

ORIGINAL

MEMORANDUM



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TO: Docket Control

Arizona Corporation Commission

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FROM: Ernest G. Johnson *EGJ*
Director
Utilities Division

OCT 21 2003

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: October 21, 2003

DOCKETED BY *AKP*

RE: IN THE MATTER OF THE APPLICATION OF BCE NEXXIA CORPORATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE FACILITIES-BASED INTEREXCHANGE SERVICES AND PETITION FOR COMPETITIVE CLASSIFICATION OF PROPOSED SERVICES WITHIN THE STATE OF ARIZONA (DOCKET NO. T-04200A-03-0550)

Attached is the Staff Report for the above referenced application. The Applicant is applying for approval to provide the following services:

- Facilities-based interexchange services

Staff is recommending approval of the application.

/ajl

Originator: Adam Lebrecht

Attachment: Original and Ten Copies

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

BCE NEXXIA CORPORATION
DOCKET NO. T-04200A-03-0550

IN THE MATTER OF THE APPLICATION OF BCE NEXXIA CORPORATION FOR
A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE
FACILITIES-BASED INTEREXCHANGE SERVICES AND PETITION FOR
COMPETITIVE CLASSIFICATION OF PROPOSED SERVICES WITHIN THE
STATE OF ARIZONA

TABLE OF CONTENTS

	PAGE
1. Introduction.....	1
2. The Applicant's Application for a Certificate of Convenience & Necessity.....	1
2.1 Description of the Geographic Market to be Served	1
2.2 Description of Requested Services	1
2.3 The Organization	1
2.4 Technical Capability to Provide the Requested Services	1
2.5 Financial Capability to Provide the Requested Services	2
2.6 Establishing Rates and Charges.....	2
3. Competitive Services Analysis	3
3.1 Competitive Services Analysis for Interexchange Services	3
4. Recommendations.....	4
4.1 Recommendations on the Applicant's Application For a CC&N	4
4.2 Recommendation on the Applicant's Petition to Have Its Proposed Services Classified as Competitive.....	6

STAFF ACKNOWLEDGMENT

The Staff Report for BCE Nexxia Corporation, Docket No. T-04200A-03-0550, was the responsibility of the Staff member listed below. Adam Lebrecht was responsible for the review and analysis of the Applicant's application for a Certificate of Convenience and Necessity to provide facilities-based interexchange services; and petition for a determination that its proposed services should be classified as competitive.

A handwritten signature in black ink, appearing to be 'AL', written over a horizontal line.

Adam Lebrecht
Executive Consultant I

1. INTRODUCTION

On August 5, 2003, BCE Nexxia Corporation (“BCE” or “Applicant”) filed an application for a Certificate of Convenience and Necessity (“CC&N”) to provide facilities-based interexchange services within the State of Arizona. The Applicant petitioned the Arizona Corporation Commission (“Commission”) for a determination that its proposed services should be classified as competitive.

Staff’s review of this application addresses the overall fitness of the Applicant to receive a CC&N. Staff’s analysis also considers whether the Applicant’s services should be classified as competitive and if the Applicant’s initial rates are just and reasonable.

2. THE APPLICANT’S APPLICATION FOR A CERTIFICATE OF CONVENIENCE & NECESSITY

This section of the Staff Report contains descriptions of the geographic market to be served by the Applicant, the requested services, and the Applicant’s technical and financial capability to provide the requested services. In addition, this section contains the Staff evaluation of the Applicant’s proposed rates and charges and Staff’s recommendation thereon.

2.1 DESCRIPTION OF THE GEOGRAPHIC MARKET TO BE SERVED

BCE seeks authority to provide telecommunications services throughout the State of Arizona.

2.2 DESCRIPTION OF REQUESTED SERVICES

BCE proposes to provide facilities-based interexchange services.

2.3 THE ORGANIZATION

BCE is incorporated under the laws of the State of Delaware and has authority to transact business in Arizona.

2.4 TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

BCE will conduct its operations using Bell Canada Enterprises Inc.’s staff of 66,266 employees.

2.5 FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

The Applicant did provide unaudited financial statements for the twelve (12) months ending December 31, 2002. These financial statements list assets of \$101 million; equity of \$87 million; and a net loss of \$10 million. The Applicant did not provide notes related to the financial statements. Also, the Applicant did state in its Application that it will rely on its ultimate Parent Company, Bell Canada Enterprises, Inc. for financial support.

The Applicant stated in its Tariff (reference Section 2.7.4 on page 23) that it does not collect from its customers an advance, deposit, and/or prepayment. Staff believes that a bond is not needed to provide interexchange service. If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, Staff recommends that the Applicant be required to file an application with the Arizona Corporation Commission (“Commission”) for Commission approval. Such application must reference the decision in this docket and must explain the applicant’s plans for procuring a performance bond.

