

**ORIGINAL**

**OPEN MEETING**



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**MEMORANDUM**

Arizona Corporation Commission

**DOCKETED**

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TO: THE COMMISSION

APR 23 2015

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FROM: Utilities Division

DOCKETED BY

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AZ CORP COMMISS  
DOCKET CONTROL

DATE: April 23, 2015

RE: IN THE MATTER OF THE CANCELLATION OF THE CERTIFICATE OF CONVENIENCE AND NECESSITY OF COVISTA, INC. (DOCKET NO. T-03490A-15-0006)

**INTRODUCTION**

On January 13, 2015, Staff requested Docket No. T-03490A-15-0006 be opened to effect the cancellation of the Certificate of Convenience and Necessity ("CC&N") of Covista, Inc. ("Covista").

**BACKGROUND**

Total Tel, Inc. ("Total Tel") was granted a CC&N by the Arizona Corporation Commission ("Commission") to provide resold long distance telecommunications service in Decision No. 62638, dated June 9, 2000. Total Tel subsequently changed its name to Covista, Inc. and notified the Commission of such on November 14, 2000.<sup>1</sup> Covista indicated in its year ending 2008 Utilities Annual Report that its headquarters was located at 225 East 8<sup>th</sup> Street, Suite 400, Chattanooga, TN 37402.

On February 26, 2014, Ionex Communications North, Inc. dba Birch Communications ("Ionex") filed a letter in Docket No. T-03490A-14-0073 ("the Transfer Docket") to advise the Commission that Ionex had begun serving customers previously served by Covista as a result of an Asset Purchase Agreement.<sup>2</sup> As a result of this transaction, Covista no longer has any customers in Arizona. Covista has not submitted an application to request a cancellation of its CC&N for interexchange service.

During the course of the proceeding of the Transfer Docket, Staff made several attempts to reach any representative of Covista. An attempt by phone revealed that the most recent contact number is out of service. An email sent to Covista's contact listed on its most recent Annual Report was returned undeliverable. A certified letter referencing the cancellation of Covista's CC&N was mailed on June 18, 2014, to the last known contact and address for Covista. This letter was returned to the Commission with the indication that the forwarding address had expired. A second certified letter mailed on July 1, 2014, to the forwarding address was not returned nor did it elicit a response.

<sup>1</sup> See *In The Matter of Covista Inc.'s Tariff Filing to Change Name From TotalTel, Inc. to Covista, Inc.*, Docket No. T-03490A-00-0930.

<sup>2</sup> *In The Matter of the Application of Ionex Communications North, Inc. D/B/A Birch Communications for Approval of The Transfer Of Customers From Lightyear Network Solutions, LLC, Ernest Communications, Inc. and Covista, Inc.*, Docket No. T-03490A-14-0073.

Given Staff's inability to contact a Covista representative along with the information presented in the Transfer Docket, Staff concluded Covista no longer exists as a business entity in Arizona. In its Proposed Order in the Transfer Docket, at Finding of Fact No. 23, Staff recommended a process to commence cancellation of Covista's CC&N. The Commission, in Decision No. 74778, dated October 24, 2014, ordered that this process should commence.

### **STAFF'S ANALYSIS**

According to the abovementioned cancellation process, a copy of the Staff Memo and proposed Order for the Transfer Docket was to be delivered to Covista at its last known address and placed in its CC&N docket (Docket No. T-03490A-98-0013). This was completed on October 6, 2014.

A separate notice was also to be sent to Covista, with a copy of Decision No. 74778 attached, informing Covista it had sixty (60) days from the date of the Decision to object to cancellation of its CC&N and request a Hearing or cancellation of its CC&N would occur. This notice was mailed on October 30, 2014, and docketed in the Transfer Docket the same day. Covista was then given sixty (60) days to respond as described.

If, after the expiration of the sixty (60) days, there is no response from Covista, Staff is to docket a Report and Order recommending cancellation of Covista's CC&N. As no objection or Hearing request has been received from Covista, Staff submits this Staff Report and Recommended Order.

