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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

APR 05 2001

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DOCKETED BY [Signature]

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
AMERICAN FIBER SYSTEMS, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE, INTEREXCHANGE AND
EXCHANGE ACCESS TELECOMMUNICATIONS
SERVICES.

DOCKET NO. T-03980A-01-0025

PROCEDURAL ORDER

BY THE COMMISSION:

On January 9, 2001, American Fiber Systems, Inc. ("Applicant" or "American Fiber") 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 9, 2001. Accordingly, the matter should be set for hearing.

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 timeframe for processing this application shall be extended to August 9, 2001 to allow Telera additional time to publish notice.

IT IS FURTHER ORDERED that the hearing on the above application and petition of Applicant shall commence on June 20, 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.

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 May 16,
 3 2001, and shall file Affidavits of Publication with the Commission no later than May 30, 2001.

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

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

17 The application, report of the Commission's Utilities Division Staff, and any
 18 written exceptions to the staff report prepared by the applicant are available for
 19 inspection during regular business hours at the offices of the Commission located at
 20 1200 West Washington Street, Phoenix, Arizona 85007, and at Applicant, [address].

21 Under appropriate circumstances, interested parties may intervene in the
 22 proceedings and participate as a party. You may have the right to intervene in the
 23 proceeding, or you may make a statement for the record. Intervention shall be in
 24 accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed
 25 on or before **June 6, 2001 by 12 noon**. Persons desiring to intervene must file a
 26 written motion to intervene with the Commission and send such motion to the
 27 Company or its counsel and to all parties of record, and which at the minimum, shall
 28 contain the following:

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

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 20, 2001 at 10:00 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:

1 The Arizona Corporation Commission
2 Attention Docket Control
3 re: American Fiber Systems, Inc.
4 T-03980A-01-0025
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 All written comments should be received by June 20, 2001.

8 If you have any questions about this application, or want information on
9 intervention, you may contact the Consumer Services Section of the Commission at
10 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

11 The Commission does not discriminate on the basis of disability in admission
12 to its public meetings. Persons with a disability may request a reasonable
13 accommodations such as sign language interpreter, as well as request this document in
14 an alternative format, by contacting Shelly Hood, ADA Coordinator, voice phone
15 number 602/542-3931, E-Mail shood@cc.state.az.us. Requests should be made as
16 early as possible to allow time to arrange the accommodation.

17 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
18 except that all motions to intervene must be filed on or before June 6, 2001.

19 IT IS FURTHER ORDERED that any objections to motions to intervene must be filed on or
20 before **June 13, 2001**.

21 IT IS FURTHER ORDERED that all intervenors shall file specific disagreements/comments,
22 if any, regarding the application and Staff Report **by 12:00 noon on June 15, 2001**.

23 IT IS FURTHER ORDERED that the Applicant shall file specific disagreements/comments,
24 if any, to the Staff Report **by 12:00 noon on June 15, 2001**.

25 IT IS FURTHER ORDERED that all intervenors, Staff, and Applicant shall file **by 12:00
26 noon on June 15, 2001**, a list of witnesses and subject area(s) to be covered at the hearing in this
27 matter.

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

IT IS FURTHER ORDERED that in the alternative to filing a written motion to compel
discovery, any party seeking discovery may telephonically contact the Commission's Hearing
Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such

1 request, a procedural hearing will be convened as soon as practicable; and that the party making such
2 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
3 hearing provide a statement confirming that the other parties were contacted.¹

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

6 DATED this 5th day of April, 2001.

7 
8 STEPHEN GIBELLI
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 5th day of April, 2001 to:

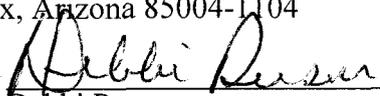
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17 Christopher Kempley, Chief Counsel
18 Legal Division
ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
Phoenix, Arizona 85007

20 Deborah Scott, Director
21 Utilities Division
ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
Phoenix, Arizona 85007

23 ARIZONA REPORTING SERVICE, INC.
24 2627 N. Third Street, Suite Three
Phoenix, Arizona 85004-1104

25 By: 
26 Debbi Person
Secretary to Stephen Gibelli

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