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MEMORANDUM

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TO: Docket Control
Arizona Corporation Commission

THRU Matt Rowell *MR*
Chief
Telecom and Energy

Arizona Corporation Commission
DOCKETED

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

MAY 22 2003

DOCKETED BY *CAK*

DATE: May 23, 2003

RE: **COMPLIANCE TO DECISION NO. 64068** - REQUEST FOR
EXTENSION OF TIME. (DOCKET NO. T-03993A-01-0128)

On October 2, 2001, The Commission in Decision No. 64068 issued Gates Communications, Inc. ("Company") a CC&N to provide interexchange telecommunication services. The decision required the company to provide Staff with the company's Fair Value information within eighteen months or by April 2, 2003. As of April 2, 2003, the Company did not provide Staff with the information required by the Commission order. At that point Staff considered Company's certificate to be void. Subsequently on May 9, 2003, the Company submitted correspondence requesting an extension of time to comply with the Commission's Order. The Company did provide the required information in its April 21, 2003 filing. Staff recommends that the Company be granted the extension of time and that its CC&N be reinstated.

Originator: Anthony Gatto

Enc.

Gatto

Lance J.M. Steinhart
Attorney At Law
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Suite 250
Alpharetta, Georgia 30005

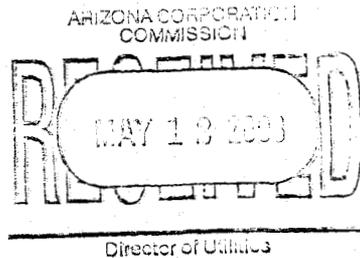
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May 9, 2003

VIA OVERNIGHT DELIVERY
& FAX NO. (602) 542-5560

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Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
(602) 542-2237



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Re: Gates Communications, Inc.
Docket No. T-03993A-01-0128 Decision No. 64068

Dear Sir/Madam,

In response to Letter of Non-Compliance dated April 10, 2003 and on behalf of Gates Communications, Inc. ("Gates"), we hereby respectfully request that the Arizona Corporation Commission grant an extension of time to Gates in order to file its response to the Revised Compliance Notice dated November 15, 2001.

The original Compliance Notice dated October 9, 2001 requested that Gates file with Docket Control the Fair Value Rate Base ("FVRB") information for the first twelve months of telecommunications service provided to Arizona customers following the certification date of October 4, 2001. A response was filed with Docket Control containing FVRB information from March 1, 2001, the date Gates commenced providing service to Arizona Customers. This response was filed prior to Gates providing twelve months of service to Arizona customers.

Law firm staff had several telephone conversations with the Commission requesting clarification of the FVRB information, and based upon such discussions, determined that filing the information available at the time, even if twelve months had not yet completed, was the correct action to take. Upon receipt of the Revised Compliance Notice dated November 15, 2001, law firm staff was of the opinion that the compliance action had been satisfied. Law office staff made a good faith effort to comply with the Commission request. Even though technically the response may have been deficient, the information filed had no material adverse effect on the Commission. Gates has provided continuous service to its customers in Arizona, and has had no complaints filed with the Commission.

Arizona Corporation Commission
Page Two
May 9, 2003

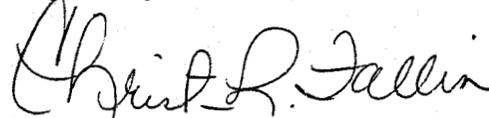
Based upon the foregoing, we respectfully request that the Certificate of Convenience and Necessity issued to Gates Communications, Inc. be reinstated with no lapse in such authority.

In addition, in order to satisfy the Commission's request, enclosed please find for filing, an original and fifteen (15) copies of Gates Communications, Inc.'s responses to the Commission's Revised Compliance Notice Dated November 15, 2001.

Enclosed is an extra copy of this letter to be date stamped and returned to me in the enclosed, self-addressed, postage prepaid envelope.

Please contact me at 770-232-7805 or e-mail me at cfallin@telecomcounsel.com if I can provide any additional information. Your assistance with this matter is sincerely appreciated.

Respectfully submitted,



Christa L. Fallin
Legal Assistant to
Lance J. M. Steinhart
Attorney for Gates Communications, Inc.

c: Patrick C. Williams via Fax No. (602) 542-5560

REVISED COMPLIANCE NOTICE DATED November 15, 2001

COMPANY: Gates Communications, Inc.

