

ORIGINAL



0000019319

COMMISSIONERS  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY - 9 2005

DATE: May 9, 2005

DOCKET NO: T-04290A-04-0838

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Amanda Pope. The recommendation has been filed in the form of an Opinion and Order on:

CCG COMMUNICATIONS, LLC  
(CC&N/FACILITIES-BASED)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

MAY 18, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MAY 24 AND 25, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

RECEIVED  
2005 MAY -9 P 3:58  
AZ CORP COMMISSION  
DOCUMENT CONTROL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

IN THE MATTER OF THE APPLICATION OF  
CCG COMMUNICATIONS, LLC FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
FACILITIES-BASED LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES IN  
ARIZONA.

DOCKET NO. T-04290A-04-0838

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

DATE OF HEARING: April 25, 2005  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Amanda Pope  
APPEARANCES: Michael W. Patten, ROSHKA HEYMAN & DEWULF,  
P.L.C., on behalf of CCG Communications, LLC; and  
David Ronald, Staff Attorney, Legal Division, on behalf  
of the Utilities Division of the Arizona Corporation  
Commission.

**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 22, 2004, CCG Communications, LLC ("CCG" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide facilities-based local exchange telecommunications services within the State of Arizona ("Application"). The Application petitioned the Commission for determination that its proposed services should be classified as competitive.

2. On February 24, 2005, the Commission's Utilities Division Staff ("Staff") filed its Staff Report, which recommended approval of the Application and included a number of additional

1 recommendations.

2 3. On March 1, 2005, a Procedural Order was issued setting this matter for hearing on  
3 April 25, 2005 and setting various procedural deadlines.

4 4. On March 28, 2005, Applicant docketed an Affidavit of Publication that complies with  
5 Commission rules.

6 5. On April 25, 2005, a full public hearing in this matter was held as scheduled. CCG  
7 appeared telephonically and was represented by counsel. Staff appeared and was represented by  
8 counsel. The hearing was conducted before a duly authorized Administrative Law Judge. Evidence  
9 was presented and testimony was taken.

10 6. At the conclusion of the hearing, the Administrative Law Judge took the matter under  
11 advisement.

12 7. CCG is organized under the laws of the State of Massachusetts and is authorized to do  
13 business in Arizona.

14 8. Applicant has the technical capability to provide the services that are proposed in its  
15 Application.

16 9. Currently there are several incumbent providers of local exchange services in the  
17 service territory requested by Applicant, and numerous other entities have been authorized to provide  
18 competitive local and interexchange services in all or portions of that territory.

19 10. It is appropriate to classify all of Applicant's authorized services as competitive.

20 11. According to Staff, CCG submitted unaudited financial statements for the eleven  
21 month period ending November 4, 2004. These financial statements list assets of \$78,422, equity of  
22 \$100,000, and a net income of \$1,015.

23 12. Staff recommended that CCG's Application for a Certificate to provide competitive  
24 facilities-based local exchange telecommunications services be granted subject to the following  
25 conditions:

26 (a) that, unless it provides services solely through the use of its own facilities,  
27 CCG be ordered to procure an Interconnection Agreement, within 365 days of  
28 the effective date of the Order in this matter or 30 days prior to the provision of  
service, whichever comes first, that must remain in effect until further order of  
the Commission, before being allowed to offer local exchange service;

