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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MARC SPITZER, Chairman
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JEFF HATCH-MILLER
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KRISTIN K. MAYES

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AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

AUG 18 2004

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DOCKET NO. T-04011A-03-0749
T-03777A-03-0749

IN THE MATTER OF THE MATTER OF THE
JOINT APPLICATION OF TOUCH AMERICA,
INC. TO SELL AND TRANSFER TO
360NETWORKS (USA) INC. CERTAIN LIT
FIBER ASSETS IN ARIZONA AND RELATED
CUSTOMER CONTRACTS DEPENDENT ON
THOSE FACILITIES.

PROCEDURAL ORDER

BY THE COMMISSION:

On October 9, 2003, Touch American, Inc. ("TAI") and 360Networks (USA) ("360") filed a joint application requesting authority for TAI to sell and transfer to 360 certain lit fiber assets in Arizona and related customer contracts dependent on those facilities.

On January 20, 2004, the Arizona Corporation Commission ("Commission") issued Decision No. 66737 granting the application, with certain conditions.

On February 19, 2004, 360 filed a Motion for Extension of Time to File Performance Bond and Permission to Submit Alternative Means of Compliance.

On April 14, 2004, by Procedural Order, Staff was ordered to file a response to the Motion for Extension of Time by April 19, 2004.

On April 19, 2004, Staff filed its response stating that although it does not object to the extension of time to file a performance bond, it does object to the Company's use of a letter of credit.

On April 23, 2004, a Procedural Order was issued that set this matter for a pre-hearing conference on May 3, 2004.

On May 3, 2004, the pre-hearing was held as scheduled. 360 appeared and was represented by counsel. Staff also appeared and was represented by counsel. During the course of the pre-hearing conference, 360 explained that they were still in the process of obtaining the \$100,000 performance bond as required in Decision No. 66737. 360 stated it was also considering setting up an escrow account as provided for in A.A.C. R14-2-1105(D) in lieu of obtaining the performance

1 bond. 360 indicated that it will either procure the performance bond or it would establish an escrow
2 account and file the appropriate paperwork with the Commission to amend Decision No. 66737
3 within the next 90 days. Staff stated that it did not object to a 90 day continuance to allow 360 to
4 obtain the performance bond or to establish an escrow account.

5 By Procedural Order dated May 24, 2004, 360's Motion for Extension of Time to File
6 Performance Bond and Permission to Submit Alternative Means of Compliance was granted
7 conditioned upon 360 filing the performance bond required by Decision No. 66737 or pursuant to
8 A.R.S. § 40-252, making the appropriate filing(s) to amend Decision No. 66737 to allow it to
9 establish an escrow account in compliance with A.A.C. R14-2-1105(D) and receiving Commission
10 approval to establish an escrow account on or before August 4, 2004.

11 By letter dated August 4, 2004, and docketed August 5, 2004, 360 indicated that it had
12 encountered technical difficulties in obtaining the required bond and requested a ten day extension,
13 until August 13, 2004, to file proof of the performance bond.

14 On August 4, 2004, 360 contacted John Bostwick of the Commission's Utilities Division and
15 notified him that it would be submitting a request for a ten day extension of the August 4, 2004
16 deadline for filing proof of the performance bond. Additionally, 360 faxed a copy of its letter dated
17 August 4, 2004 to the Hearing Division.

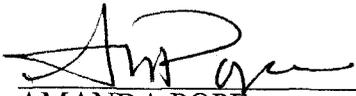
18 Staff did not file a response to 360's request.

19 By letter dated August 13, 2004, and docketed August 16, 2004, 360 submitted a copy of the
20 \$100,000 performance bond procured on August 9, 2004 in compliance with Decision No. 66737.

21 IT IS THEREFORE ORDERED that 360 Networks' request to extend the deadline for filing
22 proof of the performance bond is granted.

23 IT IS FURTHER ORDERED that 360 Networks has complied with the requirements of
24 Decision No. 66737.

25 Dated this 18th day of August, 2004

26
27 
28 AMANDA POPE
ADMINISTRATIVE LAW JUDGE

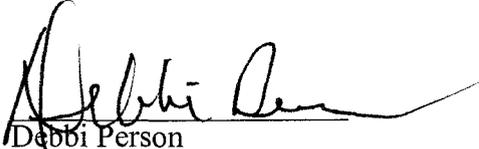
1 Copies of the foregoing mailed this
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21 By: 
22 Debbi Person
23 Secretary to Amanda Pope
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28