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TO: Docket Control
Arizona Corporation Commission

AZ CORP COMMISSION
DOCUMENT CONTROL

FROM: Ernest G. Johnson *MD/for*
Director
Utilities Division

DATE: July 16, 2002

RE: **COMPLIANCE TO DECISION NO. 63539** - REQUEST FOR
EXTENSION OF TIME. (DOCKET NO. T-03957A-00-0911)

On July 8, 2002 Encompass Inc. ("Encompass") submitted correspondence requesting an extension of time to comply with conditions in the decision granting Encompass authority to provide resold interexchange telecommunications services (Decision No. 63539). Encompass' CC&N was conditioned on the Company filing Fair Value Rate Base information within 18 months it first provides service. Encompass did not comply and its certificate was void without further order of the Commission. Therefore, Encompass requires additional time to comply with the Decision. Staff has no objections to this request. Staff recommends a 45 day extension be granted.

Originator: Anthony Gatto

Enc.

Arizona Corporation Commission
DOCKETED

JUL 16 2002

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Service List for: Encompass
Docket No. (T-03957A-00-0911)

Wayne Gandy
Sr. Accountant
119 W. Tyler, Suite 260
Longview, Texas 75601

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
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1200 West Washington Street
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Ms. Lyn Farmer
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July 2, 2002

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1200 W. WASHINGTON ST
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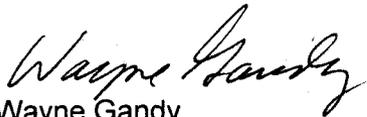
RE: DOCKET NO. T-03957A-00-0911 DECISION NO. 63539

Dear Sir or Madam:

By oversight we failed to file separately the FVRB information. We mistakenly thought that filing the information in the Annual Report fulfilled our obligations. We now understand that this is incorrect and we humbly and respectfully request an extension to file the FVRB information. I am including the FVRB information in this correspondence (see enclosed) in hopes that you will grant us the extension and will reinstate our Certificate of Convenience and Necessity.

If I need to do anything further please let me know.

Sincerely,



Wayne Gandy
Sr. Accountant
903-247-4881



119 W. Tyler, Ste 260
Longview, TX 75601

DOCKET NO. T-03957A-00-0911

FVRB

For the period 1-1-2001 through 12-31-2001

Total Arizona specific Revenue for Telecommunication Service: \$192,786.

Total Arizona specific Operating Expenses: \$183,254.

Total Arizona specific Assets, Plant, Equipment and Office Supplies: \$0

Encompass has no physical presence in Arizona. It has no assets (real, tangible, and/or intangible) in Arizona. It has no Arizona liabilities and does not lease or rent any assets of any kind in Arizona.

Docket

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF
ENCOMPASS COMMUNICATIONS, L.L.C. FOR
A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES EXCEPT
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03957A-00-0911

DECISION NO. 63539

Arizona Corporation Commission
ORDER DOCKETED

MAR 30 2001

Open Meeting
March 27 and 28, 2001
Phoenix, Arizona

DOCKETED BY	VL
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BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On November 7, 2000, Encompass Communications, L.L.C. ("Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services, except local exchange services, within the State of Arizona.

2. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") were public service corporations subject to the jurisdiction of the Commission.

3. Applicant is a Texas limited liability company authorized to do business in Arizona since 2000.

4. Applicant is a switchless reseller, which purchases telecommunications services from various telecommunications service providers.

5. On December 27, 2000, Applicant filed Affidavits of Publication indicating compliance with the Commission's notice requirements.

1 6. On January 24, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff
2 Report in this matter.

3 7. Staff stated that the Applicant provided its unaudited financial statements for the
4 period ended September 30, 2000, which listed assets of \$308,530, total equity of \$300,079, and a net
5 loss of \$84,921. Based on the foregoing, Staff believes that Applicant lacks adequate financial
6 resources to be allowed to charge customers any prepayments, advances or deposits without
7 establishing an escrow account or posting a surety bond. On January 3, 2001, Applicant docketed
8 proof of the establishment of a surety bond in the amount of \$5,000, which shall be in effect for a
9 minimum of one year. The surety bond approximates the total amount of any prepayments,
10 advances, and deposits that the Applicant collects from its customers.

