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MEMORANDUM  
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2014 NOV -7 P 2:50

TO: Docket Control

FROM: Steven M. Olea  
Director  
Utilities Division

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DATE: November 07, 2014

RE: **AMENDED STAFF REPORT - IN THE MATTER OF THE APPLICATION OF LEXENT, INC. FOR APPROVAL TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY. (DOCKET NO. T-20875A-14-0111)**

Attached is the Amended Staff Report for the above referenced application. The amended Staff Report updates the Background to include an encumbrance and additional corporate reorganization, corrects the date of the letter referenced in the first sentence of the Staff Analysis, corrects the discussion of the performance bond being held by the Commission Business Office and updates the name and address of which the Applicant request the performance bond be returned after a Decision is issued for this application. The Applicant is applying for approval to cancel its Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Facilities-Based Local Exchange Services

Staff recommends cancellation of the CC&N.

SMO:LLM:tdp|ML

Originator: Lori L. Morrison

Arizona Corporation Commission  
DOCKETED

NOV - 7 2014

DOCKETED BY  
NR

SERVICE LIST FOR: LEXENT, INC.  
DOCKET NO. T-20875A-14-0111

Ms. Fernanda Hilb Manko  
Director, Regulatory Compliance and Legal Services, Lexent, Inc.  
Presidents Plaza Building One  
196 Van Buren Street, Suite 250  
Herndon, Virginia 20170

Mr. Steven M. Olea  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

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

Ms. Lyn Farmer  
Chief Administrative Law Judge, Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

AMENDED STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

LEXENT, INC.  
DOCKET NO. T-20875A-14-0111

IN THE MATTER OF THE APPLICATION OF LEXENT, INC. FOR APPROVAL TO  
CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY

NOVEMBER 07, 2014

## STAFF ACKNOWLEDGEMENT

The Amended Staff Report for the application of Lexent, Inc., Docket No. T-20875A-14-0111, for approval to cancel its Certificate of Convenience and Necessity was the responsibility of the staff member listed below. Lori Morrison was responsible for the review and analysis of the application.

A handwritten signature in cursive script that reads "Lori Morrison". The signature is written in black ink and is positioned above a horizontal line.

Lori Morrison  
Utilities Consultant

## INTRODUCTION

On March 24, 2014, Lexent, Inc. (“Lexent” or “Company”) submitted a letter requesting cancellation of its Certificate of Convenience and Necessity (“CC&N”) to provide facilities-based local exchange telecommunications services within the State of Arizona.

## BACKGROUND

On June 1, 2005, in Decision No. 67883, the Arizona Corporation Commission (“Commission”) granted CCG Communications, LLC (“CCG”) a CC&N to provide facilities-based local exchange telecommunications services within the State of Arizona. In Decision No. 73581, November 21, 2012, CCG was authorized to merge with and into Lexent, the surviving company resulting from a pro forma merger, and CCG’s CC&N was transferred to Lexent. In addition to the merger, Lexent was also authorized to participate in certain amended financing arrangements of its direct parent, Light Tower, LLC. In Decision No. 73769, March 23, 2013, CCG proposed to encumber its Arizona assets, excluding customer deposits and prepayments, in connection with financing arrangements undertaken in connection with LTS Buyer’s proposed acquisitions of Light Tower Holdings LLC and its subsidiaries (which include CCG, Lexent and Light Tower, LLC) and Yankee Metro Partners, LLC and its subsidiaries. This acquisition resulted in further corporate restructuring of Light Tower Holdings LLC and its subsidiaries.

In compliance filings submitted on April 19, 2013<sup>1</sup> by CCG and Lexent, the Commission was notified that the financing arrangements approved in Decision No. 73769 and the related LTS Buyer Transactions were completed on April 11, 2013. Additionally, the pro forma mergers that included the merger of CCG with and into Lexent, approved in Decision no. 73581, were completed on April 12, 2013.

## STAFF’S ANALYSIS

In its March 24, 2014 letter, Lexent stated it does not provide local exchange services nor does it have any local exchange customers in Arizona. Lexent indicated to Utilities Division Staff (“Staff”) that it never provided local exchange services in Arizona.<sup>2</sup> Given that Lexent has no customers in Arizona, there were no customers to notify of the CC&N cancellation. Lexent requests a waiver of the notice requirements in Arizona Administrative Code (“A.A.C.”) R14-2-1107(A)(2).<sup>3</sup> At Staff’s request, Lexent submitted an affidavit attesting that it has no customers for intrastate telecommunications services in Arizona.<sup>4</sup> Lexent has affirmed to Staff that it did not collect advances, deposits, and/or prepayments from customers in Arizona.

The Consumer Services Section of the Utilities Division reports that there have been no complaints, inquiries, or opinions against Lexent. According to the Corporations Division, Lexent is in good standing.

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<sup>1</sup> April 19, 2013 – Docket Nos. T-04290A-13-0006 and T-04290A-12-0373.

<sup>2</sup> See Lexent Response to Staff Data Request STF 1.12 a.

<sup>3</sup> See Lexent Response to Staff Data Request STF 1.12 d., Attachment 2.

<sup>4</sup> See Lexent Response to Staff Data Request STF 1.12 c., Attachment 1.

