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**T-04282A-04-0763**

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TO: Docket Control  
FROM: Ernest G. Johnson  
Director  
Utilities Division

*EA for EGJ*

DATE: February 28, 2005

RE: IN THE MATTER OF THE APPLICATION OF ACC  
TELECOMMUNICATIONS, LLC DBA ADELPHIA FOR A CERTIFICATE  
OF CONVENIENCE AND NECESSITY TO PROVIDE FACILITIES-BASED  
LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES (DOCKET  
NO. T-04282A-04-0763)

Attached is the Staff Report for the above referenced application. The Applicant is applying for approval to provide the following services:

- Point-to-point dedicated data services

Staff is recommending approval of the application.

EGJ/AJL/red

Originator: Adam Lebrecht

Attachment: Original and Ten Copies



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DOCKET NO. T-04282A-04-0763

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

ACC TELECOMMUNICATIONS, LLC DBA ADELPHIA

DOCKET NO. T-04282A-04-0763

IN THE MATTER OF THE APPLICATION OF ACC TELECOMMUNICATIONS,  
LLC DBA ADELPHIA FOR A CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE FACILITIES-BASED LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES

FEBRUARY 14, 2005

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## STAFF ACKNOWLEDGMENT

The Staff Report for ACC Telecommunications, LLC dba Adelphia, Docket No. T-04282A-04-0763, was the responsibility of the Staff member listed below. Adam Lebrecht was responsible for the review and analysis of the application for a Certificate of Convenience and Necessity to provide point-to-point dedicated data services and its petition for a determination that its proposed services should be classified as competitive.

---

Adam Lebrecht  
Executive Consultant I

## 1. INTRODUCTION

On October 22, 2004, ACC Telecommunications, LLC dba Adelphia ("Adelphia" or "Applicant") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide point-to-point dedicated data services within the State of Arizona. In addition, the Applicant petitioned the Arizona Corporation Commission ("Commission") for a determination that its proposed services should be classified as competitive.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N to provide point-to-point dedicated data service. Staff's analysis also considers whether the Applicant's services should be classified as competitive and if the Applicant's initial rates are just and reasonable.

Point-to-point dedicated data service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multisite enterprise. Point-to-point dedicated data service provides a means by which customers may transmit and receive messages and data among various customer locations over facilities operated and provided by the Applicant. The Applicant is therefore engaged in providing telecommunications service for hire to the public, which fits the definition of a common carrier and a public service corporation. Staff believes the Commission has jurisdiction over the services to be provided by Adelphia.

In the future, if Adelphia wishes to provide telecommunications service(s) different from those addressed in this application, Staff recommends that an application be filed concerning the type of CC&N sought.

## 2. THE APPLICATION FOR A CERTIFICATE OF CONVENIENCE & NECESSITY

This section of the Staff Report contains descriptions of the geographic market to be served by the Applicant, the requested services, and the Applicant's technical and financial capability to provide the requested services. In addition, this section contains the Staff evaluation of the Applicant's proposed rates and charges and Staff's recommendation thereon.

### 2.1 DESCRIPTION OF THE GEOGRAPHIC MARKET TO BE SERVED

Adelphia seeks authority to provide point-to-point dedicated data services throughout the State of Arizona.

## 2.2 DESCRIPTION OF REQUESTED SERVICES

Adelphia is requesting the authority to provide point-to-point dedicated data service. Point-to-point dedicated data service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multisite enterprise.

Adelphia indicated that it intends to provide point-to-point dedicated data services to schools and libraries on an individual contract basis ("ICB"). Because point-to-point dedicated data services are tailored to meet individual customer's demands, rates are determined on an ICB.

## 2.3 THE ORGANIZATION

Adelphia is incorporated under the laws of the State of Delaware and has authority to transact business in Arizona.

