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MEMORANDUM

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2002 JAN 23 A 8:38

TO: Docket Control
Arizona Corporation Commission

CORP COMMISSION
DOCKET CONTROL

THRU: Matt Rowell *MR*
Chief
Economics and Research

FROM: Ernest G. Johnson *EGJ*
Director
Utilities Division

DATE: January 23, 2002

RE: **COMPLIANCE TO DECISION NO. 63837 - REQUEST FOR
EXTENSION OF TIME. THIS IS AN AMENDED MEMORANDUM
(DOCKET NO. T-03815A-99-0711)**

On October 9, 2001 American Fiber Network Inc. ("AFN") submitted correspondence requesting an extension of time to comply with conditions in the decision granting AFN authority to provider resold interexchange telecommunications services (Decision No. 63837). AFN's CC&N was conditioned on the Company notifying the Compliance Section of the Utilities Division of the date that the Company will begin or has begun providing service to Arizona customers. AFN's CC&N was also conditioned on AFN filing conforming tariffs within 30 days of the decision, and to provide a performance bond within 30 days of notification of when it will provide service. AFN did not comply and its CC&N is void. Staff recommends that AFN be granted an extension of 45 days to comply with the order. In addition, Staff recommends that no further extension of time for compliance be granted.

Originator: Anthony Gatto

Enc.

Arizona Corporation Commission

DOCKETED

JAN 23 2002

DOCKETED BY *[Signature]*

Gatto
DIRECTOR

MEMORANDUM RECEIVED

2002 JAN 16 P 3:53

TO: Docket Control
Arizona Corporation Commission

AZ CORP COMMISSION
DOCUMENT CONTROL

THRU: Matt Rowell *MR*
Chief
Economics and Research

FROM: Ernest G. Johnson *MD/jrk*
Director
Utilities Division

DATE: January 16, 2002

RE: **COMPLIANCE TO DECISION NO. 63837** - REQUEST FOR
EXTENSION OF TIME. (DOCKET NO. T-03815A-99-0711)

On October 9, 2001 American Fiber Network Inc. ("AFN") submitted correspondence requesting an extension of time to comply with conditions in the decision granting AFN authority to provider resold interexchange telecommunications services (Decision No. 63837). AFN's CC&N was conditioned on the Company notifying the Compliance Section of the Utilities Division of the date that the Company will begin or has begun providing service to Arizona customers. AFN's CC&N was also conditioned on AFN filing conforming tariffs within 30 days of the decision, AFN did not comply and its CC&N is void. Staff recommends that AFN be granted an extension of 45 days to comply with the order.

Originator: Anthony Gatto

Enc.

ARIZONA CORPORATION
COMMISSION
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JAN 16 2002
Director of Utilities



AFN, INC.
October 5, 2001

ORIGINAL

Anthony

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Docket Control
Arizona Corporation Commissions
1200 West Washington Street
Phoenix, AZ 85007

12/19/01
REC

2001 OCT -9 P 12:11

AZ CORP COMMISSION
DOCUMENT CONTROL

Re: Request for extension of time to comply
Docket No. T-03815A-99-0711, Decision No. 63837

*512-127
C147
MAY*

Gentlemen,

Enclosed please find the proposed tariff for American Fiber Network, Inc. This should have been submitted to you several months ago though our attorney, Steve Swenson. It became obvious earlier this week that he had not filed the information. I apologize for the miscommunication between our attorney and ourselves because it was my understanding that we had met the requirements. So to meet this requirement, I have attached one original and ten (10) copies of the proposed tariff. Additionally, I am sending simultaneously to the Compliance Section one copy of this proposed tariff. I am also filing another original and one copy with the Director of the Utilities Division, should they require their copies.

Additionally, should the extension of time to comply be granted, we would provide the \$25,000 performance bond within 30 days of that notification as well as a notification of our intent to offer services 30 days after deliverance of the performance bond.

Therefore, our request for an extension of time to comply is for the extension to be until November 5, 2001 to provide the performance bond. At the time we submit the performance bond, we would also notify you of our intent to offer service 30 days from that date.

We apologize for any inconvenience this must cause your board. We appreciate your consideration of our request. We were under the impression from our attorney in both instances, the initial order and subsequent deadline for submission for an extension of time, had filed the required information. We have now taken control of our process in Arizona and will meet the above stated deadlines and any future filing requirements.

Sincerely,

Robert E. Heath
EVP

us

CC: Compliance Section
Director-Utilities Division

Arizona Corporation Commission
DOCKETED

OCT 09 2001

DOCKETED BY *ms*



ARIZONA CORPORATION COMMISSION
UTILITIES DIVISION
1200 W. WASHINGTON STREET
PHOENIX, AZ 85007

Letter of Non-Compliance

August 06, 2001

Mr. Rob Heath
American Fiber Network, Inc.
9401 Indian Creek Parkway, Suite 140
Overland Park, Kansas 66210

RE: DOCKET NO. T-03815A-99-0711 DECISION NO. 63837

Dear Mr. Heath:

This notice will inform you that American Fiber Network, Inc. has not met certain compliance requirements ordered by the Commission in the above-referenced Decision. In that Decision, the Commission conditioned approval of the application on American Fiber Network, Inc. filing certain documents with the Commission within a specific time period as described on the attached Compliance Delinquencies Report.

As a result of this non-compliance, the Certificate of Convenience and Necessity did not issue to American Fiber Network, Inc. and is void. If American Fiber Network, Inc. intends to provide service in the future within Arizona, it must either file a new application for a certificate of convenience and necessity or obtain an extension of time to comply from the Commission. If you are requesting an extension of time to comply, your request must be received by the Commission no later than thirty (30) days from the date of this notice. Your request should set forth the reasons why you did not comply with the Commission's Decision and why you should be granted an extension. The Commission will consider your request and issue an Order either granting or denying your request for extension. Address your request for an extension of time to comply to: Docket Control, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. Reference in your request the Docket Number and Decision Number for this matter.

If you believe this to be in error, or, if I can answer any questions, please contact me at 602-542-0818.

Sincerely,

Patrick C. Williams
Manager, Compliance and Enforcement
Utilities Division

cc: Docket Control, with eleven copies

Compliance Delinquencies Report

Report Date: August 06, 2001

COMPANY: American Fiber Network, Inc.

DOCKET NO. T-03815A-99-0711

DECISION NO. 63837

DECISION DATE: 06/28/2001

COMPLIANCE ACTION: Within 30 days of the effective date of the Commission's Decision, the Company shall notify the Compliance Section of the Arizona Corporation Commission's Utilities Division of the date that it will begin or has begun providing service.

COMPLIANCE DUE DATE: 07/30/2001

COMPLIANCE ACTION: Certificate of Convenience and Necessity approved subject to the Company filing conforming tariffs within 30 days of the effective date of the Commission's Decision in accordance with the Decision.

COMPLIANCE DUE DATE: 07/30/2001