- 1 (b) that CCG be ordered to file with the Commission, within 365 days of the  
2 effective date of the Order in this matter or 30 days prior to the provision of  
3 service, whichever comes first, its plan to have its customers' telephone  
4 numbers included in the incumbent's Directories and Directory Assistance  
5 databases;
- 6 (c) that CCG be ordered to pursue permanent number portability arrangements  
7 with other LECs pursuant to Commission rules, federal laws and federal rules;
- 8 (d) that CCG be ordered to abide by and participate in the AUSF mechanism  
9 instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-  
10 00000E-95-0498);
- 11 (e) that CCG be ordered to abide by the quality of service standards that were  
12 approved by the Commission for Qwest in Docket No. T-0151B-93-0183;
- 13 (f) that in areas where it is the sole provider of local exchange service facilities,  
14 CCG be ordered to provide customers with access to alternative providers of  
15 service pursuant to the provisions of Commission rules, federal laws and  
16 federal rules;
- 17 (g) that CCG be ordered to certify, through the 911 service provider in the area in  
18 which it intends to provide service, that all issues associated with the provision  
19 of 911 service have been resolved with the emergency service providers within  
20 365 days of an Order in this matter or 30 days prior to the provision of service,  
21 whichever comes first, which certification must remain in effect until further  
22 Order of the Commission;
- 23 (h) that CCG be ordered to abide by all the Commission decisions and policies  
24 regarding CLASS services;
- 25 (i) that CCG be ordered to provide 2-PIC equal access;
- 26 (j) that CCG be required to notify the Commission immediately upon changes to  
27 its name, address or telephone number;
- 28 (k) that CCG be ordered to comply with all Commission rules, orders, and other  
requirements relevant to the provision of intrastate telecommunications  
service;
- (l) that CCG be ordered to maintain its accounts and records as required by the  
Commission;
- (m) that CCG be ordered to file with the Commission all financial and other reports  
that the Commission may require, and in a form and at such times as the  
Commission may designate;
- (n) that CCG be ordered to maintain on file with the Commission all current tariffs  
and rates, and any service standards that the Commission may require;
- (o) that CCG be ordered to cooperate with Commission investigations including,  
but not limited to, customer complaints;
- (p) that CCG be subject to the Commission's rules and the 1996  
Telecommunications Act to the extent that they apply to CLECs; and

- 1 (q) that pursuant to A.A.C. R14-2-1107, CCG be ordered to file an application  
2 with the Commission should it desire to discontinue service. The Applicant  
3 should be required to notify each of its local exchange customers and the  
4 Commission 60 days prior to filing such application to discontinue service, and  
5 any failure to do so should result in forfeiture of CCG's performance bond.

6 27. Staff additionally recommended that CCG's application for a CC&N to provide  
7 intrastate telecommunications services should be granted subject to the following conditions:

- 8 (a) CCG be ordered to file conforming tariffs within 365 days from the date of an  
9 Order in this matter or 30 days prior to providing service, whichever occurs  
10 first, and in accordance with the Decision; and
- 11 (b) If the above timeframe is not met, that CCG's CC&N should become null and  
12 void without further Order of the Commission and no extensions for  
13 compliance should be granted;

14 28. In order to protect CCG's customers, Staff recommended:

- 15 (a) that CCG should be ordered to procure a performance bond equal to \$100,000.  
16 The minimum bond amount of \$100,000 should be increased if at any time it  
17 would be insufficient to cover prepayments or deposits collected from CCG's  
18 customers. The bond amount should be increased in increments of \$50,000  
19 whenever the total amount of the advances, deposits and prepayments is within  
20 \$10,000 of the bond amount;
- 21 (b) that CCG should docket proof of the performance bond within 365 days of the  
22 effective date of this Order or 30 days prior to the provision of service,  
23 whichever comes first, and must remain in effect until further Order of the  
24 Commission; and
- 25 (c) If the above timeframe is not met, that CCG's CC&N should become null and  
26 void without further Order of the Commission and no extensions for  
27 compliance should be granted.

28 29. In its Staff Report, Staff stated that based on information obtained from the Applicant,  
it has determined that CCG's fair value rate base is zero, and is too small to be useful in a fair value  
analysis.

33. Staff further stated that in general, rates for competitive services are not set according  
to rate of return regulation, and Staff reviewed the rates to be charged by the company and believes  
that they are just and reasonable as they are comparable to several local exchange companies  
operating in Arizona. Therefore, while Staff considered the fair value rate base information

1 submitted by CCG, the fair value rate base information provided should not be given substantial  
2 weight in this analysis.