### **COMPLIANCE**

The Consumer Services Section of the Utilities Division reports there were no complaints, inquiries, or opinions filed against Covista from January 1, 2011 through January 22, 2015. Covista did file not its 2013 and 2014 Annual Reports nor its 1999, 2001 or 2012 Utilities Annual Reports.

### **STAFF RECOMMENDATIONS**

For the above stated reasons, Staff recommends approval of the cancellation of the CC&N of Covista to provide competitive resold long distance telecommunications services in Arizona. Additionally, Staff recommends the cancellation of Covista's tariff that is on file with this Commission.

THE COMMISSION

April 23, 2015

Page 3

Upon cancellation of its CC&N, Covista will no longer be authorized to provide competitive resold interexchange telecommunications services in Arizona and therefore, will no longer be subject to the requirements of Decision No. 62638.



Steven M. Olea  
Director  
Utilities Division

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ORIGINATOR: Matt Connolly

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BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH  
Chairman  
BOB STUMP  
Commissioner  
BOB BURNS  
Commissioner  
DOUG LITTLE  
Commissioner  
TOM FORESE  
Commissioner

IN THE MATTER OF THE  
CANCELLATION OF THE CERTIFICATE  
OF CONVENIENCE AND NECESSITY OF  
COVISTA, INC.

DOCKET NO. T-03490A-15-0006  
DECISION NO. \_\_\_\_\_  
ORDER

Open Meeting  
May 12 and 13, 2015  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On January 13, 2015, Staff requested Docket No. T-03490A-15-0006 be opened to effect the cancellation of the Certificate of Convenience and Necessity ("CC&N") of Covista, Inc. ("Covista").

**Background**

1. Total Tel, Inc. ("Total Tel") was granted a CC&N by the Arizona Corporation Commission ("Commission") to provide resold long distance telecommunications service in Decision No. 62638, dated June 9, 2000. Total Tel subsequently changed its name to Covista, Inc. and notified the Commission of such on November 14, 2000.<sup>1</sup> Covista indicated in its year ending 2008 Utilities Annual Report that its headquarters was located at 225 East 8<sup>th</sup> Street, Suite 400, Chattanooga, TN

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<sup>1</sup> See *In The Matter of Covista Inc.'s Tariff Filing to Change Name From TotalTel, Inc. to Covista, Inc.*, Docket No. T-03490A-00-0930.

1 37402.<sup>2</sup>

2           2.       On February 26, 2014, Ionex Communications North, Inc. dba Birch Communications  
3 (“Ionex”) filed a letter in Docket No. T-03490A-14-0073 (“the Transfer Docket”) to advise the  
4 Commission that Ionex had begun serving customers previously served by Covista as a result of an  
5 Asset Purchase Agreement.<sup>3</sup> As a result of this transaction, Covista no longer has any customers in  
6 Arizona. Covista has not submitted an application to request a cancellation of its CC&N for  
7 interexchange service.

8           3.       During the course of the proceeding of the Transfer Docket, Staff made several  
9 attempts to reach any representative of Covista. An attempt by phone revealed that the most recent  
10 contact number is out of service. An email sent to Covista’s contact listed on its most recent Annual  
11 Report was returned undeliverable. A certified letter referencing the cancellation of Covista’s CC&N  
12 was mailed on June 18, 2014, to the last known contact and address for Covista. This letter was  
13 returned to the Commission with the indication that the forwarding address had expired. A second  
14 certified letter mailed on July 1, 2014, to the forwarding address was not returned nor did it elicit a  
15 response.

16           4.       Given Staff’s inability to contact a Covista representative along with the information  
17 presented in the Transfer Docket, Staff concluded Covista no longer exists as a business entity in  
18 Arizona. In its Proposed Order in the Transfer Docket, at Finding of Fact No. 23, Staff  
19 recommended a process to commence cancellation of Covista’s CC&N. The Commission, in  
20 Decision No. 74778, dated October 24, 2014, ordered that this process should commence.