11 8. The Staff Report stated that Applicant has no market power and the reasonableness of
12 its rates would be evaluated in a market with numerous competitors.

13 9. In its Report, Staff recommended the following:

14 (a) Applicant should be ordered to comply with all Commission rules, orders and
15 other requirements relevant to the provision of intrastate telecommunications services;

16 (b) Applicant should be ordered to maintain its accounts and records as required
17 by the Commission;

18 (c) Applicant should be ordered to file with the Commission all financial and other
19 reports that the Commission may require, and in a form and at such times as the
Commission may designate;

20 (d) Applicant should be ordered to maintain on file with the Commission all
21 current tariffs and rates, and any service standards that the Commission may require;

22 (e) Applicant should be ordered to comply with the Commission's rules and
23 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;

24 (f) Applicant should be ordered to cooperate with Commission investigations of
25 customer complaints;

26 (g) Applicant should be ordered to participate in and contribute to a universal
27 service fund, as required by the Commission;

28 (h) Applicant should be ordered to notify the Commission immediately upon
changes to the Applicant's address or telephone number;

1 (i) Applicant should file a \$5,000 surety bond to cover the approximate total
2 amount of any prepayments, advances, and deposits that the Applicant will collect
3 from its customers;

4 (j) After one year of operation under the Certificate granted by the Commission,
5 the Applicant should be allowed to file a request for cancellation of its established
6 surety bond, and that such request be accompanied by information demonstrating the
7 Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff
8 would forward its recommendation to the Commission for a Decision;

9 (k) Applicant's intrastate interexchange service offerings should be classified as
10 competitive pursuant to A.A.C. R14-2-1108;

11 (l) The rates proposed by the Applicant in its most recently filed tariffs should be
12 approved on an interim basis. The maximum rates for these services should be the
13 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
14 for the Applicant's competitive services should be the Applicant's total service long
15 run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
16 and

17 (m) In the event that the Applicant states only one rate in its proposed tariff for a
18 competitive service, the rate stated should be the effective (actual) price to be charged
19 for the service as well as the service's maximum rate.

20 10. Staff recommended approval of the application subject to the following conditions:

21 (a) Applicant should be ordered to file conforming tariffs within 30 days of an
22 Order in this matter, and in accordance with the Decision;

23 (b) Applicant should be required to file in this Docket, within 18 months of the
24 date it first provides service following certification, sufficient information for
25 Staff analysis and recommendation for a fair value finding, as well as for an
26 analysis and recommendation for permanent tariff approval. This information
27 must include, at a minimum, the following:

28 1. A dollar amount representing the total revenue for the first twelve
months of telecommunications service provided to Arizona customers
by the Applicant following certification, adjusted to reflect the
maximum rates that the Applicant has requested in its tariff. This
adjusted total revenue figure could be calculated as the number of units
sold for all services offered times the maximum charge per unit.

2. The total actual operating expenses for the first twelve months of
telecommunications service provided to Arizona customers by the
Applicant following certification.

3. The value of all assets, listed by major category, used for the first

1 twelve months of telecommunications service provided to Arizona
 2 customers by the Applicant following certification. Assets are not
 3 limited to plant and equipment. Items such as office equipment and
 4 office supplies should be included in this list.

5 (c) Applicant's failure to meet the condition to file sufficient information for a fair
 6 value finding and analysis and recommendation of permanent tariffs shall result in the
 7 expiration of the certificate of the tariffs.

8 11. On August 29, 2000, the Court of Appeals, Division One ("Court") issued its Opinion
 9 in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding
 10 that "the Arizona Constitution requires the Commission to determine fair value rate base ("FVRB")
 11 for all public service corporations in Arizona prior to setting their rates and charges."