DOCKET NO. T-03993A-01-0128

DECISION NO. 64068

COMPLIANCE ACTION:

Certificate subject to the Company filing in Docket Control the following FVRB information within 18 months of the date it first provides service following certification:

1) The FVRB shall include a dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers following certification.

For the period of October 1, 2001 through October 31, 2002, the total revenue for the State of Arizona is \$1,442.58

2) The FVRB information shall detail the total actual operating expenses for the first twelve months of telecommunications service provided to Arizona Customers following certification.

For the period of October 1, 2001 through October 31, 2002, the total actual operating expenses for the State of Arizona is \$1,009.81

3) The FVRB information shall also include a description and value of all assets, including plant, equipment, and office supplies used to provide telecommunications service to Arizona customers for the first twelve months following certification.

The Company is a reseller which has zero assets, except for customers, in the State of Arizona.

NOTE: THE CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE RESOLD INTEREXCHANGE TELECOMMUNICATIONS SERVICES, EXCEPT LOCAL EXCHANGE SERVICES BECAME EFFECTIVE OCTOBER 4, 2001

Docket

BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

OCT 04 2001

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKETED BY	<i>nae</i>
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IN THE MATTER OF THE APPLICATION OF
GATES COMMUNICATIONS, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03993A-01-0128

DECISION NO. 64068

ORDER

Open Meeting
October 2 and 3, 2001
Phoenix, Arizona

BY THE COMMISSION:

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

FINDINGS OF FACT

1. On February 13, 2001, Gates Communications, Inc. ("Applicant" or "Gates") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services within the State of Arizona.

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

3. Applicant is a Washington corporation, authorized to do business in Arizona since 2001.

4. Applicant is a switchless reseller, which purchases telecommunications services from a variety of carriers.

5. On March 9, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter. In its Staff Report, Staff stated that Gates Communications, Inc. provided financial statements for the ten months ending October 31, 2001. These financial statements list

1 assets of \$518,650, total equity of \$105,361, and a net income of \$128,267. Based on the foregoing,
2 Staff believes that Gates lacks sufficient financial resources to be allowed to charge customers any
3 prepayments, advances, or deposits. In its application, Gates stated that it does not charge its
4 customers any prepayments, advances, or deposits.

5 6. Staff recommended approval of the application subject to the following conditions,
6 that:

7 (a) The Applicant shall comply with all Commission rules, orders, and other
8 requirements relevant to the provision of intrastate telecommunications service;

9 (b) The Applicant shall maintain its accounts and records as required by the
10 Commission;

11 (c) The Applicant shall file with the Commission all financial and other reports
12 that the Commission may require, and in a form and at such times as the Commission
may designate;

13 (d) The Applicant shall maintain on file with the Commission all current tariffs
14 and rates, and any service standards that the Commission may require;

15 (e) The Applicant shall comply with the Commission's rules and modify its tariffs
16 to conform to these rules if it is determined that there is a conflict between the
Applicant's tariffs and the Commission's rules;

17 (f) The Applicant shall cooperate with Commission investigations of customers
18 complaints;

19 (g) The Applicant shall participate in and contribute to a universal service fund, as
20 required by the Commission;

21 (h) The Applicant shall notify the Commission immediately upon changes to the
Applicant's address or telephone number;

22 (i) If at some future date, the Applicant wants to charge any prepayments,
23 advances, or deposits, it must file information with the Commission that demonstrates
24 the Applicant's financial viability. Upon receipt of such filing, Staff will review the
25 information provided and the Commission will make a determination concerning the
Applicant's financial viability and whether customers' prepayments, advances, or
deposits should be allowed.

26 (j) The Applicant's intrastate long distance service offerings should be classified
27 as competitive pursuant to A.A.C. R14-2-1108;

28 (k) The rates proposed by the Applicant in its most recently filed tariffs should be

1 approved on an interim basis. The maximum rates for these services should be the
 2 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
 3 for the Applicant's competitive services should be the Applicant's total service long
 4 run incremental costs of providing those services;

5 (l) In the event that the Applicant states only one rate in its proposed tariff for a
 6 competitive service, the rate stated should be the effective (actual) price to be charged
 7 for the service as well as the service's maximum rate, and;

8 (m) The Applicant shall certify that all notification requirements have been
 9 completed.

