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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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MAR 22 2001

ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF [REDACTED] DOCKET NO. T-03969A-00-1006
NXGEN NETWORKS, INC. FOR A CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
PROVIDE COMPETITIVE FACILITIES-BASED
AND RESOLD LOCAL EXCHANGE,
INTEREXCHANGE, AND ACCESS
TELECOMMUNICATIONS SERVICES

PROCEDURAL ORDER

BY THE COMMISSION:

On December 11, 2000, NxGen Networks, Inc. ("Applicant" or "NxGen") submitted to Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive facilities-based and resold local exchange, interexchange, and exchange access telecommunications services statewide.

Applicant is required to publish notice of its filing in newspapers in all counties where service is to be provided. The record shows that the Applicant has not published notice.

The Commission's Utilities Division Staff ("Staff") filed a Staff Report on March 20, 2001. Accordingly, the matter should be set for hearing.

Pursuant to Commission Rules, the time frame for processing this application may be extended.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the hearing on the above application and petition of Applicant shall commence on June 7, 2001 at 10:00 a.m., or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that NxGen Networks, Inc. shall mail Qwest Corporation, formerly U S WEST Communications, Inc., notice of its pending application by April 6, 2001.

1 IT IS FURTHER ORDERED that Applicant shall publish notice of its filing, as stated below,
 2 in newspapers in every county in Arizona in which Applicant desires to provide service by April 27,
 3 2001, and shall file Affidavits of Publication with the Commission no later than May 11, 2001.

4 **NOTICE OF APPLICATION FOR A CERTIFICATE**
 5 **OF CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE FACILITIES-**
 6 **BASED AND RESOLD LOCAL EXCHANGE, INTEREXCHANGE, AND ACCESS**
 7 **TELECOMMUNICATIONS SERVICES BY NXGEN NETWORKS, INC.**

8 NxGen Networks, Inc. ("Applicant") has filed with the Arizona Corporation
 9 Commission ("Commission") an application for a Certificate of Convenience and
 10 Necessity ("Certificate") to provide competitive facilities-based and resold local
 11 exchange, interexchange, and access telecommunications services in the State of
 12 Arizona. Applicant will be required by the Commission to provide this service under
 13 the rates and charges and terms and conditions established by the Commission.

14 The application, report of the Commission's Utilities Division Staff, and any
 15 written exceptions to the staff report prepared by the applicant are available for
 16 inspection during regular business hours at the offices of the Commission located at
 17 1200 West Washington Street, Phoenix, Arizona 85007, and at Applicant, [address].

18 Under appropriate circumstances, interested parties may intervene in the
 19 proceedings and participate as a party. You may have the right to intervene in the
 20 proceeding, or you may make a statement for the record. Intervention shall be in
 21 accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed
 22 on or before May 16, 2001. Persons desiring to intervene must file a written motion to
 23 intervene with the Commission and send such motion to the Company or its counsel
 24 and to all parties of record, and which at the minimum, shall contain the following:

25 1. The name, address, and telephone number of the proposed intervenor and of
 26 any party upon whom service of documents is to be made if different than the
 27 intervenor.

28 2. A short statement of the proposed intervenor's interest in the proceeding
 (e.g. a customer of the company, a shareholder of the company, a competitor, etc.).

3. A statement certifying that a copy of the motion to intervene has been
 mailed to the Company or its counsel and to all parties of record in the case.

A.A.C. R14-3-105 shall govern the granting of motions to intervene. The
 granting of intervention, among other things, entitles a party to present sworn evidence
 at the hearing and to cross-examine other witnesses. However, failure to intervene
 will not preclude any interested person or entity from appearing at the hearing and
 making a statement on their own behalf. The hearing is scheduled to commence on
 June 7, 2001 at 10 a.m. at the Arizona Corporation Commission, 1200 West
 Washington Street, Phoenix, Arizona 85007. Please check with the Commission for
 any changes to the scheduled hearing date.

If you have any comments, mail them to:

The Arizona Corporation Commission
 Attention Docket Control
 re: NxGen Networks, Inc.

1 T-03969A-00-1006
1200 West Washington Street
2 Phoenix, Arizona 85007

3 All written comments should be received by June 7, 2001.

4 If you have any questions about this application, or want information on
5 intervention, you may contact the Consumer Services Section of the Commission at
6 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

7 The Commission does not discriminate on the basis of disability in admission
8 to its public meetings. Persons with a disability may request a reasonable
9 accommodations such as sign language interpreter, as well as request this document in
10 an alternative format, by contacting Shelly Hood, ADA Coordinator, voice phone
11 number 602/542-0838, E-Mail shood@cc.state.az.us. Requests should be made as
12 early as possible to allow time to arrange the accommodation.

13 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
14 except that all motions to intervene must be filed on or before May 16, 2001.

15 IT IS FURTHER ORDERED that any objections to motions to intervene must be filed on or
16 before May 23, 2001.

17 IT IS FURTHER ORDERED that all intervenors shall file specific disagreements/comments,
18 if any, regarding the application and Staff Report on or before June 1, 2001 **by 12:00 noon**.

19 IT IS FURTHER ORDERED that the Applicant shall file specific disagreements/comments,
20 if any, to the Staff report on or before June 1, 2001 **by 12:00 noon**.

21 IT IS FURTHER ORDERED that all intervenors, Staff, and Applicant shall file on or before
22 June 1, 2001 **by 12:00 noon**, a list of witnesses and subject area(s) to be covered at the hearing in this
23 matter.

24 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
25 regulations of the Commission, except that every effort shall be made to respond within 48 hours of
26 receipt; the response time may be extended by mutual agreement of the parties involved if the request
27 requires an extensive compilation effort.

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1 IT IS FURTHER ORDERED that in the alternative to filing a written motion to compel
2 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
3 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such
4 request, a procedural hearing will be convened as soon as practicable; and that the party making such
5 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
6 hearing provide a statement confirming that the other parties were contacted.¹

7 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
8 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

9 DATED this 29th day of March, 2001.

10 
11 _____
12 STEPHEN GIBELLI
ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered
14 this 29th day of March, 2001 to:

15 Mark Sampson
16 NxGen Networks, Inc.
17 1700 Lincoln Street, Suite 1920
Denver, Colorado 80203

18 Thomas Forte, Consultant to NxGen Networks, Inc.
19 Technologies and Management, Inc.
210 North Park Avenue
Winter Park, Florida 32789

20 Timothy Berg
21 FENNEMORE CRAIG
22 3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for Qwest Corporation

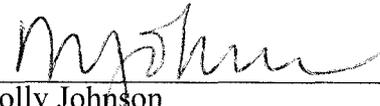
23 Christopher Kempley, Chief Counsel
24 Legal Division
25 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

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28 ¹ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 Deborah Scott, Director
2 Utilities Division
3 ARIZONA CORPORATION COMMISSION
4 1200 West Washington Street
5 Phoenix, Arizona 85007

6 ARIZONA REPORTING SERVICE, INC.
7 2627 N. Third Street, Suite Three
8 Phoenix, Arizona 85004-1104

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By: 
Molly Johnson
Secretary to Stephen Gibelli