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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
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KRISTIN K. MAYES

2004 DEC -11 A 11:40

Arizona Corporation Commission

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AZ CORP COMMISSION
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DEC 01 2004

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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 WITH THE STATE OF
ARIZONA.

PROCEDURAL ORDER

BY THE COMMISSION:

On July 12, 2004, the Arizona Corporation Commission ("Commission") issued Decision No. 67113 granting BCE Nexxia Corporation ("BCE") a Certificate of Convenience and Necessity ("CC&N") to provide competitive facilities-based interexchange telecommunications services in Arizona subject to certain conditions including, but not limited to, the procurement of an Interconnection Agreement, within 365 days of the effective date of the Order in this matter or 30 days prior to the provision of service, unless BCE provides services solely through the use of its own facilities.¹

On October 20, 2004, BCE filed a Motion for Modification of Order Condition ("Motion") requesting deletion of the condition that BCE procure an Interconnection Agreement unless it provides services solely through the use of its own facilities based upon the fact that BCE intends to enter into "service agreements," not interconnection agreements, with other carriers in Arizona in order to provide customers access to the BCE network.

By Procedural Order dated November 2, 2004, the Commission's Utilities Division Staff

¹ See Decision No. 67113 at ¶ 16, subsection (a).

1 (“Staff”) was ordered to submit its position with regard to BCE’s Motion, indicating whether it
2 objects to the granting of the Motion and explaining not only the difference between an
3 interconnection agreement and a “service agreement,” as described in BCE’s Motion, but also the
4 extent to which such a service agreement may be subject to the Federal Telecommunications Act’s
5 filing requirements.

6 On November 15, 2004, Staff filed a Memorandum, which indicated that (1) it supports
7 BCE’s Motion; (2) in the telecommunications industry, a “service agreement” is any agreement
8 between telecommunications carriers pertaining to aspects of the business relationship not governed
9 by the Federal Communications Commission’s (“FCC”) regulation of interconnection agreements as
10 set forth in Sections 251 and 252 of the Telecommunications Act of 1996; (3) Sections 251 and 252
11 of the Telecommunications Act of 1996 apply only to local exchange carriers; and (4) the
12 Commission has not required interexchange carriers, such as BCE, to file interconnection
13 agreements.
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16 Given the type of service to be provided by BCE and the fact that BCE will not be required to
17 enter into or file an interconnection agreement with the FCC in order to provide such service, we
18 agree that Decision No. 67113 should be modified to remove the condition set forth in Findings of
19 Fact No. 16(a)² which requires BCE to procure an Interconnection Agreement before being allowed
20 to offer facilities-based interexchange services within the State of Arizona.

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28 ² See page 3, lines 12 through 15 of Decision No. 67113.

1 IT IS THEREFORE ORDERED that Decision No. 67113 is hereby modified by deleting the
2 requirement set forth in Findings of Fact No. 16(a).

3 DATED this 15th day of December, 2004.

4
5 *Amanda Pope / by D. Niles*
6 AMANDA POPE
7 ADMINISTRATIVE LAW JUDGE

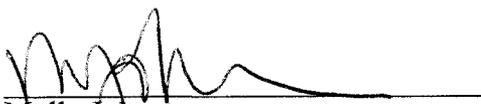
8 Copies of the foregoing mailed/delivered
9 this 15th day of December, 2004 to:

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By:


Molly Johnson
Secretary to Amanda Pope