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MEMORANDUM

Arizona Corporation Commission

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FROM: Steven M. Olea
Director
Utilities Division

DATE: June 16, 2015

RE: IN THE MATTER OF THE APPLICATION OF CBeyond COMMUNICATIONS, LLC FOR APPROVAL TO CANCEL ITS CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NO. T-20497A-15-0111)

Attached is the Staff Report for the above referenced 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
- Resold Long Distance

Staff recommends cancellation of the CC&N.

SMO:MAC:nr\BH

Originator: Matt Connolly

SERVICE LIST FOR: CBeyond COMMUNICATIONS, LLC
DOCKET NO.: T-20497A-15-0111

Ms. Joan Burke
Law Offices of Joan S. Burke, P.C.
1650 North First Avenue
Phoenix, Arizona 85003

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

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

Mr. Dwight Nodes
Acting Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

CBEYOND COMMUNICATIONS, LLC
DOCKET NO. T-20497A-15-0111

IN THE MATTER OF THE APPLICATION
OF CBEYOND COMMUNICATIONS, LLC FOR APPROVAL
TO CANCEL ITS CERTIFICATE OF CONVENIENCE AND NECESSITY

JUNE 16 2015

STAFF ACKNOWLEDGEMENT

The Staff Report for Cbeyond Communications, LLC, Docket No. T-20497A-15-0111, was the responsibility of the Staff member listed below. Matt Connolly was responsible for the review and analysis of Cbeyond Communications, LLC's Application to cancel its Certificate of Convenience and Necessity.

A handwritten signature in black ink, appearing to read "Matt Connolly", written over a horizontal line.

Matt Connolly
Executive Consultant II

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INTRODUCTION

On April 2, 2015, Cbeyond Communications, LLC ("Cbeyond" or "Applicant") submitted an Application to discontinue facilities-based local exchange and resold long distance services and to cancel its Certificate of Convenience and Necessity ("CC&N"). On April 20, 2015, Cbeyond filed a request for a waiver of Arizona Administrative Code ("A.A.C.") R14-2-1107(A)(2) which requires that all affected customers have been notified of the proposed discontinuance of service and A.A.C. R-14-2-1107(B) which requires publication of legal notice of the application in all counties affected by the application.

BACKGROUND

The Applicant states Cbeyond is a subsidiary of Cbeyond, Inc., which in turn is a subsidiary of Birch Communications, Inc. ("BCI"). Cbeyond is a Delaware corporation with headquarters located at 320 Interstate N Parkway, Suite 300, Atlanta, Georgia, 30339. On December 17, 2008, the Arizona Corporation Commission ("Commission"), in Decision No. 70644, granted Cbeyond a CC&N to provide competitive facilities-based local exchange and resold long distance telecommunications services within the State of Arizona.

The Applicant further states BCI has a second subsidiary in Arizona, Ionex Communications North, Inc. ("Ionex"), which is currently providing local exchange and interexchange telecommunications services to customers in Arizona pursuant to a CC&N granted by the Commission in Decision No. 63379, dated February 16, 2001. In contrast to Ionex, Cbeyond has no customers in Arizona. Thus, cancelling the CC&N of one subsidiary, while retaining the CC&N for the other, will reduce reporting requirements for BCI and will simplify matters for taxing and licensing authorities.

STAFF'S ANALYSIS

Waiver of A.A.C. R14-2-1107(A)(2)

Pursuant to A.A.C. R14-2-1107(A)(2), a telecommunications company that provides competitive local exchange or interexchange service on a resold or facilities-based basis that intends to discontinue service must verify that all affected customers have been notified of the proposed discontinuance. As mentioned, Cbeyond has no Arizona customers. Staff believes granting Cbeyond's request for a waiver of A.A.C. R14-2-1107(A)(2) is appropriate.

Waiver of A.A.C. R14-2-1107(B)

Pursuant to A.A.C. R14-2-1107(B), legal notice of an Application to discontinue or abandon local exchange or interexchange services is to be published in all counties affected by the Application. As Cbeyond has no Arizona customers, Staff believes granting Cbeyond's request for a waiver of A.A.C. R14-2-1107(B) is appropriate.

The Compliance Section of the Utilities Division reports no delinquencies for Cbeyond. The Consumer Services Section of the Utilities Division reports that there were no complaints or opinions filed against Cbeyond from January 1, 2012, through April 8, 2015. Cbeyond filed its 2013 Utilities Annual Report. According to the Corporations Division, Cbeyond is in good standing. Cbeyond's request to rescind its bond or letter of credit requirement was approved by the Commission in Decision No. 75028 dated April 23, 2015¹.

RECOMMENDATIONS

Staff recommends approval of Cbeyond's Application to cancel its CC&N to provide competitive facilities-based local exchange and resold long distance telecommunications services in Arizona. Staff further recommends the Applicant's requests for a waiver of A.A.C. R14-2-1107(A)(2) and A.A.C. R14-2-1107(B) be granted. Finally, Staff recommends the cancellation of Cbeyond's tariffs on file with the Commission.

Upon cancellation of its CC&N, Cbeyond will no longer be authorized to provide competitive facilities-based local exchange and resold long distance telecommunications services in Arizona and therefore, will no longer be subject to the requirements of Decision No. 70644.

¹ See Docket No. T-20497A-15-0047, In the matter of the application of Cbeyond Communications, LLC for approval of a rescission of the bond/letter of credit requirement contained in Decision No. 70644.