## 2.4 TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

Adelphia indicated that it currently provides point-to-point dedicated data service in 3 states (see "Attachment A"). Adelphia also indicated that while it will rely on employees of local cable affiliate, Yuma Cable Vision, Inc., to support the provision of its services, its Arizona manager has over 20 years of cable television expertise including the provision of dedicated data access services and its Director of Regulatory Affairs has over 24 years of experience in the telecommunications industry. Based on this, staff believes Adelphia possesses the technical capabilities to provide the services it is requesting the authority to provide.

## 2.5 FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

The Applicant did provide unaudited financial statements of its Parent Company, Adelphia Communications Corporation, et al, for the 26 months ending August 4, 2004. These financial statements list current assets in excess of \$52 billion; total equity in excess of \$2 billion; and a net loss in excess of \$1.2 billion. The Applicant did provide notes related to the financial statements.

## 2.6 ESTABLISHING RATES AND CHARGES

The Applicant would initially be providing service in areas where an incumbent local exchange carrier ("ILEC"), along with various competitive local exchange carriers ("CLECs") and interexchange carriers are providing telephone and private line services. Therefore, the Applicant would have to compete with those providers in order to obtain subscribers to its services. The Applicant would be a new entrant and would face competition from both an incumbent provider and other competitive providers in offering service to its potential customers. Therefore, the Applicant would generally not be able

to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. The Applicant indicated that it intends to provide point-to-point dedicated data services to schools and libraries on an ICB. Therefore, while Staff considered the fair value rate base information submitted by the company, it did not accord that information substantial weight in its analysis.

### 3. PROVISION OF BASIC TELEPHONE SERVICE AND UNIVERSAL SERVICE

The Commission has adopted rules to address the level of funding for universal telephone service during and after the transition to a competitive telecommunications services market. The rules contain provisions for non-basic local exchange and interexchange carriers as they relate to the Arizona Universal Service Fund ("AUSF"). Under the rules, the Applicant will be required to contribute to the AUSF and may be eligible for AUSF support. Therefore, Staff recommends that approval of the application for a CC&N be conditioned upon the Applicant's agreement to abide by and participate in the AUSF mechanism established in AAC R14-2-1204(B)(3)(b).

### 4. REVIEW OF COMPLAINT INFORMATION

The Applicant has not had an application for service denied, or revoked in any state. There have not been any formal complaint proceedings involving the Applicant. There have not been any civil or criminal proceedings against the Applicant. Consumer Services reports no complaint history within Arizona.

The Applicant indicated that two former board members of the Applicant's ultimate parent, Adelphia Communications Corporation, John Rigas and Tim Rigas, were involved in several criminal matters involving fraud within Adelphia Communications Corporation. The Applicant indicated that no member of the Rigas family currently has any involvement in the management or business operations of Adelphia or any of its affiliates.

### 5. COMPETITIVE SERVICES ANALYSIS

The Applicant has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive. Staff's analysis and recommendations are discussed below.

**5.1 COMPETITIVE SERVICES ANALYSIS FOR POINT-TO-POINT DEDICATED DATA SERVICES**

**5.1.1 A description of the general economic conditions that make the relevant market for the service one that is competitive.**

Interexchange carriers ("IXCs") hold a substantial share of the point-to-point dedicated data service market. Also, a number of ILECs and CLECs have been authorized to provide point-to-point dedicated data service. The Applicant will be entering the market as an alternative provider of point-to-point dedicated data services and, as such, the Applicant will have to compete with several existing companies in order to obtain customers.

**5.1.2 The number of alternative providers of the service.**

IXCs are the primary providers of point-to-point dedicated data service in the State. Several ILECs and CLECs also provide point-to-point dedicated data service.

**5.1.3 The estimated market share held by each alternative provider of the service.**

IXCs hold a substantial share of the point-to-point dedicated data service market. ILECs and CLECs likely have a smaller share of the point-to-point dedicated data service market.

**5.1.4 The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in AAC R14-2-801.**

None.

**5.1.5 The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions.**

IXCs have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly, many of the ILECs and CLECs offer substantially similar services.

**6. RECOMMENDATIONS**

The following sections contain the Staff recommendations on the application for a CC&N and the Applicant's petition for a Commission determination that its proposed services should be classified as competitive.