21 **Staff’s Analysis**

22           5.       According to the abovementioned cancellation process, a copy of the Staff Memo and  
23 proposed Order for the Transfer was to be delivered to Covista at its last known address and placed in  
24 its CC&N docket (Docket No. T-03490A-98-0013). This was completed on October 6, 2014.

25 . . .

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27 <sup>2</sup> See *In The Matter of Covista Inc.’s Tariff Filing to Change Name From TotalTel, Inc. to Covista, Inc.*, Docket No. T-03490A-00-0930.

28 <sup>3</sup> *In The Matter of the Application of Ionex Communications North, Inc. D/B/A Birch Communications for Approval of The Transfer Of Customers From Lightyear Network Solutions, LLC, Ernest Communications, Inc. and Covista, Inc.*, Docket No. T-03490A-14-0073.

1           6.       A separate notice was also to be sent to Covista, with a copy of Decision No. 74778  
2 attached, informing Covista it had sixty (60) days from the date of the Decision to object to  
3 cancellation of its CC&N and request a Hearing or cancellation of its CC&N would occur. This  
4 notice was mailed on October 30, 2014, and docketed in the Transfer Docket the same day. Covista  
5 was then given sixty (60) days to respond as described.

6           7.       If, after the expiration of the sixty (60) days, there is no response from Covista, Staff is  
7 to docket a Report and Order recommending cancellation of Covista's CC&N. As no objection or  
8 Hearing request has been received from Covista, Staff submitted a Staff Report and Recommended  
9 Order.

#### 10 **Compliance**

11           8.       The Consumer Services Section of the Utilities Division reports there were no  
12 complaints, inquiries, or opinions filed against Covista from January 1, 2011 through January 22, 2015.  
13 Covista did not file its 2013 and 2014 Annual Reports nor its 1999, 2001, or 2012 Utilities Annual  
14 Reports.

#### 15 **Staff Recommendations**

16           9.       For the above stated reasons, Staff has recommended approval of the cancellation of  
17 the CC&N of Covista to provide competitive resold long distance telecommunications services in  
18 Arizona. Additionally, Staff recommends the cancellation of Covista's tariff that is on file with this  
19 Commission.

20           10.      Upon cancellation of its CC&N, Covista will no longer be authorized to provide  
21 competitive resold interexchange telecommunications services in Arizona and therefore, will no longer  
22 be subject to the requirements of Decision No. 62638.

#### 23 CONCLUSIONS OF LAW

24           1.       Covista, Inc. is a public service corporation within the meaning of Article XV of the  
25 Arizona Constitution.

26           2.       The Commission has jurisdiction over Covista, Inc. and the subject matter in this  
27 filing.

28 ...

1           3.       The Commission, having reviewed the filing and Staff's Memorandum dated April 23,  
2 2015, concludes that it is in the public interest to approve the cancellation of Covista's CC&N to  
3 provide competitive resold interexchange telecommunications service and to cancel its tariff on file  
4 with the Commission as proposed and discussed herein.

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

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ORDER

IT IS THEREFORE ORDERED that Covista Inc.'s Certificate of Convenience and Necessity, granted in Commission Decision No. 62638 (June 9, 2000) to provide competitive resold interexchange telecommunications service in Arizona is hereby cancelled.

IT IS FURTHER ORDERED that Covista Inc.'s tariff on file with the Commission is hereby cancelled.

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

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

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

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 \_\_\_\_\_, 2015.

\_\_\_\_\_  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:MAC:red\ML

1 SERVICE LIST FOR: COVISTA, INC.  
2 DOCKET NO. T-03490A-15-0006

3 Mr. Thomas Gunning  
4 225 E. 8<sup>th</sup> St., Ste. 400  
5 Chattanooga, Tennessee 37402

6 Mr. Steven M. Olea  
7 Director, Utilities Division  
8 Arizona Corporation Commission  
9 1200 West Washington Street  
10 Phoenix, Arizona 85007

11 Ms. Janice M. Alward  
12 Chief Counsel, Legal Division  
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15 Phoenix, Arizona 85007

16 Ms. Lyn Farmer  
17 Chief Administrative Law Judge,  
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