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MEMORANDUM

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FROM: Thomas M. Broderick  
Director  
Utilities Division

2015 SEP 25 P 3:49

2015 SEP 25 10:04  
SECRETARY

DATE: September 25, 2015

RE: IN THE MATTER OF THE APPLICATION OF ORBITCOM, INC. FOR APPROVAL OF CANCELLATION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY, REQUEST FOR WAIVER OF PUBLICATION, AND RETURN OF BOND. (DOCKET NO. T-04274A-15-0301)

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 Interexchange

Staff recommends cancellation of the CC&N.

TMB:MAC:nr\CHH

Originator: Matt Connolly

BTU

SERVICE LIST FOR: ORBITCOM, INC.  
DOCKET NO.: T-04274A-15-0301

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

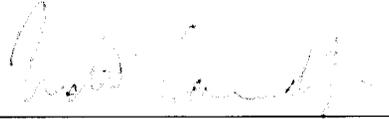
ORBITCOM, INC.  
DOCKET NO. T-04274A-15-0301

IN THE MATTER OF THE APPLICATION OF ORBITCOM, INC. FOR APPROVAL OF  
CANCELLATION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY,  
REQUEST FOR WAIVER OF PUBLICATION, AND RETURN OF BOND

SEPTEMBER 25, 2015

## STAFF ACKNOWLEDGEMENT

The Staff Report for OrbitCom, Inc., Docket No. T-04274A-15-0301, was the responsibility of the Staff member listed below. Matt Connolly was responsible for the review and analysis of OrbitCom, Inc.'s Application to cancel its Certificate of Convenience and Necessity.

A handwritten signature in cursive script, appearing to read "Matt Connolly", is positioned above a horizontal line.

Matt Connolly  
Executive Consultant II

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## INTRODUCTION

On August 19, 2015, OrbitCom, Inc. ("OrbitCom" or "Applicant") submitted an Application to discontinue local exchange and resold long distance services and to cancel its Certificate of Convenience and Necessity ("CC&N"). Additionally the Applicant seeks a waiver of the notice of publication requirements imposed under Arizona Administrative Code ("A.A.C.") R14-2-1107(A)(2) and (B), as well as the return of a \$110,000 bond OrbitCom has on file with the Commission.

## BACKGROUND

OrbitCom is a South Dakota corporation with headquarters located at 1701 North Louise Avenue, Sioux Falls, South Dakota, 57107. OrbitCom was issued a CC&N to provide competitive resold interexchange and facilities-based local exchange telecommunications services by the Arizona Corporation Commission ("Commission") in Decision No. 67945 dated June 21, 2005.

On May 6, 2015, OrbitCom and Ionex Communications North, Inc. ("Ionex"), filed an Application with the Commission requesting a waiver of A.A.C. R14-2-1901, *et seq.*, (the "Slamming Rules"), notifying the Commission of the intent of Ionex to purchase certain assets and customers of OrbitCom and to transfer those customers to Ionex. In Decision No. 75169, dated July 15, 2015, the Commission granted the waiver request and ordered Ionex and OrbitCom, upon closure of the transaction and transfer of the customers to Ionex, to file notice informing the Commission of such.<sup>1</sup> This notice was filed on July 22, 2015.

In Decision No. 75169, the Commission also ordered OrbitCom to file, within ninety (90) days of the closing of the aforementioned transaction, an Application to cancel its CC&N. As stated, this Application was filed August 19, 2015.

## 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, OrbitCom has no Arizona customers. Staff believes granting OrbitCom'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

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<sup>1</sup> See In the Matter of the Joint Application of Ionex Communications North, Inc. dba Birch Communications and OrbitCom, Inc. for Approval of a Waiver of the Slamming Rules in Connection with the Transfer of the OrbitCom Customers in Arizona to Ionex, Docket Nos. T-04274A-15-0144 and T-03864A-15-0144.

Application. As OrbitCom has no Arizona customers, Staff believes granting OrbitCom'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 OrbitCom. The Consumer Services Section of the Utilities Division reports that there were no complaints or opinions filed against OrbitCom from January 1, 2012, through August 26, 2015. OrbitCom filed its 2014 Utilities Annual Report. According to the Corporations Division, OrbitCom is in good standing.

## **RECOMMENDATIONS**

Staff recommends approval of OrbitCom's Application to cancel its CC&N to provide competitive facilities-based local exchange and resold long distance telecommunications services in Arizona. Staff also 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. Staff further recommends the cancellation of OrbitCom's tariffs on file with the Commission. Finally, Staff recommends OrbitCom be relieved of its bond requirement and the bond be returned to:

Ms. Meredith A. Moore  
Cutler Law Firm, LLP  
100 North Phillips Avenue, 9th Floor  
Post Office Box 1400  
Sioux Falls, South Dakota 57101-1400

Upon cancellation of its CC&N, OrbitCom 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. 67945.