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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

1  
2 WILLIAM A. MUNDELL  
3 CHAIRMAN  
4 JIM IRVIN  
5 COMMISSIONER  
6 MARC SPITZER  
7 COMMISSIONER

JUN 11 2002

2002 JUN 11 A 9:35

DOCKETED BY *CR*

ARIZONA CORPORATION COMMISSION  
RECEIVED

8 IN THE MATTER OF THE APPLICATION OF  
9 MVX COMMUNICATIONS, LLC FOR  
10 AUTHORITY TO TRANSFER ITS CERTIFICATE  
11 OF CONVENIENCE AND NECESSITY TO  
12 QUANTUMSHIFT COMMUNICATIONS, INC.,  
13 F/K/A MVX.COM COMMUNICATIONS, INC.

DOCKET NO. T-03793A-99-0608  
DOCKET NO. T-03549A-99-0608

PROCEDURAL ORDER

**BY THE COMMISSION:**

14 On October 26, 1999, MVX Communications, LLC ("MVX") and MVX.COM  
15 Communications, Inc. ("MVX.COM") filed an application with the Arizona Corporation  
16 Commission ("Commission") requesting approval of the transfer of assets from MVX to MVX.COM,  
17 and the transfer of MVX's Certificate of Convenience and Necessity ("CC&N") to MVX.COM.

18 Effective May 4, 2001, MVX.COM changed its name to QuantumShift Communications, Inc.  
19 ("QuantumShift").

20 On December 24, 2001, the Commission's Utilities Division Staff ("Staff") filed a Staff  
21 Report on the application recommending that the Commission approve, after a hearing, the transfer of  
22 MVX's assets and CC&N to QuantumShift.

23 On February 12, 2002, a Procedural Order was issued setting this matter for hearing to  
24 commence on April 9, 2002, requiring Applicant to publish notice of the hearing by March 1, 2002,  
25 requiring Applicant to file an affidavit of publication no later than March 8, 2002, and requiring Staff  
26 to file an amendment to the Staff Report to include fair value rate base recommendations by March  
27 15, 2002.

28 On March 15, 2002, Staff filed an amendment to its Staff Report in accordance with the  
February 12, 2002 Procedural Order.

Applicant did not file the required affidavit of publication.

The hearing was convened as scheduled on April 9, 2002 at 1:30 p.m. Staff appeared through

1 counsel. Applicant did not appear. Staff requested that the hearing be reset and that Applicants be  
2 required to provide notice of the hearing.

3 A Procedural Order was issued on April 10, 2002 continuing the hearing in this matter to May  
4 28, 2002, and extending the timeframe for processing this application, in order to allow adequate time  
5 for MVX and QuantumShift to provide public notice of the hearing.

6 Applicant again did not file the required affidavit of publication.

7 The hearing was convened as scheduled on May 29, 2002. Staff appeared through counsel.  
8 Applicant did not appear, but prior to the hearing, communicated with Staff the intent to docket a  
9 request for continuance of the hearing. Staff stated at the hearing that it was not opposed to an  
10 additional continuance. However, Staff indicated that it believes counsel for the Applicants should  
11 comply with the Arizona Supreme Court Rule 33(d) which currently requires that a nonresident  
12 attorney shall make no appearance in a cause until the court or administrative agency where the cause  
13 is pending enters an order granting a motion to associate counsel *pro hac vice*.

14 Applicant's letter requesting continuance of the May 28, 2002 hearing was docketed on May  
15 29, 2002. The letter stated that Applicant is ready, willing and able to publish notice of the hearing if  
16 provided a new hearing date and an opportunity to clarify the telecommunications services provided  
17 and the docket numbers to be published.

18 Staff's recommendation regarding counsel for Applicant is reasonable. Alternatively,  
19 Applicant may choose to be represented in this matter by local counsel. At such time that counsel for  
20 Applicant requests admission *pro hac vice* in this matter, or at such time that local counsel files a  
21 notice of appearance in this matter, Applicant shall provide the clarification referenced in its May 29,  
22 2002 filing.

23 IT IS THEREFORE ORDERED that counsel for the Applicant shall file a motion for  
24 admission *pro hac vice* no later than July 8, 2002, or alternatively, that Applicant shall obtain local  
25 counsel. If Applicant chooses to obtain local counsel, that attorney's notice of appearance in this  
26 docket shall be filed no later than July 8, 2002.

27 IT IS FURTHER ORDERED that at the time Applicant complies with the Ordering Paragraph  
28 above, Applicant shall provide the clarification referenced in its May 29, 2002 filing.

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

3 DATED this 11<sup>th</sup> day of June, 2002.

4  
5   
6 TEENA WOLFE  
ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed  
8 this 11<sup>th</sup> day of June, 2002 to:

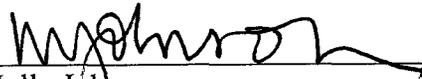
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By:

  
Molly Johnson  
Secretary to Teena Wolfe