10 7. Staff also recommended approval of Gates Communications, Inc.'s application subject
 11 to the following conditions:

12 (a) That the Applicant file conforming tariffs within 30 days of an Order in this
 13 matter, and in accordance with the Decision;

14 (b) That the Applicant file in this Docket, within 18 months of the date it first
 15 provides service following certification, sufficient information for Staff
 16 analysis and recommendation for a fair value finding, as well as for an analysis
 17 and recommendation for permanent tariff approval. This information must
 18 include, at a minimum, the following:

19 1. A dollar amount representing the total revenue for the first twelve months
 20 of telecommunications service provided to Arizona customers by Gates
 21 Communications, Inc. following certification, adjusted to reflect the
 22 maximum rates that the Applicant has requested in its tariff. This adjusted
 23 total revenue figure could be calculated as the number of units sold for all
 24 services offered times the maximum charge per unit.

25 2. The total actual operating expenses for the first twelve months of
 26 telecommunications service provided to Arizona customers by the
 27 Applicant following certification.

28 3. The value of all assets, listed by major category, including a description of
 the assets, used for the first twelve months of telecommunications services
 provided to Arizona customers by the Applicant following certification.
 Assets are not limited to plant and equipment. Items such as office
 equipment and office supplies should be included in this list.

(c) Gates Communications, Inc.'s failure to meet the condition to timely file
 sufficient information for a fair value finding and analysis and
 recommendation of permanent tariffs shall result in the expiration of the
 Certificate of Convenience and Necessity and of the tariffs.

8. The Staff Report also stated that Applicant has no market power and the

1 reasonableness of its rates would be evaluated in a market with numerous competitors.

2 9. On June 21, 2001, a Procedural Order was issued requiring exceptions to the Staff
3 Report or a request that a hearing be set, to be filed by August 29, 2001. No exceptions were filed to
4 the Staff Report, nor did any party request that a hearing be set.

5 10. On July 18, 2001, Gates filed Affidavits of Publication indicating compliance with the
6 Commission's notice requirements.

7 11. On August 29, 2000, the Arizona Court issued its Opinion in US WEST
8 Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the
9 Arizona Constitution requires the Commission to determine fair value rate bases for all public service
10 corporations in Arizona prior to setting their rates and charges."

11 12. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
12 Court.

13 13. On February 13, 2001, the Commission's Petition was granted.

14 CONCLUSIONS OF LAW

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

17 2. The Commission has jurisdiction over Applicant and the subject matter of the
18 application.

19 3. Notice of the application was given in accordance with the law.

20 4. Applicant's provision of resold interexchange telecommunications services is in the
21 public interest.

22 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
23 resold interexchange telecommunications services in Arizona.

24 6. Staff's recommendations in Findings of Fact No. 6 and 7 are reasonable and should be
25 adopted.

26 ORDER

27 IT IS THEREFORE ORDERED that the application of Gates Communications, Inc. for a
28 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange

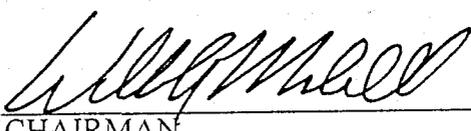
1 telecommunications services, except local exchange services, is hereby granted, except that Gates
2 shall not be authorized to collect any prepayments, advances, or deposits.

3 IT IS FURTHER ORDERED that Gates Communications, Inc. shall comply with Staff's
4 recommendations as set forth in Findings of Fact Nos. 6 and 7.

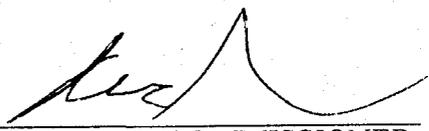
5 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, Gates
6 Communications, Inc. shall notify the Compliance Section of the Arizona Corporation Commission
7 of the date that it will begin or has begun providing service to Arizona customers.

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

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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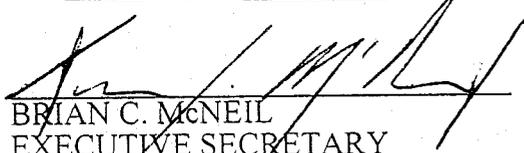
12 CHAIRMAN



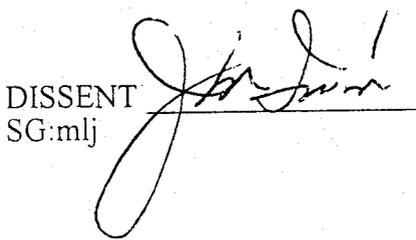
COMMISSIONER

COMMISSIONER

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15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Secretary of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this 4th day of October, 2001.



BRIAN C. McNEIL
EXECUTIVE SECRETARY

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DISSENT
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SERVICE LIST FOR: GATES COMMUNICATIONS, INC.

DOCKET NO.: T-03993A-01-0128

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