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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
NEW CENTURY TELECOM, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
INTRASTATE TELECOMMUNICATIONS  
SERVICES AS A RESELLER EXCEPT LOCAL  
EXCHANGE SERVICES

DOCKET NO. T-03462A-97-0619

PROCEDURAL ORDER

**BY THE COMMISSION:**

On November 13, 1997, New Century Telecom, Inc. ("Company") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive intrastate telecommunications services as a reseller, except local exchange services, within the State of Arizona. The Company is required to publish notice of its filing in newspapers in all counties where service is to be provided. The record shows that the Company has published notice with affidavits of publication filed with the Commission on July 26, 2000. On September 26, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter.

On August 29, 2000, the Arizona Court of Appeals, Division One, ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all public service corporations in Arizona prior to setting their rates and charges." Although that Opinion will more than likely be appealed to the Arizona Supreme Court, we are going to request FVRB information at this time to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned that the cost and complexity of FVRB determinations must not offend the Telecommunications Act of 1996.

...

1 The time frame for processing the Company's application shall be extended to January 31,  
2 2001.

3 Pursuant to A.R.S. § 40-282, the Commission may act on an application for a Certificate to  
4 provide resold telecommunications services without a hearing, or with a hearing if one is requested  
5 by any party.

6 The Commission now issues this Procedural Order to govern the preparation and conduct of  
7 this proceeding.

8 IT IS THEREFORE ORDERED that the deadline for processing this application shall be  
9 January 31, 2001.

10 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105  
11 except that all motions to intervene must be filed on or before October 27, 2000.

12 IT IS FURTHER ORDERED that New Century Telecom, Inc. shall file its proposed FVRB  
13 within 30 days of the date of this Order (pursuant to A.A.C. R14-2-103(B), this may be the same as  
14 original cost rate base). The FVRB shall include the value of all plant and equipment currently held  
15 by the Company and intended to be used to provide telecommunications services to Arizona  
16 customers. In doing so, New Century Telecom, Inc. may use any reasonable means of asset  
17 allocation, direct assignment or combination thereof.

18 IT IS FURTHER ORDERED that New Century Telecom, Inc. shall file a description of all  
19 plant and equipment currently held by the Company and intended to be used to provide  
20 telecommunications services to Arizona customers, including their cost and location, within 30 days  
21 of the date of this Order.

22 IT IS FURTHER ORDERED that New Century Telecom, Inc. shall file information  
23 demonstrating how the value of the Company's plant and equipment (both current and projected) is  
24 related to its total service long-run incremental costs within 30 days of the date of this Order (such  
25 demonstration must include the amount of depreciation expense and capital carrying costs related to  
26 the FVRB which has been incorporated into the long-run incremental costs).

27 IT IS FURTHER ORDERED that for all maximum rates and charges of New Century  
28 Telecom, Inc. which are higher than those of the incumbent local exchange carrier ("ILEC") for the

1 same regulated services, New Century Telecom, Inc. must demonstrate that such rates and charges  
2 are not unreasonable, and constitute a fair rate of return on FVRB (if there is more than one ILEC in  
3 your proposed service area, use Qwest Corporation as a surrogate ILEC for the entire state).

4 IT IS FURTHER ORDERED that Staff shall review the FVRB information filed and ascertain  
5 that New Century Telecom, Inc. is utilizing the appropriate amount of depreciation and capital  
6 carrying costs in determining its total service long-run incremental costs.

7 IT IS FURTHER ORDERED that Staff or Intervenors shall file disagreements with the  
8 proposed FVRB and/or rates and charges, as well as request a hearing, within 60 days of this Order.

9 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
10 pursuant to Rule 6(a) or (e) of the Arizona Rules of Civil Procedure.

11 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive  
12 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

13 DATED this 3<sup>rd</sup> day of October, 2000.

14  
15   
16 ALICIA GRANTHAM  
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered  
18 this 3<sup>rd</sup> day of October, 2000 to:

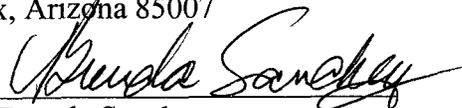
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