

OPEN MEETING ITEM  
ORIGINAL



COMMISSIONERS  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG



22

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission  
DOCKETED

DATE: August 28, 2006

DOCKET NO.: T-03831A-06-0344

TO ALL PARTIES:

AUG 28 2006

DOCKETED BY  
nr

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

MPOWER COMMUNICATIONS

(CC&N CANCELLATION)

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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

SEPTEMBER 6, 2006

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 Open Meeting to be held on:

SEPTEMBER 19 AND 20, 2006

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

RECEIVED

2006 AUG 28 1 A 11: 48

AZ CORP COMMISSION  
DOCUMENT CONTROL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

IN THE MATTER OF THE APPLICATION OF  
MPOWER COMMUNICATIONS FOR  
CANCELLATION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
FACILITIES-BASED AND RESOLD LOCAL  
EXCHANGE TELECOMMUNICATIONS  
SERVICES IN THE STATE OF ARIZONA.

DOCKET NO. T-03831A-06-0344

DECISION NO. \_\_\_\_\_

ORDER

Open Meeting  
September 19 and 20, 2006  
Phoenix, Arizona

**BY THE COMMISSION:**

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

FINDINGS OF FACT

1. MPower Communications ("MPower" or "Applicant") has a Certificate of Convenience and Necessity ("Certificate") to provide facilities-based and resold local exchange telecommunications in the State of Arizona pursuant to Decision No. 62769 (August 2, 2000).
2. On May 25, 2006, Applicant filed an application for cancellation of its Certificate, indicating that it has never initiated service in the State of Arizona and has no intention to offer services.
3. Applicant further indicated that there are no outstanding obligations as it holds no customer deposits.
4. On August 9, 2006, the Commission's Utilities Division Staff ("Staff") filed a Staff Report, recommending approval of the application to cancel MPower's Certificate without a hearing.
5. Staff was notified by the Applicant on July 19, 2006, that legal notice of the Application had been published in Maricopa County, and Staff indicated that no objections or requests for a hearing regarding this Application to discontinue telecommunications services were

1 filed.

2 6. Staff indicated that there are no open complaints, inquiries or opinions concerning  
3 Applicant.

4 7. Numerous other carriers in Arizona offer services similar to those that Applicant is  
5 currently certificated to provide.

6 8. No Arizona customers will be affected by the requested cancellation.

7 **CONCLUSIONS OF LAW**

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

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

12 3. The cancellation of Applicant's Certificate is in the public interest.

13 4. Notice of this Application was provided in accordance with Commission regulations.

14 5. Pursuant to A.R.S. § 40-282, the Commission may issue this Decision without a  
15 hearing.

16 6. Staff's recommendations are reasonable and should be adopted.

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

IT IS THEREFORE ORDERED that the Certificate of Convenience and Necessity granted to MPower Communications Corp. in Decision No. 62769 is hereby cancelled.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

AB: mj

1 SERVICE LIST FOR: MPOWER COMMUNICATIONS CORP.

2 DOCKET NO.: T-03831A-06-0344

3 Jean L. Kiddoo  
4 Danielle C. Burt  
5 BINGHAM McCUTCHEN  
6 3000 K Street NW, Ste. 300  
7 Washington, DC 20007

8 Christopher Kempley, Chief Counsel  
9 Legal Division  
10 ARIZONA CORPORATION COMMISSION  
11 1200 West Washington Street  
12 Phoenix, AZ 85007

13 Ernest G. Johnson, Director  
14 Utilities Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 West Washington Street  
17 Phoenix, AZ 85007

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28