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BEFORE THE ARIZONA CORPORATION COMMISSION

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**COMMISSIONERS**

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

2006 NOV 28 A 11: 55

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE FORMAL  
COMPLAINT OF ACCIPITER  
COMMUNICATIONS, INC., AGAINST  
VISTANCIA COMMUNICATIONS, L.L.C.,  
SHEA SUNBELT PLEASANT POINT, L.L.C.,  
AND COX ARIZONA TELCOM, LLC.

DOCKET NO. T-03471A-05-0064

**NOTICE OF FILING**

Pursuant to the February 13, 2006 Procedural Order, Cox Arizona Telcom, LLC ("Cox") hereby files its responses to Staff's 19<sup>th</sup> set of data requests in this docket.

RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of November, 2006.

COX ARIZONA TELCOM, LLC.

By

Michael W. Patten  
ROSHKA DEWULF & PATTEN, PLC  
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Phoenix, Arizona 85004

Attorneys for Cox Arizona Telcom, LLC

Original and 13 copies of the foregoing filed this 28<sup>th</sup> day of November 2006 with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Arizona Corporation Commission

**DOCKETED**

NOV 28 2006

DOCKETED BY nr

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FACSIMILE 602-256-6800

1 Copy of the foregoing hand-delivered/mailed  
2 this 28<sup>th</sup> day of November 2006 to:

3 Dwight Nodes, Esq.  
4 Administrative Law Judge  
5 Hearing Division  
6 Arizona Corporation Commission  
7 1200 West Washington Street  
8 Phoenix, Arizona 85007

9 Maureen A. Scott, Esq.  
10 Legal Division  
11 Arizona Corporation Commission  
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15 Director, Utilities Division  
16 Arizona Corporation Commission  
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By Mary J. Joplin



COX ARIZONA TELCOM, LLC  
RESPONSES TO  
STAFF'S NINETEENTH SET OF DATA REQUESTS TO  
Docket No. T-03471A-05-0064  
November 28, 2006

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**Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.**

STF 19.2 Please explain if Cox was in any way aware of First Mile's CC&N application, its intentions to apply for local exchange authority in Arizona or its possible future application for local exchange authority in Arizona at the time when emails from Cox employees were exchanged (*see* AFF-22, Rebuttal Testimony of Armando Fimbres, June 15, 2006)?

RESPONSE: Cox objects to this request as vague and ambiguous, irrelevant, and untimely. Notwithstanding such objections and without waiving same, see Response to STF 19.1 above. Moreover, the referenced emails refer only briefly to Shea possibly becoming a CLEC.

RESPONDENT: Mark DiNunzio  
Director, Regulatory Affairs



COX ARIZONA TELCOM, LLC  
RESPONSES TO  
STAFF'S NINETEENTH SET OF DATA REQUESTS TO  
Docket No. T-03471A-05-0064  
November 28, 2006

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Subject: **All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.**

STF 19.4      If please explain if Cox was aware of First Mile's CC&N application answers, as noted below.

(B-3): "The applicant will rely on an investment from the J. F. Shea Company for development of its business in Arizona. This investment will capitalize and fully fund First Mile's Arizona operations for the delivery of telecommunication services."

If "yes," please explain when Cox first became aware that First Mile's application was being supported by Shea, as noted in (B-3).

RESPONSE:      Cox objects to this request as vague and ambiguous, irrelevant, and untimely. Notwithstanding such objections and without waiving same, see Response to STF 19.1 above. Cox further states that it had no knowledge of First Mile's CC&N application answers until very recently and well after the complaint was filed in this docket.

RESPONDENT:    Mark DiNunzio  
  
Director, Regulatory Affairs

COX ARIZONA TELCOM, LLC  
RESPONSES TO  
STAFF'S NINETEENTH SET OF DATA REQUESTS TO  
Docket No. T-03471A-05-0064  
November 28, 2006

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**Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.**

STF 19.5 Please explain if Cox was aware that First Mile amended its CC&N application (T-0414A-02-0762) to provide local exchange and long distance telecommunications services in Arizona on July 9, 2003 (docketed July 14, 2003)?

(B-3): "The Applicant, First Mile Services, LLC, will rely on the financial resources of its Parent Company, First Mile Technologies, Inc. See attached Balance Sheet and Income Statement."

If "yes," please explain when Cox first became aware that First Mile had amended its application, as noted in (B-3)?

RESPONSE: Cox objects to this request as vague and ambiguous, irrelevant, and untimely. Notwithstanding such objections and without waiving same, see Response to STF 19.1 above. Cox further states that it had no knowledge of First Mile's CC&N application, including any amendment thereto, until very recently and well after the complaint was filed in this docket.

RESPONDENT: Mark DiNunzio  
Director, Regulatory Affairs

COX ARIZONA TELCOM, LLC  
RESPONSES TO  
STAFF'S NINETEENTH SET OF DATA REQUESTS TO  
Docket No. T-03471A-05-0064  
November 28, 2006

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Subject: **All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.**

STF 19.6 Please explain if Cox was aware of the following information from the October 7, 2003 Hearing regarding First Mile's CC&N application (T-0414A-02-0762).

From the 10/07/03 Hearing Transcript, Pages 12 - 13

BY MR. GELLMAN:

Q. Mr. Farmer, have you been in, and I don't mean to elicit any confidential discussions that are going on, but generally have you had any conversations with developers, large developers, about the services that you are intending to offer?

A. Yes. In fact, without mentioning the party because they were included in our original application, we were approached by a very substantial developer who is building a significant community in the Peoria area. And we were selected among a short list of providers to bid on that project. And it was well in excess of 10,000 lots. So in terms of, you know, the profile of the community we were looking for, it was perfect. Unfortunately, we lost that to Cox Communications.

Q. Have you been in contact with any other developer since?

A. We were. At the time that we were bidding on that, we approached two other developers in Arizona. They were interested but it was built around serving this one community because they would have been an easy fiber reach from the network operation center we would have built had we won that proposal.

If "yes," please explain when Cox first became aware of First Mile's above testimony in the October 7, 2003 Hearing regarding First Mile's CC&N application (T-0414A-02-0762).

RESPONSE: Cox objects to this request as vague and ambiguous, irrelevant, and untimely. Notwithstanding such objections and without waiving same, see Response to STF 19.1 above. Cox further states that it has no knowledge of any information related to First Mile's CC&N application hearing.

RESPONDENT: Mark DiNunzio  
Director, Regulatory Affairs

COX ARIZONA TELCOM, LLC  
RESPONSES TO  
STAFF'S NINETEENTH SET OF DATA REQUESTS TO  
Docket No. T-03471A-05-0064  
November 28, 2006

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**Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.**

STF 19.7      Please explain if Cox was in any way aware that Shea would publicly withdraw its financial support within First Mile's CC&N local exchange application for local exchange authority in Arizona at the time when the MUE&I was approved by the City of Peoria?

RESPONSE:      Cox objects to this request as vague and ambiguous, irrelevant, and untimely. Notwithstanding such objections and without waiving same, see Response to STF 19.1 above. Cox also had no knowledge of First Mile's CC&N application until very recently and well after the complaint was filed in this docket. Cox further states that it had no knowledge of any information concerning the above unsupported assertion that Shea would publicly withdraw its financial support within First Mile's CC&N local exchange application for local exchange authority in Arizona at the time when the MUE&I was approved by the City of Peoria.

RESPONDENT:      Mark DiNunzio  
  
Director, Regulatory Affairs