Circle, Suite 1
8 Ponte Vedra Beach, FL 32082-5017

9 James MacKenzie, President
WiMacTel, Inc.
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13 Arizona Corporation Commission
1200 West Washington Street
14 Phoenix, Arizona 85007

15 Janice M. Alward
Chief Counsel, Legal Division
16 Arizona Corporation Commission
1200 West Washington Street
17 Phoenix, Arizona 85007

18 Lyn Farmer
19 Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
20 1200 West Washington Street
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