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ORIGINAL

BEFORE

COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

ARIZONA CORPORATION
DOCKETED

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ARIZONA CORPORATION
DOCUMENT CONTROL

DOCKETED BY *CMC*

IN THE MATTER OF THE APPLICATION OF THE JOINT APPLICATION OF ACSI LOCAL SWITCHED SERVICES, INC., D/B/A E.SPIRE AND AMERICAN COMMUNICATION SERVICES OF PIMA COUNTY, INC. D/B/A E.SPIRE AND XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC AND XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, L.L.C. FOR EXPEDITED APPROVAL OF (I) THE TRANSFER OF SUBSTANTIALLY ALL OF THE ASSETS, INCLUDING THE CUSTOMER CONTRACTS, OF THE E.SPIRE OPERATING ENTITIES TO THE XSPEDIUS OPERATING ENTITIES; (II) 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

IN THE MATTER OF THE APPLICATION OF XSPEDIUS MANAGEMENT CO. OF PIMA COUNTY, LLC FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE ALL FORMS OF COMPETITIVE RESOLD AND FACILITIES BASED LOCAL EXCHANGE, EXCHANGE ACCESS, AND INTEREXCHANGE TELECOMMUNICATIONS SERVICE IN THE STATE OF ARIZONA.

DOCKET NO. T-04112A-02-0451

IN THE MATTER OF THE APPLICATION OF XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES, LLC FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE ALL FORMS OF COMPETITIVE RESOLD AND FACILITIES BASED LOCAL EXCHANGE, EXCHANGE ACCESS, AND INTEREXCHANGE TELECOMMUNICATIONS SERVICE IN THE STATE OF ARIZONA.

DOCKET NO. T-04112A-02-0452

PROCEDURAL ORDER

BY THE COMMISSION:

On June 19, 2002, American Communication Services of Pima County, Inc. dba e.spire ("ACSI Pima") and ACSI Local Switched Services, Inc. dba e.spire ("ACSI Switched") (the "e.spire Operating Entities"); and Xspedius Management Co. of Pima County, LLC ("Xpedius Pima") and

1 Xspedius Management Co. Switched Services, LLC ("Xspedius Switched") (the "Xpedius Operating
2 Entities") (collectively, "Applicants") filed with the Arizona Corporation Commission
3 ("Commission") an application for authority pursuant to A.R.S. § 40-285 to transfer substantially all
4 the assets of the of the e.spire Operating Entities to the Xspedius Operating Entities, for the purpose
5 of allowing the Xspedius Operating Entities to provide service to the customers of the e.spire
6 Operating Entities without interruption of service ("Joint Application"). The Joint Application also
7 requests authority for the e.spire Operating Entities to discontinue the provision of local exchange
8 service, pursuant to A.A.C. R14-2-1107. The Joint Application arises out of the voluntary petition
9 for Chapter 11 protection that the e.spire Operating Entities filed with the United States Bankruptcy
10 Court for Delaware on March 22, 2001, and a proposed transaction approved by that Bankruptcy
11 Court on June 5, 2002.

12 Also on June 19, 2002, Xspedius Pima and Xspedius Switched each filed an application for a
13 new CC&N to provide competitive resold and facilities based local exchange, exchange access, and
14 interexchange telecommunications service in the State of Arizona ("CC&N Applications").

15 On July 1, 2002, the Commission's Utilities Division Staff ("Staff") docketed letters notifying
16 Xspedius Pima and Xspedius Switched of deficiencies in their CC&N Applications and requesting
17 submission of additional data.

18 On July 5, 2002, Staff filed in the above-captioned dockets a Motion to Consolidate and
19 Request for Evidentiary Hearing ("Motion"). In the Motion, Staff asserts that the above-captioned
20 cases are inextricably related to one another, and that it is therefore appropriate that they be
21 consolidated. In addition to requesting consolidation, Staff's Motion requested that a hearing be set
22 at this time on the transfer of assets portion of the Joint Application and on the CC&N Applications.
23 Staff further requested in its Motion that the discontinuance of service portion of the Joint
24 Application be considered following a Commission Decision on the consolidated transfer of assets
25 portion of the Joint Application and the CC&N Applications.

26 Applicants have indicated that they are not opposed to the procedure outlined in Staff's
27 Motion. The Joint Application states that Applicants are complying with Commission Rules relating
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1 to discontinuance of service. Applicants notified their customers of the proposed discontinuance and
2 transfer of service on June 7, 2002.

3 Staff's requests as set forth in its Motion are reasonable. These matters are substantially
4 related and their consolidation is appropriate. No parties' rights will be prejudiced by the
5 consolidation or by the proposed procedure. However, the consolidated matters will not be set for
6 hearing until the CC&N Applications have been found to be administratively complete.

7
8 IT IS THEREFORE ORDERED that the above-captioned matters are hereby consolidated.

9 IT IS FURTHER ORDERED that at such time that the consolidated applications of Xspedius
10 Management Co. of Pima County, LLC and Xspedius Management Co. Switched Services, LLC are
11 administratively complete, a Procedural Order will be issued setting a hearing on those applications
12 and on the transfer of assets portion of the Joint Application.

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

15 DATED this 14th day of July, 2002.

16 
17 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

18 Copies of the foregoing mailed/delivered
19 this 14th day of July, 2002 to:

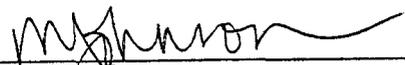
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24 By: 
25 Molly Johnson
26 Secretary to Teena Wolfe

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