

ORIGINAL

Arizona Corporation Commission



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BEFORE THE ARIZONA CORPORATION COMMISSION

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CARL J. KUNASEK

CHAIRMAN

JIM IRVIN

COMMISSIONER

WILLIAM A. MUNDELL

COMMISSIONER

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
ADVANCED TELCOM GROUP, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE FACILITIES-BASED
AND RESOLD INTRASTATE
TELECOMMUNICATIONS SERVICES AND
PETITION FOR COMPETITIVE
CLASSIFICATION OF PROPOSED SERVICES

DOCKET NO. T-03842A-00-0130

PROCEDURAL ORDER

BY THE COMMISSION:

On February 29, 2000, Advanced TelCom Group, Inc. ("Applicant" or "Advanced") submitted to Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide facilities-based and resold intrastate telecommunications services in Arizona. As part of its application, Applicant asks that the telecommunications services that it intends to provide be found "competitive" pursuant to Commission rules.

On July 5, 2000, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.

On July 14, 2000, a Procedural Order was issued setting the matter for hearing and requiring Advanced to publish notice of its application. Applicant is required to publish notice of its filing in newspapers in all counties where service is to be provided.

On September 13, 2000, Advanced requested a continuance to allow it additional time to publish notice.

Pursuant to Commission rules, the time for processing this application expires on November 25, 2000.

On August 29, 2000, the 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

1 Opinion will more than likely be appealed to the Arizona Supreme Court, we are going to request
2 FVRB information at this time to insure compliance with the Constitution should the ultimate
3 decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned
4 that the cost and complexity of FVRB determinations must not offend the Telecommunications Act
5 of 1996.

6 IT IS THEREFORE ORDERED that the time frame for processing this application shall be
7 extended to January 25, 2001 to allow Advanced additional time to publish notice.

8 IT IS FURTHER ORDERED that the hearing on the above application and petition of
9 Applicant shall commence on November 29, 2000 at 2:30 p.m., or as soon thereafter as is practical, at
10 the Commission's offices, 1200 West Washington Street, Phoenix, Arizona 85007.

11 IT IS FURTHER ORDERED that Advanced shall file its proposed FVRB by October 20,
12 2000 (pursuant to A.A.C. R14-2-103(B), this may be the same as original cost rate base). The FVRB
13 shall include the value of all plant and equipment currently held by the Company and intended to be
14 used to provide telecommunications services to Arizona customers. In doing so, Advanced may use
15 any reasonable means of asset allocation, direct assignment or combination thereof.

16 IT IS FURTHER ORDERED that Advanced shall file a description of all plant and equipment
17 currently held by the Company and intended to be used to provide telecommunications services to
18 Arizona customers, including their cost and location, by October 20, 2000.

19 IT IS FURTHER ORDERED that Advanced shall file information demonstrating how the
20 value of its plant and equipment (both current and projected) is related to its total service long-run
21 incremental costs by October 20, 2000 (such demonstration must include the amount of depreciation
22 expense and capital carrying costs related to the FVRB which has been incorporated into the long-run
23 incremental costs).

24 IT IS FURTHER ORDERED that for all maximum rates and charges of Advanced which are
25 higher than those of the incumbent local exchange carrier ("ILEC") for the same regulated services,
26 Advanced must demonstrate that such rates and charges are not unreasonable, and constitute a fair
27 rate of return on FVRB (if there is more than one ILEC in your proposed service area, use Qwest
28 Corporation as a surrogate ILEC for the entire state).

1 IT IS FURTHER ORDERED that Staff shall review the FVRB information filed and ascertain
2 that Advanced is utilizing the appropriate amount of depreciation and capital carrying costs in
3 determining its total service long-run incremental costs.

4 IT IS FURTHER ORDERED that Staff or Intervenors shall file disagreements with the
5 proposed FVRB and/or rates and charges, by **12:00 noon** on November 22, 2000.

6 IT IS FURTHER ORDERED that the Applicant shall publish notice, as stated below, in
7 newspapers in every county in Arizona in which Applicant desires to provide service by October 2,
8 2000, and shall file Affidavits of Publication with the Commission no later than October 9, 2000 by
9 **12 noon.**

10 **NOTICE OF APPLICATION FOR A CERTIFICATE**
11 **OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD AND**
12 **FACILITIES-BASED LOCAL EXCHANGE AND INTRASTATE INTEREXCHANGE**
13 **TELECOMMUNICATIONS SERVICES AND PETITION FOR**
14 **COMPETITIVE CLASSIFICATION OF PROPOSED SERVICES BY**
15 **ADVANCED TELCOM GROUP, INC.**

14 Advanced TelCom Group, Inc. ("Applicant") has filed with the Arizona
15 Corporation Commission ("Commission") an application for a Certificate of
16 Convenience and Necessity ("Certificate") to provide facilities-based and resold local
17 exchange and intrastate interexchange telecommunications services in the State of
18 Arizona. Applicant will be required by the Commission to provide this service under
19 the rates and charges and terms and conditions established by the Commission.

