

OPEN MEETING ITEM



0000068657

COMMISSIONERS
MARC SPITZER - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES



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ARIZONA CORPORATION COMMISSION

2003 DEC 30 P 1:13

DATE: December 30, 2003

DOCKET NO: T-04024A-01-0461

AZ CORP COMMISSION
DOCUMENT CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Philip J. Dion III. The recommendation has been filed in the form of an Order on:

GLOBAL CREST COMMUNICATIONS, INC.
(CC&N/RESELLER)

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:

JANUARY 8, 2004

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 Open Meeting to be held on:

JANUARY 13 and 14, 2004

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 Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

DEC 30 2003

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DOCKETED BY

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This document is available in alternative formats by contacting Yvonne McFarlin, ADA Coordinator, voice phone number 602-542-3931, E-mail YMcFarlin@cc.state.az.us

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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 GLOBAL CREST COMMUNICATIONS, INC.
11 FOR A CERTIFICATE OF CONVENIENCE AND
12 NECESSITY TO PROVIDE COMPETITIVE
13 RESOLD INTEREXCHANGE
14 TELECOMMUNICATIONS SERVICES, EXCEPT
15 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04024A-01-0461

DECISION NO. _____

ORDER

16 Open Meeting
17 January 13 and 14, 2004
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

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

22 **FINDINGS OF FACT**

23 1. On June 6, 2001, Global Crest Communications, Inc. ("Applicant" or "GCC") filed
24 with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
25 provide competitive resold interexchange telecommunications services, except local exchange
26 services, within the State of Arizona.

27 2. Applicant is a switchless reseller that purchases telecommunications services from a
28 variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
of the Commission.

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

5. On July 3, 2001, Applicant filed an Affidavit of Publication indicating compliance
with the Commission's notice requirements.

1 6. On August 20, 2003, the Commission's Utilities Division Staff ("Staff") filed a Staff
2 Report in this matter recommending approval of the application subject to certain conditions, and
3 making other recommendations.

4 7. In its Staff Report, Staff stated that based on information obtained from the Applicant,
5 it has determined that GCC's fair value rate base is zero, and is too small to be useful in setting rates.
6 Staff further stated that in general, rates for competitive services are not set according to rate of return
7 regulation, but are heavily influenced by the market. Staff recommended that the Commission not set
8 rates for GCC based on the fair value of its rate base.

9 8. Staff believes that Applicant has no market power and that the reasonableness of its
10 rates will be evaluated in a market with numerous competitors. In light of the competitive market in
11 which the Applicant will be providing its services, Staff believes that the rates in Applicant's
12 proposed tariffs for its competitive services will be just and reasonable, and recommends that the
13 Commission approve them.

14 9. Staff recommended approval of GCC's application subject to the following:

15 (a) The Applicant should be ordered to comply with all Commission rules, orders,
16 and other requirements relevant to the provision of intrastate telecommunications
17 service;

18 (b) The Applicant should be ordered to maintain its accounts and records as
19 required by the Commission;

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

23 (d) The Applicant should be ordered to maintain on file with the Commission all
24 current tariffs and rates, and any service standards that the Commission may require;

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

28 (f) The Applicant should be ordered to cooperate with Commission investigations
of customer complaints;

 (g) The Applicant should be ordered to participate in and contribute to a universal
service fund, as required by the Commission;

1 (h) The Applicant should be ordered to notify the Commission immediately upon
2 changes to the Applicant's address or telephone number;

3 (i) The Applicant's interexchange service offerings should be classified as
4 competitive pursuant to A.A.C. R14-2-1108;

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

9 (k) In the event that the Applicant states only one rate in its proposed tariff for a
10 competitive service, the rate stated should be the effective (actual) price to be charged
11 for the service as well as the service's maximum rate.

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

15 11. GCC's proposed tariff indicates that it intends to collect advances, deposits, and
16 prepayments from its customers. GCC provided its unaudited financial statements for the period
17 ending December 31, 2002. The financial statements list assets of \$35,674, negative equity of \$2.3
18 million and a net loss of \$2.05 million.

19 12. Based on GCC's indication it will collect advances, deposits, and prepayments, Staff
20 also recommended that:

21 (a) GCC's Certificate should be conditioned upon the Applicant procuring a
22 performance bond as described below, and filing proof of that performance
23 bond within 365 days from the date of an Order in this matter, or 30 days prior
24 to providing service, whichever comes first, and the bond must remain in effect
25 until further Order of the Commission;

26 (b) GCC be required to procure a performance bond in the initial amount of
27 \$10,000, with the minimum bond amount of \$10,000 to be increased if at any
28 time it would be insufficient to cover all advances, deposits, or prepayments
collected from its customers, in the following manner: The bond amount
should be increased in increments of \$5,000, with such increases to occur
whenever the total amount of the advances, deposits, and prepayments reaches
a level within \$1,000 under the actual bond amount, and

(c) If at some time in the future, GCC does not collect from its customers any
advances, prepayments or deposits, then GCC should be allowed to file with
the Commission a request for cancellation of its established performance bond.
Staff stated that after a review of such filing, Staff would forward its

recommendation on the matter to the Commission for a Decision.

13. Staff recommended that if the Applicant fails to meet the timeframes outlined in Findings of Fact. Nos. 10 and 12 above, then GCC'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. GCC's fair value rate base is zero.

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 resold interexchange telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for providing competitive resold interexchange telecommunications services in Arizona.

6. Staff's recommendations in Findings of Fact No. 7, 8, 9, 10, 12 and 13 should be adopted.

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

ORDER

IT IS THEREFORE ORDERED that the application of Global Crest Communications, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted, conditioned upon its compliance with the conditions recommended by Staff as set forth in Findings of

1 Fact Nos. 9, 10 and 12 above.

2 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
3 7, 8, 9, 10 and 12 above are hereby adopted.

4 IT IS FURTHER ORDERED that Global Crest Communications, Inc. shall comply with the
5 adopted Staff recommendations as set forth in Findings of Fact Nos. 9, 10 and 12 above.

6 IT IS FURTHER ORDERED that if Global Crest Communications, Inc. fails to meet the
7 timeframes outlined in Findings of Fact Nos. 10 and 12 above, then the Certificate conditionally
8 granted herein shall become null and void without further Order of the Commission.

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

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
11
12

13 CHAIRMAN

COMMISSIONER

COMMISSIONER

14
15 COMMISSIONER

COMMISSIONER

16 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
17 Secretary of the Arizona Corporation Commission, have
18 hereunto set my hand and caused the official seal of the
19 Commission to be affixed at the Capitol, in the City of Phoenix,
20 this ____ day of _____, 2003.

21 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

22 DISSENT _____

23 DISSENT _____

24 PD:mj
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1 SERVICE LIST FOR: GLOBAL CREST COMMUNICATIONS, INC.

2 DOCKET NO.: T-T-04024A-01-0461

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