



0000045215

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

RECEIVED

2002 FEB 12 A 10:13

FEB 1 2 2002

AZ CORP COMMISSION
DOCUMENT CONTROL

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

DOCKETED BY	<i>mc</i>
-------------	-----------

6 IN THE MATTER OF THE APPLICATION OF
7 MVX COMMUNICATIONS, LLC FOR
8 AUTHORITY TO TRANSFER ITS CERTIFICATE
9 OF CONVENIENCE AND NECESSITY TO
10 MVX.COM COMMUNICATIONS, INC.

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

PROCEDURAL ORDER

BY THE COMMISSION:

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

15 On May 15, 2001, MVX.COM filed an Affidavit of Publication in this docket verifying that
16 MVX.COM published notice in the Arizona Republic that MVX.COM filed with the Commission an
17 application for a CC&N authorizing it to provide competitive intrastate telecommunications services
18 as a reseller. That published notice did not provide notice of the application for transfer of the
19 CC&N, or of the hearing date.

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 MCC. The Staff Report also included additional recommendations.

23 Prior to considering the application and the rates that MVX.COM proposes to charge after the
24 proposed transfer, the Commission must ascertain the fair value of the property that MVX.COM
25 proposes to use to provide telecommunications services to Arizona customers.

26 The timeframe for processing this application should be extended in order to allow adequate
27 time for public notice of the hearing and the processing of the application.
28

1 The Commission now issues this Procedural Order to govern the preparation and conduct of
2 this proceeding.

3 IT IS THEREFORE ORDERED that the timeframe for processing this application shall be
4 extended to June 14, 2002.

5 IT IS FURTHER ORDERED that the hearing on the above application shall commence on
6 April 9, 2002 at 1:30 p.m., or as soon thereafter as is practical, at the Commission's offices, 1200
7 West Washington Street, Phoenix, Arizona 85007.

8 IT IS FURTHER ORDERED that Applicant shall provide public notice of the application and
9 hearing in the following form and style:

10 **NOTICE OF APPLICATION BY OF MVX COMMUNICATIONS, LLC FOR**
11 **AUTHORITY TO TRANSFER ITS CERTIFICATE OF CONVENIENCE AND NECESSITY**
12 **TO MVX.COM COMMUNICATIONS, INC.**

13 MVX Communications, LLC ("MVX") and MVX.COM Communications ("MVX.COM")
14 (jointly, "Applicants") have filed an application with the Arizona Corporation Commission
15 ("Commission") requesting approval of the transfer of assets from MVX to MVX.COM, and
16 the transfer of MVX's Certificate of Convenience and Necessity ("CC&N") to provide
17 competitive intrastate telecommunications services as a reseller of local exchange service
18 throughout the State of Arizona to MVX.COM. If the Application is approved, MVX.COM
19 will be required by the Commission to provide this service under the rates and charges and
20 terms and conditions established by the Commission. The application, report of the
21 Commission's Utilities Division Staff on the application, and any written exceptions to the
22 staff report will be available for inspection during regular business hours at the offices of the
23 Commission located at 1200 West Washington Street, Phoenix, Arizona 85007 under **Docket**
24 **No. T-03793A-99-0608**. These documents will also be available for inspection at the offices
25 of MVX.COM, [insert address].

26 The Commission will hold a hearing on this matter beginning **April 9, 2002 at 1:30 p.m.**, at
27 the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comment
28 will be taken on the first day of the hearing.

Under appropriate circumstances, interested parties may intervene in the proceedings and
participate as a party. You may have the right to intervene in the proceeding. Intervention
shall be in accordance with A.A.C. R14-3-405, except that all motions to intervene must be
filed on or before **March 15, 2002**. Persons desiring to intervene must file a written motion
to intervene with the Commission and send such motion to Applicants or their counsel and to
all parties of record. The motion shall, at the minimum, 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 Applicants or their counsel and to all parties of record in the case.

1 The granting of intervention, among other things, entitles a party to present sworn
2 evidence at the hearing and to cross-examine other witnesses. However, failure to
3 intervene will not preclude any interested person or entity from appearing at the
hearing and providing public comment on the application.

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

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

9 IT IS FURTHER ORDERED that Applicants shall cause the above public notice to be
10 published in a newspaper of statewide circulation or in every county in Arizona no later than March
11 1, 2002.

12 IT IS FURTHER ORDERED that Applicants shall file an Affidavit of Publication in this
13 docket no later than March 8, 2002. The Affidavit of Publication shall verify where the above notice
14 has been published.

15 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
16 except that all motions to intervene must be filed on or before March 15, 2002.

17 IT IS FURTHER ORDERED that any objections to motions to intervene must be filed on or
18 before March 22, 2002.

19 IT IS FURTHER ORDERED that Staff shall file an amendment to its Staff Report in this
20 matter that includes a recommended fair value finding and a recommendation on the rates
21 MVX.COM proposes to charge after the proposed transfer. The amendment to the Staff Report shall
22 also include a recommendation to the Commission on how the fair value determination should be
23 used in consideration of this application.

24 IT IS FURTHER ORDERED that MVX and MVX.COM shall cooperate with Staff in timely
25 providing the information Staff requires to prepare the above-ordered amendment to its Staff Report.

26 IT IS FURTHER ORDERED that Staff shall file the above-ordered amendment to its Staff
27 Report no later than March 15, 2002.

28 IT IS FURTHER ORDERED that Applicants and all Intervenors shall file specific

1 disagreements/comments, if any, to the Staff Report as amended no later than March 29, 2002.

2 IT IS FURTHER ORDERED that all intervenors, Staff, and Applicant shall file, on or before
3 March 29, 2002, a list of witnesses and subject area(s) to be covered at the hearing in this matter.

4 IT IS FURTHER ORDERED that notice shall be deemed complete upon its publication,
5 notwithstanding the failure of an individual to read the notice.

6 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
7 Communications) applies to this proceeding as the matter is now set for public hearing.

8 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
9 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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

12 DATED this 13th day of February, 2002.

13
14 
15 TEENA WOLFE
16 ADMINISTRATIVE LAW JUDGE

17
18 Copies of the foregoing mailed
19 this 13th day of February, 2002 to:

20 Lance J.M. Steinhart, PC
21 Attorney at Law
22 6455 E. Johns Crossing, Suite 285
23 Duluth, Georgia 30097
24 Attorneys for MVX Communications, LLC and
25 MVX.COM Communications, Inc.

26 Christopher Kempley, Chief Counsel
27 Legal Division
28 ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

1 ARIZONA REPORTING SERVICE, INC
2 2627 N. Third Street, Suite Three
3 Phoenix, Arizona 85004-1103

4 By: 
5 Debbi Person
6 Secretary to Teena Wolfe
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28