3 34. Staff's recommendations, as set forth herein, are reasonable.

4 35. CCG's fair value rate base is determined to be zero for purposes of this proceeding.

5 **CONCLUSIONS OF LAW**

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

8 2. The Commission has jurisdiction over Applicant and the subject matter of the  
9 Application.

10 3. Notice of the Application was given in accordance with the law.

11 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a  
12 Certificate to provide competitive telecommunications services.

13 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised  
14 Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth  
15 in its Application.

16 6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide  
17 competitive facilities-based local exchange telecommunications services in Arizona as conditioned  
18 by Staff's recommendations.

19 7. The telecommunications services that the Applicant intends to provide are competitive  
20 within Arizona.

21 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,  
22 it is just and reasonable and in the public interest for Applicant to establish rates and charges that are  
23 not less than the Applicant's total service long-run incremental costs of providing the competitive  
24 services approved herein.

25 9. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

26 10. Applicant's competitive rates, as set forth in its proposed tariffs, are just and  
27 reasonable and should be approved.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

IT IS THEREFORE ORDERED that the Application of CCG Communications, LLC for a Certificate of Convenience and Necessity for authority to provide competitive facilities-based local exchange telecommunications services in Arizona shall be, and is hereby, granted, conditioned upon CCG Communications, LLC's timely compliance with the following three Ordering Paragraphs.

IT IS FURTHER ORDERED that CCG Communications, LLC shall file conforming tariffs in accordance with this Decision within 365 days of this Decision or 30 days prior to providing service, whichever comes first.

IT IS FURTHER ORDERED that CCG Communications, LLC shall procure and docket proof of a performance bond equal to \$100,000 the earlier of 365 days from the effective date of this Order or 30 days prior to the commencement of service.

IT IS FURTHER ORDERED that CCG Communications, LLC shall comply with all of the Staff recommendations set forth in the above-stated Findings of Fact and Conclusions of Law.

IT IS FURTHER ORDERED that if CCG Communications, LLC fails to meet the timeframes outlined in the Ordering Paragraphs above, that the Certificate of Convenience and Necessity conditionally granted herein shall become null and void without further Order of the Commission.

...  
...  
...  
...  
...  
...  
...  
...  
...  
...  
...  
...  
...  
...

1 IT IS FURTHER ORDERED that if CCG Communications, LLC fails to notify each of its  
2 local exchange customers and the Commission at least 60 days prior to filing an application to  
3 discontinue service pursuant to A.A.C. R14-2-1107, that in addition to voidance of its Certificate of  
4 Convenience and Necessity, CCG Communications, LLC's performance bond shall be forfeited.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7  
8  
9  
10 CHAIRMAN

COMMISSIONER

COMMISSIONER

11  
12  
13  
14 COMMISSIONER

COMMISSIONER

15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
16 Secretary of the Arizona Corporation Commission, have  
17 hereunto set my hand and caused the official seal of the  
18 Commission to be affixed at the Capitol, in the City of Phoenix,  
19 this \_\_\_\_ day of \_\_\_\_\_, 2005.

20  
21  
22  
23  
24  
25  
26  
27  
28  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

AP:mlj

1 SERVICE LIST FOR: CCG COMMUNICATIONS, LLC

2 DOCKET NO.: T-04290A-04-0838

3  
4 Michael W. Patten  
5 Roshka Heyman & DeWulf, P.L.C.  
6 One Arizona Center  
7 400 East Van Buren Street, Suite 800  
8 Phoenix, Arizona 85004

9 Lance J.M. Steinhart  
10 1720 Windward Concourse  
11 Suite 250  
12 Alpharetta, Georgia 30005

13 Christopher Kempley, Chief Counsel  
14 Legal Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007

18 Ernest Johnson, Director  
19 Utilities Division  
20 ARIZONA CORPORATION COMMISSION  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

23  
24  
25  
26  
27  
28