



OPEN MEETING ITEM

ORIGINAL



BRIAN C. MCNEIL
Executive Secretary

WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

ARIZONA CORPORATION COMMISSION

2003 OCT -6 A 11:10

ARIZONA CORP COMMISSION
DOCUMENT CONTROL

DATE: OCTOBER 6, 2003

DOCKET NO: T-03798A-99-0604

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amanda Pope. The recommendation has been filed in the form of an Order on:

VALUE-ADDED COMMUNICATIONS, INC.
(CC&N/AOS)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 15, 2003

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 21, 2003 and OCTOBER 22, 2003

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

DOCKETED

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 MARC SPITZER, Chairman
5 WILLIAM A. MUNDELL
6 JEFF HATCH-MILLER
7 MIKE GLEASON
8 KRISTIN K. MAYES

9 IN THE MATTER OF THE APPLICATION OF
10 VALUE-ADDED COMMUNICATIONS, INC. FOR
11 A CERTIFICATE OF CONVENIENCE AND
12 NECESSITY TO PROVIDE ALTERNATIVE
13 OPERATOR SERVICES.

DOCKET NO. T-03798A-99-0604

DECISION NO. _____

14 ORDER

15 Open Meeting
16 October 21 and 22, 2003
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

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

21 FINDINGS OF FACT

22 1. On October 22, 1999, Value-Added Communications, Inc. ("Applicant" or "VAC")
23 filed with the Commission an application for a Certificate of Convenience and Necessity
24 ("Certificate") to provide alternative operator services ("AOS") within the State of Arizona.

25 2. In Decision No. 57339 (April 5, 1991), the Commission found that AOS providers
26 were public service corporations subject to the jurisdiction of the Commission.

27 3. In Decision No. 58421 (October 1, 1993), the Commission adopted A.A.C. R14-2-
28 1001 through R14-2-1014 to regulate AOS providers.

4. VAC has authority to transact business in the State of Arizona.

5. On May 9, 2003, VAC filed Affidavits of Publication indicating compliance with the
Commission's notice requirements.

6. On July 29, 2003, the Commission's Utilities Division Staff ("Staff") filed a letter

1 indicating that VAC's application was administratively complete, and on August 20, 2003 filed a
2 Staff Report in which Staff recommends approval of the application subject to certain conditions.

3 7. In the Staff Report, Staff stated that VAC provided unaudited financial statements for
4 the twelve months ending December 31, 2002, which lists assets of \$7.7 million, equity of \$3.2
5 million, and net loss of \$134,906.

6 8. According to the Staff Report, VAC provides AOS service in 23 other states and has
7 the technical capacity to provide the proposed services, and in the event that Applicant encounters
8 financial or technical difficulty, there should be minimal impact on AOS customers because of
9 numerous competitors willing to replace any provider.

10 9. In its Staff Report, Staff stated that based on information obtained from the Applicant,
11 it has determined that VAC's fair value rate base ("FVRB") is zero. Staff has determined that
12 Applicant's FVRB is too small to be useful in a fair value analysis, and is not useful in setting rates.
13 Staff further stated that in general, rates for competitive services are not set according to rate of return
14 regulation, but are heavily influenced by the market. Staff recommended that the Commission not set
15 rates for VAC based on the fair value of its rate base.

16 10. The Commission adopted maximum rates for AOS service in Decision No. 61274
17 (December 14, 1998), and these rates are reflected in Schedules 1 and 2 attached to the Staff Report.
18 These maximum rates when coupled with discounting authority provide AOS providers with the
19 ability to compete on price and service quality.

20 11. Staff recommended approval of VAC's application subject to the following:

21 (a) that Applicant should be ordered to comply with all Commission rules, orders,
22 and other requirements relevant to the provision of intrastate telecommunications
23 service;

24 (b) that Applicant should be ordered to maintain its accounts and records as
25 required by the Commission;

26 (c) that Applicant should be ordered to file with the Commission all financial and
27 other reports that the Commission may require, and in a form and at such times as the
28 Commission may designate;

(d) that Applicant should be ordered to maintain on file with the Commission all

current tariffs and rates, and any service standards that the Commission may require;

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

(f) that Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;

(g) that Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;

(h) that the maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;

(i) that Applicant is authorized to discount its rates and service charges to the marginal cost of providing the services;

(j) that Applicant's interLATA rates and service charges for AOS services should be based on the maximum rates and service charges as set forth in Schedule 1 attached to the Staff Report;

(k) that Applicant's intraLATA rates and service charges for AOS services should be based on the maximum rates and service charges as set forth in Schedule 2 attached to the Staff Report; and

(l) that Applicant's property surcharge for AOS services be limited to \$1.00 per call.

12. Staff further recommended that VAC's Certificate should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first.

13. Staff recommended that if the Applicant fails to meet the timeframes outlined in Findings of Fact No. 12, that VAC's Certificate should become null and void without further Order of the Commission, and that no time extensions for compliance should be granted.

14. The rates proposed by this filing are for competitive services.

15. Staff's recommendations as set forth herein are reasonable.

16. VAC's fair value rate base is zero.

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CONCLUSIONS OF LAW

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

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

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

4. Applicant's provision of interLATA and intraLATA AOS service in Arizona is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for providing AOS in Arizona.

6. Staff's recommendations in Findings of Fact No. 9, 11, 12, and 13 should be adopted.

7. VAC's fair value rate base is not useful in determining just and reasonable rates for the competitive services it proposes to provide to Arizona customers.

8. VAC's rates, as they appear in its proposed tariffs, are just and reasonable and should be approved.

9. Pursuant to A.R.S. § 40-282(c)(2), a hearing is not required for the issuance of a Certificate to a reseller or an AOS provider.

ORDER

IT IS THEREFORE ORDERED that the application of Value-Added Communications, Inc. for a Certificate of Convenience and Necessity for authority to provide AOS is hereby granted, conditioned upon its compliance with the conditions recommended made by Staff as set forth in Findings of Fact No. 12 above.

IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos. 9, 11, 12, and 13 above are hereby adopted.

IT IS FURTHER ORDERED that Value-Added Communications, Inc. shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 12 and 13 above.

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1 SERVICE LIST FOR:

VALUE-ADDED COMMUNICATIONS, INC.

2 DOCKET NO.:

T-03798A-99-0604

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