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FROM: Ernest G. Johnson
Director
Utilities Division

OCT 03 2002

AZ CORP COMMISSION
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DATE: October 3, 2002

RE: IN THE MATTER OF THE JOINT APPLICATION OF ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE AND AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE AND XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C. FOR EXPEDITED APPROVAL OF THE DISCONTINUANCE OF TELECOMMUNICATIONS SERVICES IN ARIZONA BY THE E.SPIRE OPERATING ENTITIES (DOCKET NOS. T-04112A-02-0450, T-04113A-02-0450 T-03597A-02-0450, T-03411A-02-0450, T-04112A-02-0451 AND T-04113A-02-0452)

Attached is the Staff Report for the above referenced application. Staff recommends approval of the discontinuance of telecommunications service by the e.spire Operating Entities.

/jfb

Originator: John Bostwick

Attachment: Original and Sixteen Copies

STAFF REPORT

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE, AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE, XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC, AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C.

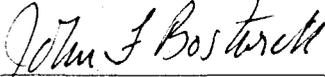
DOCKET NOS. T-04112A-02-0450, T-04113A-02-0450, T-03597A-02-0450, T-03411A-02-0450, T-04112A-02-0451 AND T-04113A-02-0452

IN THE MATTER OF THE JOINT APPLICATION OF ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE AND AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE AND XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C. FOR EXPEDITED APPROVAL OF THE DISCONTINUANCE OF TELECOMMUNICATIONS SERVICES IN ARIZONA BY THE E.SPIRE OPERATING ENTITIES

OCTOBER 3, 2002

STAFF ACKNOWLEDGMENT

The Staff Report for the joint application of ACSI Local Switched Services, Inc. dba e.spire; American Communication Services of Pima County, Inc. dba e.spire; Xspeduis Management Co. Switched Services LLC; and Xspeduis Management Co. Pima County, L.L.C. for the expedited approval of the discontinuance of telecommunications services in Arizona by the e.spire Operating Entities was the responsibility of the Staff member listed below, Docket Nos. T-04112A-02-0450, T-04113A-02-0450, T-03597A-02-0450, T-03411A-02-0450, T-04112A-02-0451 and T-04113A-02-0452. John F. Bostwick was responsible for the review and analysis of the joint application for the discontinuance of telecommunications services.



John F. Bostwick
Administrative Services Officer II

EXECUTIVE SUMMARY

ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE, AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE, XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC, AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C.

DOCKET NOS. T-04112A-02-0450, T-04113A-02-0450, T-03597A-02-0450, T-03411A-02-0450, T-04112A-02-0451 AND T-04113A-02-0452

- ACSI Local Switched Services, Inc. dba e.spire and American Communication Services of Pima County, Inc. dba e.spire
- Requests discontinuance of telecommunications services.
- Authorized to provide competitive facilities-based local exchange services in Arizona.
- To discontinue service, cancel its CC&N, and revoke its tariffs in Arizona.

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ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE, AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE, XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC, AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C.

Docket Nos. T-04112A-02-0450, T-0413A-02-0450, T-03597A-02-0450, T-03411A-02-0450, T-04112A-02-0451, and T-04113A-02-0452

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Introduction

On June 19, 2002, ACIS Local Switched Services, Inc. dba e.spire (“ACSI Switched”) and American Communication Services of Pima County, Inc. dba e.spire (“ACSI Pima”) (collectively “e.spire Operating Entities”) filed a joint application with the Arizona Corporation Commission (“Commission”). As part of the application, e.spire Operating Entities requests approval to discontinue their authority to provide competitive facilities-based local exchange telecommunications services in Arizona.¹

Background

On February 19, 1997, the Commission, in Decision No. 60078, originally granted a Certificate of Convenience and Necessity (“CC&N”) to ACSI Pima to provide competitive facilities-based local exchange telecommunications services in Arizona.

On February 27, 1998, the Commission, in Decision No. 60711, originally granted a CC&N to ACSI Switched to provide competitive facilities-based local exchange telecommunications services in Arizona.

