

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

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ARIZONA CORPORATION COMMISSION

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2001 JUN 28 P 3:13

DATE: June 28, 2001
DOCKET NO: T-03418A-97-0445

AZ CORP COMMISSION
DOCUMENT CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Philip J. Dion III. The recommendation has been filed in the form of an Order on:

VISTA GROUP INTERNATIONAL, INC.
(CC&N/RESELLER)

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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JULY 9, 2001

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 Working Session and Open Meeting to be held on:

JULY 24 AND JULY 25, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation
DOCKET

JUN 28 2001

DOCKETED BY

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
3 CHAIRMAN
4 JIM IRVIN
5 COMMISSIONER
6 MARC SPITZER
7 COMMISSIONER

8 IN THE MATTER OF THE APPLICATION OF
9 VISTA GROUP INTERNATIONAL, INC., FOR A
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE COMPETITIVE
12 RESOLD INTEREXCHANGE
13 TELECOMMUNICATIONS SERVICES, EXCEPT
14 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03418A-97-0445

DECISION NO. _____

ORDER

15 Open Meeting
16 July 24 and 25, 2001
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

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

21 **FINDINGS OF FACT**

22 1. On August 25, 1997, Vista Group International, Inc. ("Applicant") filed with the
23 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
24 competitive resold local exchange and interexchange telecommunications services within the State of
25 Arizona.

26 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
27 telecommunications providers ("resellers") were public service corporations subject to the
28 jurisdiction of the Commission.

 3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101
 through R14-2-1115 to regulate resellers.

 4. Applicant is an Ohio corporation authorized to do business in Arizona since 1997.

 5. On October 6, 7, 10, and 31, 1997, Applicant filed affidavits of publication indicating
 it had published notice of its application for authority to provide resold interexchange services.

 7. On September 15, 2000, Staff sent a data request to Applicant. Staff requested

1 information from Applicant about whether it would collect any prepayments, advances or deposits
2 and requested Applicant to file a tariff for interexchange service. The correspondence required
3 Applicant to submit responses within 30 days and that a failure to respond within 30 days would
4 result in Staff's recommendation that the Application be denied.

5 8. Several attempts have been made by Staff to contact Applicant since September 15,
6 2000 without success.

7 9. In a letter addressed to Staff dated December 13, 2000, Applicant's attorney indicated
8 that he believes that Applicant is out of business.

9 10. Applicant's attorney indicates that, to the best of his knowledge, Applicant has not
10 collected any prepayments, advances or deposits from customers in Arizona.

11 11. On January 22, 2001, the Commission's Utilities Division Staff ("Staff") filed a Staff
12 Report recommending denial of the application because Applicant failed to provide Staff with the
13 information necessary to process the application.

14 12. To date, Applicant has not complied with Staff's requests.

15 13. By Procedural Order dated April 27, 2001, the Commission set a deadline of May 31,
16 2001, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting
17 intervention as interested parties.

18 14. No exceptions were filed to the Staff Report, nor did any party request that a hearing
19 be set.

20 CONCLUSIONS OF LAW

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

23 2. The Commission has jurisdiction over Applicant and the subject matter of the
24 application.

25 3. For its failure to adhere to Commission rules and regulations that require Applicant to
26 provide the Commission with sufficient information to process its application, Applicant is not a fit
27 and proper entity to receive a Certificate for providing resold local exchange and interexchange
28 telecommunication services in Arizona.

1 4. Staff's recommendation in Finding of Fact No. 11 is reasonable and should be
2 adopted.

3 **ORDER**

4 IT IS THEREFORE ORDERED that the Application of Vista Group International, Inc. for a
5 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange
6 telecommunication services shall be, and the same is hereby denied, and the Docket closed.

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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10

11 CHAIRMAN COMMISSIONER COMMISSIONER

12
13
14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Secretary of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this ____ day of _____, 2001.

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20 BRIAN C. McNEIL
21 EXECUTIVE SECRETARY

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VISTA GROUP INTERNATIONAL, INC.

2 DOCKET NO.:

T-03418A-97-0445

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