## 6.1 RECOMMENDATIONS ON THE APPLICATION FOR A CC&N

Staff recommends that the application for a CC&N to point-to-point dedicated data service, as listed in Section 2.2 of this Report, be granted. In addition, Staff recommends the following:

1. That the Applicant be required to notify the Commission immediately upon changes to the Applicant's name, address or telephone number;
2. That the Applicant comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
3. That the Applicant maintain its accounts and records as required by the Commission;
4. That the Applicant 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;
5. That the Applicant maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
6. That the Applicant cooperate with Commission investigations including, but not limited to, customer complaints;
7. That the Applicant abide by and participate in the AUSF mechanism established in AAC R14-2-1204(B)(3)(b);
8. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. The Applicant indicated that it intends to provide point-to-point dedicated data services to schools and libraries on an ICB. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value information provided should not be given substantial weight in this analysis;
9. The Applicant should be ordered to file an application with the Commission pursuant to AAC R14-2-1107, if the Applicant desires to discontinue service. The Applicant should be required to notify each of its private line service customers and the Commission 60 days prior to filing an application to discontinue service.

Staff further recommends that the Applicant be ordered to comply with the following. If it does not do so, the Applicant's CC&N shall be null and void without further order of the Commission and no time extensions shall be granted.

1. The Applicant shall docket conforming tariffs for its CC&N to point-to-point dedicated data service within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever comes first, and in accordance with the Decision.

6.2 RECOMMENDATION ON THE APPLICANT'S PETITION TO HAVE ITS PROPOSED SERVICES CLASSIFIED AS COMPETITIVE

Staff believes that the Applicant's proposed services should be classified as competitive. There are alternatives to the Applicant's services. The Applicant will have to convince customers to purchase its services, and the Applicant has no ability to adversely affect the local exchange, interexchange or point-to-point dedicated data service markets. Therefore, the Applicant currently has no market power in the local exchange, interexchange or point-to-point dedicated data service markets where alternative providers of telecommunications services exist. Staff therefore recommends that the Applicant's proposed services be classified as competitive.

In the future, if Adelphia wishes to provide telecommunications service(s) different from those addressed in this application, Staff recommends that an application be filed concerning the type of CC&N sought.

Attachment A

Adelphia indicated that it is currently providing point-to-point dedicated data service in the following states.

1. Kentucky
2. New York
3. Ohio

ACC Telecommunications, Inc. d/b/a Adelphia  
T-04282A-04-0763

Please make to the following amendments to the Staff Report Docketed March 1, 2005.

1. Page 2, Paragraph 1. After the last sentence, please insert the following sentences:  
The types of point-to-point dedicated data services that Adelphia plans to offer are DS-1, DS-3 and OC-n Point-to-Point service. DS-1 is the ability to send and receive up to 1.544 mega bits per second ("MBPS"). DS-3 is the ability to send and receive up to 44.736 MBPS (28 DS-1s). OC-n Point-to-Point services allow providers to send and receive up to 9,953 MBPS.
2. Page 2, Paragraph 2. Replace entire paragraph with the following:  
Adelphia indicated that it intends to provide OC-n Point-to-Point services to schools and libraries on an individual contract basic ("ICB"). Because OC-n Point-to-Point services are tailored to meet an individual customer's needs, rates are determined on an ICB. Adelphia also indicated that its DS-1 and DS-3 rates are comparable to the DS-1 and DS-3 rates in other jurisdictions.
3. Page 3, first FULL paragraph. Replace sentence 3 with the following sentence:  
Adelphia indicated that it's DS-1 and DS-3 rates are comparable to Adelphia's DS-1 and DS-3 rates in other jurisdictions and that it intends to provide OC-n Point-to-Point dedicated data services to schools and libraries on an ICB.
4. Page 5, recommendation 8. Replace sentence 3 with the following sentence:  
Adelphia indicated that it's DS-1 and DS-3 rates are comparable to Adelphia's DS-1 and DS-3 rates in other jurisdictions and that it intends to provide OC-n Point-to-Point dedicated data services to schools and libraries on an ICB.

