

OPEN MEETING ITEM
ORIGINAL



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



ARIZONA CORPORATION COMMISSION

DATE: August 12, 2005
DOCKET NO: T-01847A-05-0171 et al.
TO ALL PARTIES:

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

VALLEY TELECOM COOPERATIVE, INC.

(CC&N EXTENSION)

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:

AUGUST 22, 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:

SEPTEMBER 7 AND 8, 2005

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

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 VALLEY TELEPHONE COOPERATIVE, INC.
FOR AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN COCHISE
COUNTY.

DOCKET NO. T-01847A-05-0171
DOCKET NO. T-01051B-05-0171

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING:

June 23, 2005

11 PLACE OF HEARING:

Tucson, Arizona

12 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

13 APPEARANCES:

Ms. Deborah R. Scott, SNELL &
14 WILMER LLP, on behalf of Valley
Telephone Cooperative, Inc.; and

15 Mr. Jason Gellman, Staff Attorney, Legal
16 Division, on behalf of the Utilities
17 Division of the Arizona Corporation
Commission.

18 **BY THE COMMISSION:**

19 * * * * *

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

22 FINDINGS OF FACT

23 1. On March 9, 2005, Valley Telephone Cooperative, Inc. ("Valley Telephone" or
24 "Company") filed with the Arizona Corporation Commission ("Commission") an Application to
25 Extend its Certificate of Convenience and Necessity ("CCN" or "Certificate") in Cochise County.

26 2. Valley Telephone is seeking to extend its CCN in Cochise County to include territory
27 that is currently included in the Wilcox Exchange service area map of Qwest Corporation ("Qwest").

28 3. On April 7, 2005, Commission Utilities Division Staff ("Staff") notified Valley

1 Telephone that the application was sufficient pursuant to the requirements of the Arizona
2 Administrative Code.

3 4. By Procedural Order dated April 22, 2005, procedural guidelines and deadlines were
4 established, and the matter was set for hearing at the Commission's offices in Tucson, Arizona.

5 5. On April 28, 2005, and June 16, 2005, Qwest filed letters which indicate that Qwest
6 supports the transfer of service territory from Qwest to Valley Telephone, and that Qwest has no
7 issues with respect to the Staff Report.

8 6. On May 2, 2005, Valley Telephone mailed notice of the hearing to all property owners
9 in the proposed extension area. On May 11, 2005, Valley Telephone published notice of the hearing
10 in *The Arizona Range News*, a newspaper of general circulation in its serviced area.

11 7. On May 27, 2005, Staff filed its Staff Report that recommends approval of the
12 application.

13 8. Valley Telephone currently provides telephone service to a number of rural
14 communities in portions of Cochise and Graham Counties. Valley Telephone has six exchanges:
15 Bonita, Bowie, Pearce, Portal, San Simon and Sunizona. As of December 31, 2003, Valley
16 Telephone was serving 4,566 access lines.

17 9. Valley Telephone is seeking to extend its CC&N to include the western half of Section
18 8 of Township 16 South, Range 24 East in Cochise County, as set forth in Exhibit A attached hereto.

19 10. A potential customer in the extension area contacted Qwest in July 2004 requesting
20 service. Qwest sent the customer a letter indicating that construction charges would be \$9,385.53.
21 Qwest did not hear back from the customer.

22 11. Staff reviewed Qwest's estimate of construction charges and believes it to be
23 reasonable and consistent with Qwest's tariff. Qwest indicated in response to Staff's inquiry that the
24 facilities it would be able to extend would not be capable of supporting high speed internet service.

25 12. After Qwest received an inquiry for service, Valley Telephone received a request for
26 telephone and DSL service from a resident living in the extension area.

27 13. Although Valley Telephone estimates that it would cost \$37,000 to construct the
28 facilities needed to serve this customer, Valley Telephone would not impose construction charges as

1 the extension would be funded through funds made available from the Rural Utilities Service
2 ("RUS"). Valley Telephone would only have to install a little over a mile of cable to serve the
3 customer in the extension area.

4 14. Under Valley Telephone's tariff, the customer in the extension area would be charged
5 a monthly charge of \$13.75. Under Qwest's tariff's the customer would incur a monthly charge of
6 \$16.18, comprised of the Residence Flat Rate Service of \$13.18, plus an additional Exchange Zone
7 Increment charge of \$3.00.

8 15. Valley Telephone estimates that it could begin serving the customer within several
9 days of a Commission Decision approving its Application.

10 16. Valley Telephone will be able to offer a full compliment of telecommunications
11 services, including basic local exchange service, touch-tone service, high-speed data services, access
12 to emergency services (911) and Lifeline and Link-up services for low-income subscribers.

13 17. Staff believes the Valley Telephone's average cost per customer would not change
14 significantly as a result of serving the extension area, and that any impact on Valley Telephone's
15 universal service fund support would be minimal. Valley Telephone will fund service to the
16 extension area using general funds and no additional financing will be required.