17 The application, report of the Commission's Utilities Division Staff, and any
18 written exceptions to the staff report prepared by the applicant are available for
19 inspection during regular business hours at the offices of the Commission located at
20 1200 West Washington Street, Phoenix, Arizona 85007, and at Applicant, [address].

20 Under appropriate circumstances, interested parties may intervene in the
21 proceedings and participate as a party. You may have the right to intervene in the
22 proceeding, or you may make a statement for the record. Intervention shall be in
23 accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed
24 on or before October 26, 2000 **by 12 noon**. Persons desiring to intervene must file a
25 written motion to intervene with the Commission and send such motion to the
26 Company or its counsel and to all parties of record, and which at the minimum, shall
27 contain the following:

24 1. The name, address, and telephone number of the proposed intervenor and of
25 any party upon whom service of documents is to be made if different than the
26 intervenor.

26 2. A short statement of the proposed intervenor's interest in the proceeding
27 (e.g. a customer of the company, a shareholder of the company, a competitor, etc.)

27 3. A statement certifying that a copy of the motion to intervene has been
28 mailed to the Company or its counsel and to all parties of record in the case.

1 A.A.C. R14-3-105 shall govern the granting of motions to intervene. The
2 granting of intervention, among other things, entitles a party to present sworn evidence
3 at the hearing and to cross-examine other witnesses. However, failure to intervene
4 will not preclude any interested person or entity from appearing at the hearing and
5 making a statement on their own behalf.

6 If you have any comments, mail them to:

7 The Arizona Corporation Commission
8 Attention Docket Control
9 re: Advanced TelCom Group, Inc.
10 T-03842A-00-0130
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 The hearing in this matter shall commence on November 29 2000 at 2:30 p.m. at the
14 Commission's offices. All comments should be received by November 29, 2000 by
15 **2:30 p.m.** or can be made orally at the commencement of the hearing.

16 If you have any questions about this application, or want information on
17 intervention, you may contact the Consumer Services Section of the Commission at
18 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

19 The Commission does not discriminate on the basis of disability in admission
20 to its public meetings. Persons with a disability may request a reasonable
21 accommodations such as sign language interpreter, as well as request this document in
22 an alternative format, by contacting Cynthia Mercurio-Sandoval, ADA Coordinator,
23 voice phone number 602/542-0838, E-Mail csandoval@cc.state.az.us. Requests
24 should be made as early as possible to allow time to arrange the accommodation.

25 IT IS FURTHER ORDERED that Advanced TelCom Group, Inc. shall mail Qwest
26 Corporation, formerly U S WEST Communications, Inc. notice of its pending application by
27 September 29, 2000.

28 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
except that all motions to intervene must be filed on or before October 26, 2000 by **12 noon**.

IT IS FURTHER ORDERED that any objections to motions to intervene shall be filed on or
before November 2, 2000 by **12 noon**.

IT IS FURTHER ORDERED that all intervenors shall file specific disagreements/comments
regarding the application and Staff Report on or before November 27, 2000 by **12 noon**.

IT IS FURTHER ORDERED that the Applicant shall file specific disagreements/comments,
if any, to the Staff report by **12:00 noon** on November 27, 2000.

IT IS FURTHER ORDERED that all intervenors, Staff and Applicant shall file by **12:00
noon** on November 27, 2000, a list of witnesses and subject area(s) to be covered at the hearing in

1 this matter.

2 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
3 regulations of the Commission, except that every effort shall be made to respond within 48 hours of
4 receipt; the response time may be extended by mutual agreement of the parties involved if the request
5 requires an extensive compilation effort.

6 IT IS FURTHER ORDERED that in the alternative to filing a written motion to compel
7 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
8 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such
9 request, a procedural hearing will be convened as soon as practicable; and that the party making such
10 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
11 hearing provide a statement confirming that the other parties were contacted.¹

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

14 DATED this 19th day of September, 2000.

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17 
18 _____
19 STEPHEN GIBELLI
20 ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed/delivered
22 this 19th day of September, 2000 to:

23 Lance J.M. Steinhart
24 6455 East Johns Crossing, Suite 285
25 Duluth, Georgia 30097
26 Attorney for Advanced TelCom Group, Inc.

27 Kathryn Thomas
28 Advanced TelCom Group, Inc.
110 Stony Point Road, 2nd Floor
Santa Rosa, CA 95401

¹ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

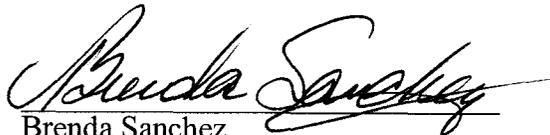
1 Timothy Berg
2 FENNEMORE CRAIG
3 3003 North Central Avenue, Suite 2600
4 Phoenix, Arizona 85012-2913
5 Attorneys for Qwest Corporation

6 Lyn Farmer, Chief Counsel
7 Legal Division
8 ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
10 Phoenix, Arizona 85007

11 Deborah Scott, Director
12 Utilities Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 ARIZONA REPORTING SERVICE, INC.
17 2627 N. Third Street, Suite Three
18 Phoenix, Arizona 85004-1104

19 By:

20 

21 Brenda Sanchez
22 Secretary to Stephen Gibelli
23
24
25
26
27
28