The e.spire Operating Entities filed a request to discontinue their authority to provide competitive facilities-based local exchange telecommunications services in Arizona. In Decision No. 65124 dated August 23, 2002 the Commission ordered the e.spire Operating Entities to transfer all of the assets, including the customer base, of the e.spire Operating Entities to the Xspedius Operating Entities. The Xspedius Operating Entities will provide telecommunication service to the customers of e.spire Operating Entities, provided that all customers of e.spire Operating Entities receive proper notification in full compliance with Arizona Administrative Code (“AAC”) R14-2-1107.

Staff Analysis

On June 7, 2002, e.spire Operating Entities sent a letter to its customers that it is transferring its assets and services to Xspedius Operating Entities. Xspedius Operating Entities will serve customers being served by e.spire Operating Entities. This transfer of assets and services was the reason for e.spire Operating Entities to apply for a discontinuance of service.

¹ Joint application includes Xspedius Management Co. of Pima County, L.L.C. and Xspedius Management Co. of Switched Services LLC (collectively, “Xspedius Operating Entities”). Xspedius Operating Entities were granted CC&Ns to provide requested telecommunications services to serve e.spire Operating Entities’ customers in Decision No. 65124 dated August 23, 2002.

ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE, AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE, XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC, AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C.

Docket Nos. T-04112A-02-0450, T-0413A-02-0450, T-03597A-02-0450, T-03411A-02-0450, T-04112A-02-0451, and T-04113A-02-0452

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On August 13, 2002, e.spire Operating Entities provided verification that all affected customers were notified of the proposed discontinuance of service. An affidavit of publication of the legal notice published on July 30, 2002 was filed with the Commission. The legal notice document supports e.spire Operating Entities' request to discontinue telecommunications services in Arizona.

Deposits held on behalf of customers transferring to Xspedius Operating Entities will be transferred in conjunction with those customers' accounts. The e.spire Operating Entities will refund any customer deposits to customers choosing to transfer to carriers other than Xspedius Operating Entities. All of e.spire Operating Entities' customers have been transferred to Xspedius Operating Entities.

According to Xspedius Operating Entities, numerous telecommunication companies are certificated to provide similar services in the affected geographic area and could provide service through resale of Qwest service. Xspedius Operating Entities does not know all the companies that are actively marketing similar service in the affected area. However, Xspedius Operating Entities understand that similar service is being offered by Qwest, AT&T, WorldCom, Time Warner, and McLeodUSA.

The e.spire Operating Entities has not received an objection to its filed application for discontinuance service at this time.

In Decision No. 65124, Xspedius Operating Entities were ordered to issue a notice in accordance with AAC R14-2-1107 and provide a 90-day period from the date of notice in which the transferred customers may elect to discontinue service without a penalty. As of this writing, the Xspedius Operating Entities have not yet issued a notice to the transferred customers.

Staff believes that e.spire Operating Entities have complied with the provisions of AAC R14-2-1107 and discontinuance of service should be granted. Staff further believes that the Commission should cancel e.spire Operating Entities' CC&Ns and tariffs.

Recommendations

Staff recommends that e.spire Operating Entities' application to discontinue telecommunications services in Arizona be granted by the Commission.

Staff further recommends that e.spire Operating Entities' application to discontinue telecommunications services be approved without a hearing.

ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE, AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA E.SPIRE, XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC, AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C.

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Staff further recommends that the Commission cancel the CC&Ns held respectively by ACSI Switched and ACSI Pima.

Staff further recommends that the Commission cancel the tariffs filed respectively by ACSI Switched and ACSI Pima.

Upon cancellation of its CC&N, ACSI Switched and ACSI Pima will no longer be authorized to provide competitive facilities-based local exchange telecommunications services in Arizona and will no longer be subject to the requirements of Decision No. 60711 and Decision No. 60078.

Staff further recommends that Xspedius Operating Entities issue a notice in accordance with AAC R14-2-1107 and provide a 90-day period from the date of notice in which the transferred customers may elect to discontinue service without penalty.

Staff further recommends that the notice be issued within 30 days of the effective date of an order in this matter. If the notice is not issued within the 30-day period, Xspedius Operating Entities' CC&Ns should be rendered null and void and no time extensions shall be granted without further order of the Commission.

SERVICE LIST FOR: ACSI LOCAL SWITCHED SERVICES, INC. DBA E.SPIRE,
AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. DBA
E.SPIRE, XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC, AND
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03411A-02-0450, T-04112A-02-0451 AND T-04113A-02-0452

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