If this Applicant experiences financial difficulty, there should be minimal impact to its customers because there are many companies that provide resold interexchange telecommunications services or the customers may choose another facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX (dial around) access code.

2.6 ESTABLISHING RATES AND CHARGES

The Applicant would initially be providing service in areas where both resold and other facilities based interexchange carriers are providing telephone service. Therefore, the Applicant would have to compete with those providers in order to obtain subscribers to its services. The Applicant would be a new entrant and would face competition from competitive providers in offering service to its potential customers. Therefore, the Applicant would generally not be able to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

Both an initial rate (the actual rate to be charged) and a maximum rate must be listed for each competitive service offered, provided that the rate for the service is not less than the Company’s total service long-run incremental cost of providing the service pursuant to A.A.C. R14-2-1109.

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is zero. Accordingly, the company’s fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily

influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, it did not accord that information substantial weight in its analysis.

3. COMPETITIVE SERVICES ANALYSIS

The Applicant has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive. The Applicant has published legal notice of the application in all counties in which it requests authorization to provide service. The Applicant has certified that all notification requirements have been completed. Staff's analysis and recommendations are discussed below.

3.1 COMPETITIVE SERVICES ANALYSIS FOR INTEREXCHANGE SERVICES

3.1.1 **A description of the general economic conditions that exist, which makes the relevant market for the service one that, is competitive.**

The interexchange market that the Applicant seeks to enter is one in which numerous facilities-based and resold interexchange carriers have been authorized to provide service throughout the State. The Applicant will be a new entrant in this market and, as such, will have to compete with those companies in order to obtain customers.

3.1.2 **The number of alternative providers of the service.**

There are a large number of facilities-based and resold interexchange carriers providing both interLATA and intraLATA interexchange service throughout the State. In addition, various ILECs provide intraLATA interexchange service in many areas of the State.

3.1.3 **The estimated market share held by each alternative provider of the service.**

The large facilities-based interexchange carriers (AT&T, Sprint, MCI WorldCom, etc.) hold a majority of the interLATA interexchange market, and the ILECs provide a large portion of the intraLATA interexchange market. Numerous other interexchange carriers have a smaller part of the market and one in which new entrants do not have a long history with any customers.

3.1.4 **The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in A.A.C. R14-2-801.**

None.

3.1.5 Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the service(s).

The interexchange service market is:

- a. One with numerous competitors and limited barriers to entry.
- b. One in which established interexchange carriers have had an existing relationship with their customers that the new entrants will have to overcome if they want to compete in the market.
- c. One in which the Applicant will not have the capability to adversely affect prices or restrict output to the detriment of telephone service subscribers.

4. RECOMMENDATIONS

The following sections contain the Staff recommendations on the Applicant's Application for a CC&N and the Applicant's Petition for a Commission Determination that its Proposed Services Should be Classified as Competitive.

4.1 RECOMMENDATIONS ON THE APPLICANT'S APPLICATION FOR A CC&N

BCE is incorporated under the laws of the State of Delaware. BCE has demonstrated that it has the capability to provide its proposed services, as requested, and the provision of these would merely be an extension of its current activities in Canada. Therefore, Staff recommends that the Applicant's application for a CC&N to provide intrastate telecommunications services, as listed in Section 2.2 of this Report, be granted. In addition, Staff further recommends:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

5. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
6. The Applicant should be ordered to cooperate with Commission investigations including but not limited to customer complaints;
7. The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;
8. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;
9. If at some future date, the Applicant wants to collect from its interexchange customers an advance, deposit, and/or prepayment, Staff recommends that the Applicant be required to file an application with the Commission for Commission approval. Such application must reference the decision in this docket and must explain the applicant's plans for procuring a performance bond;
10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to AAC R14-2-1108;
11. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in AAC R14-2-1109;
12. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate;
13. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is zero. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, the fair value information provided should not be given substantial weight in this analysis.

Staff recommends that the Applicant be ordered to comply with the following. If it does not do so, the Applicant's CC&N shall be null and void without further order of the Commission and no time extensions shall be granted.

1. The Applicant shall file conforming tariffs for each of its CC&Ns within 365 days

from the date of an Order in this matter or 30 days prior to providing service, whichever comes first, and in accordance with the Decision; and

4.2 RECOMMENDATION ON THE APPLICANT'S PETITION TO HAVE ITS PROPOSED SERVICES CLASSIFIED AS COMPETITIVE

Staff believes that the Applicant's proposed services should be classified as competitive. There are alternatives to the Applicant's services. The Applicant will have to convince customers to purchase its services, and the Applicant has no ability to adversely affect the interexchange service markets. Therefore, the Applicant currently has no market power in the interexchange service markets where alternative providers of telecommunications services exist. Staff therefore recommends that the Applicant's proposed services be classified as competitive.

SERVICE LIST FOR: BCE NEXXIA, CORP
DOCKET NO. T-04200A-03-0550

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