17 18. Qwest has no facilities and no customers in the extension area.

18 19. Valley Telephone has facilities near the extension area to serve its own customers.

19 20. The extension area would be served by Valley Telephone's Pearce Exchange which
20 area is contiguous to the west and south boundaries of the proposed extension area.

21 21. Valley Telephone's Pearce exchange does not have two-way Extended Area Service
22 ("EAS") with Qwest's Wilcox Exchange. Thus, customers of both companies pay toll charges to call
23 between Valley Telephone's Pearce Exchange and Qwest's Wilcox Exchange.¹

24 22. Staff believes the application is in the public interest because: 1) Valley Telephone
25 received a request for service from a person living in the extension area; 2) it is not economically
26 feasible for the potential customer to receive service from Qwest; 3) Qwest has agreed to the transfer;

27
28 ¹ The customer requesting service is aware of the local calling area.

1 and 4) Valley Telephone is ready, willing and able to provide service to customers within the
2 extension area.

3 23. Staff recommends that transfer of the extension area from Qwest to Valley Telephone
4 be approved subject to the following conditions:

5 (a) Valley Telephone and Qwest should be required to update and docket their
6 respective Tariffs within thirty (30) days of a Commission Decision to reflect the transfer of the
7 extension area;

8 (b) Valley Telephone should be ordered to charge its existing rates and charges in the
9 extension area until further Order of the Commission;

10 (c) Valley Telephone apply to extend its existing Cochise County Franchise within
11 thirty (30) days of a Commission Decision approving its Application; and

12 (d) Valley Telephone shall docket an update to its franchise with Cochise County,
13 which includes the extension area, within 365 days of the effective date of a Decision approving its
14 Application.

15 24. Valley Telephone is current with its property and sales taxes.

16 25. Valley Telephone is in compliance with Commission Orders, Rules and regulations.²

17 **CONCLUSIONS OF LAW**

18 1. Valley Telephone is a public service corporation within the meaning of Article XV of
19 the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

20 2. The Commission has jurisdiction over Valley Telephone and the subject matter of the
21 application.

22 3. Notice of the application was provided in accordance with law.

23 4. There is a public need and necessity for telephone service in the proposed extension
24 area set forth in Exhibit A.

25 5. Valley Telephone is a fit and proper entity to receive a CC&N to provide
26 telecommunications service in the proposed extension area.

27 ² On July 25, 2005, Valley Telephone filed a Notice of Compliance that indicates it has filed annual reports of
28 diversification activities and plans for the years 2000 through 2004. By its filing, Valley Telephone is in compliance with
Decision No. 64570 (February 26, 2002) and A.A.C. R14-2-805.

1 6. Staff's recommendations contained in Findings of Fact No. 23 are reasonable and
2 should be adopted.

3 **ORDER**

4 IT IS THEREFORE ORDERED that the application of Valley Telephone Cooperative, Inc.
5 for an extension of its Certificate of Convenience and Necessity to provide telecommunication
6 services in Cochise County as described in Exhibit A hereto, is approved.

7 IT IS FURTHER ORDERED that Valley Telephone Cooperative, Inc. shall charge its
8 existing rates and charges within the approved extension area.

9 IT IS FURTHER ORDERED that Valley Telephone Cooperative, Inc. shall comply with the
10 recommendations set fort in Findings of Fact No. 23.

11 IT IS FURTHER ORDERED that Qwest Corporation shall update and docket its Tariffs
12 within thirty (30) days of the effective date of this Decision to reflect the transfer of the extension
13 area.

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

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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17 _____
CHAIRMAN

COMMISSIONER

18
19 _____
COMMISSIONER

COMMISSIONER

COMMISSIONER

20
21 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
22 Secretary of the Arizona Corporation Commission, have
23 hereunto set my hand and caused the official seal of the
24 Commission to be affixed at the Capitol, in the City of Phoenix,
25 this ____ day of _____, 2005.

26 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

27 DISSENT _____

28 DISSENT _____

1 SERVICE LIST FOR: VALLEY TELEPHONE COOPERATIVE, INC.

2 DOCKET NO.: T-01847A-05-0171
T-01051B-05-0171

3

4 Ms. Deborah Scott
5 Snell & Wilmer
6 One Arizona Center
Phoenix, Arizona 85004-2202

7 Mr. Norm Curtright
8 Staff Attorney – Policy and Law
9 Qwest Corporation
4041 N. Central Avenue, Suite 1100
Phoenix, Arizona 85012

10 Mr. Christopher Kempley, Chief Counsel
11 Legal Division
12 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

13 Mr. Ernest Johnson, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

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EXHIBIT A

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The West half of Section 8 of Township 16 South, Range 24 East in Cochise County, G&SRB&M.