12 12. On October 26, 2000, the Commission filed a Petition for Review to the Arizona
 13 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this
 14 time, we are going to request FVRB information to insure compliance with the Constitution should
 15 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are
 16 also concerned that the cost and complexity of FVRB determinations must not offend the
 17 Telecommunications Act of 1996.

18 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing
 19 be held.

20 CONCLUSIONS OF LAW

21 1. Applicant is a public service corporation within the meaning of Article XV of the
 22 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

23 2. The Commission has jurisdiction over Applicant and the subject matter of the
 24 application.

25 3. Notice of the application was given in accordance with the law.

26 4. Applicant's provision of resold intrastate telecommunications services is in the public
 27 interest.

28 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
 intrastate telecommunications as a reseller in Arizona.

6. Staff's recommendations in Findings of Fact Nos. 9 and 10 are reasonable and should

1 be adopted.

2 **ORDER**

3 IT IS THEREFORE ORDERED that the application for Encompass Communications, L.L.C.
4 for a Certificate of Convenience and Necessity for authority to provide competitive resold
5 interexchange telecommunications services, except local exchange services, shall be and the same is
6 hereby granted, except that Encompass Communications, L.L.C. shall not be authorized to charge
7 customers any prepayments, advances, or deposits. In the future, if Encompass Communications,
8 L.L.C. desires to initiate such charges, it must file information with the Commission that
9 demonstrates the Applicant's financial viability. Staff shall review the information provided and file
10 its recommendation concerning financial viability and/or the necessity of obtaining a performance
11 bond within thirty (30) days of receipt of the financial information, for Commission approval.

12 IT IS FURTHER ORDERED that Encompass Communications, L.L.C. shall comply with the
13 Staff recommendations set forth in Findings of Fact Nos. 9 and 10.

14 IT IS FURTHER ORDERED that Encompass Communications, L.L.C. shall file the
15 following FVRB information within 18 months of the date that it first provides service. The FVRB
16 shall include a dollar amount representing the total revenue for the first twelve months of
17 telecommunications service provided to Arizona customers Encompass Communications, L.L.C.
18 following certification, adjusted to reflect the maximum rates that Encompass Communications,
19 L.L.C. requests in its tariff. This adjusted total revenue figure could be calculated as the number of
20 units sold for all services offered times the maximum charge per unit Encompass Communications,
21 L.L.C. shall also file FVRB information detailing the total actual operating expenses for the first
22 twelve months of telecommunications service provided to Arizona customers Encompass
23 Communications, L.L.C. following certification. Encompass Communications, L.L.C. shall also file
24 FVRB information which includes a description and value of all assets, including plant, equipment,
25 and office supplies, to be used to provide telecommunications service to Arizona customers for the
26 first twelve months following Encompass Communications, L.L.C.'s certification.

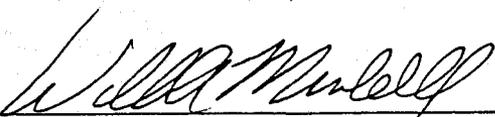
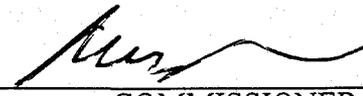
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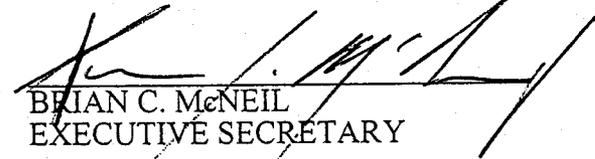
1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
2 Encompass Communications, L.L.C. shall notify the Compliance Section of the Arizona Corporation
3 Commission of the date that it will begin or has begun providing service to Arizona customers.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
7  
8 CHAIRMAN COMMISSIONER COMMISSIONER

9
10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
11 Secretary of the Arizona Corporation Commission, have
12 hereunto set my hand and caused the official seal of the
13 Commission to be affixed at the Capitol, in the City of Phoenix,
14 this 30th day of March, 2001.

15 
16 BRIAN C. McNEIL
17 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: ENCOMPASS COMMUNICATIONS, L.L.C.

2 DOCKET NO.: T-03957A-00-0911

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