## RECOMMENDATION

Lexent Telecom, Inc. is not currently providing facilities-based local exchange telecommunications services to any customers in Arizona and it never collected deposits, advances or prepayments from Arizona customers. As such, Staff recommends approval of Lexent's request for a waiver of the requirement to publish notice contained in A.A.C. R14-2-1107(A)(2). Staff also recommends that Lexent's CC&N to provide facilities-based local exchange telecommunications services be cancelled. With the cancellation of Lexent's CC&N, the \$100,000 performance bond requirement is cancelled. Staff further recommends that Lexent's \$100,000 performance bond on file with the Commission Business Office be released and returned to the following name and address provided by Lexent:

Mr. Gerard Ahearn  
Lighttower  
80 Central Street  
Boxborough, MA 01719

STAFF'S FIRST SET OF DATA REQUESTS TO  
LEXENT, INC. ("Lexent" or "Company")  
DOCKET NO. T-20875A-14-0111  
JUNE 3, 2014

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- STF 1.6      Please indicate if there are any affiliates of Lexent currently offering telecommunications services in Arizona? If yes, are the telecommunications services provided by Lexent similar to those offered by its affiliates?
- Lexent has no affiliates offering telecommunications services in Arizona.
- STF 1.7      Did Lexent have any service contracts with customers? If so, please describe how the service contract were honored or terminated with the customers.
- None with customers in Arizona.
- STF 1.8      Does Lexent have a performance bond or irrevocable sight draft letter of credit ("ISDLOC") on file with the ACC? If yes, please specify the amount of the bond or ISDLOC.
- Yes. \$100,000.00 License/Performance Bond.
- STF 1.9      If the response to STF 1.8 is affirmative, please specify if the Lexent provided the original bond or ISDLOC to the ACC or just a copy (proof) of the bond or ISDLOC.
- Original Bond was issued to Arizona Corporation Commission.
- STF 1.10     In addition to cancelling its authority to provide telecommunications services in Arizona, is Lexent also requesting to cancel it service tariffs?
- Yes.
- STF 1.11     According to Utilities Annual Report records, Lexent did not filed an Annual Utilities Report with the Utilities Division in 2012 but CCG Communication, LLC did. Please explain why Lexent did not file an Annual Utilities Report in 2012.
- CCG was the entity which held the certificate to provide telecommunications services in Arizona before the certificate was transferred to Lexent. Per the Utilities Staff's recommendation, CCG filed the 2012 Annual Report because it was the company holding the certificate at the time.
- STF 1.12     In its letter to the Arizona Corporation Commission ("Commission), Lexent Telecom, Inc. ("Lexent") requests the Commission cancel its Certificate of Convenience and Necessity ("CC&N") to provide telecommunications services in Arizona. Please reply to the following:

STAFF'S FIRST SET OF DATA REQUESTS TO  
LEXENT, INC. ("Lexent" or "Company")  
DOCKET NO. T-20875A-14-0111  
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- a. Did Lexent ever have any customers in Arizona? If so, please indicate the date the last customer Lexent had in Arizona left its network.

No.

- b. Please clarify if Lexent provided any legal notice of the Application to cancel telecommunications services in any area, billing insert or publication in Arizona as required in the Arizona Administrative Code ("A.C.C.") rule R14-2-1107. If legal notice was provided, please provide a copy of that notice and a description of the manner of distribution of the notice (e.g., direct notice to affected customers via bill insert).

Per the Utilities' Staff's recommendation, Lexent does not need to publish legal notice of the Application to cancel telecommunications services because it does not have customers in Arizona.

- c. If Lexent has no customers to notify because it has no current customers in Arizona, please provide an affidavit attesting to this effect.

Please see affidavit attached herein as Attachment 1.

- d. A.A.C. Rule R14-2-1107(B) indicates that "no later than 20 days after the application is filed, the telecommunications company shall publish legal notice of the application in all counties affected by the application". If Lexent believes that the published notice requirement should be waived, please provide a statement requesting a waiver of published notice and describe in detail why waiving this requirement is just, reasonable and in the public interest.

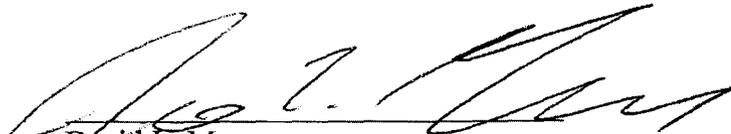
Please see waiver request attached herein as Attachment 2.

**AFFIDAVIT**

I, David L. Mayer, officer of Lexent, Inc., affirm that Lexent, Inc. has no customers to notify because it has no current customers in Arizona.

June 4, 2014

Date



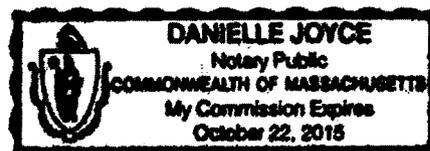
David L. Mayer  
General Counsel, EVP & Secretary  
Lexent, Inc.

Contact Person: Fernanda Manko, Director, Regulatory Compliance and Legal Services, Lexent, Inc. (703) 434-8533

STATE OF MASSACHUSETTS  
COUNTY OF Middlesex

I, the undersigned Notary Public, do hereby affirm that David L. Mayer personally appeared before me on the 4 day of June 2014, and signed the above Affidavit as his free and voluntary act and deed.

Danielle Joyce  
Notary Public

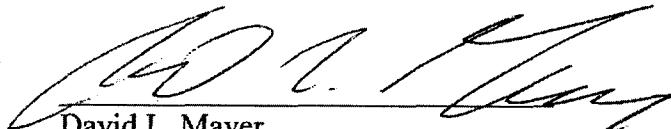


**WAIVER REQUEST**

Lexent, Inc. respectfully requests the published legal notice requirement pursuant to A.A.C. Rule R14-2-1107(B) be waived in light of the Affidavit provided herein as Attachment 1.

*June 4, 2014*

Date



David L. Mayer  
General Counsel, EVP & Secretary  
Lexent, Inc.

Contact Person: Fernanda Manko, Director, Regulatory Compliance and Legal Services, Lexent, Inc. (703) 434-8533