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BEFORE THE ARIZONA CORPORATION COMMISSION

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2007 NOV 27 A 11: 33
AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF VANCO DIRECT USA, LLC, FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD LONG DISTANCE TELECOMMUNICATIONS SERVICES AND RESOLD PRIVATE LINE TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-20404A-05-0599

IN THE MATTER OF THE APPLICATION OF VANCO DIRECT USA, LLC, FOR APPROVAL TO INFORM THE COMMISSION OF A TRANSACTION WHEREBY LLOYDS TSB BANK, PLC, WILL MAKE AVAILABLE TO VANCO AND CERTAIN OF ITS AFFILIATES THE SUM OF 100 MILLION POUNDS STERLING WHICH WILL BE SECURED BY THE GUARANTEE OF VANCO, A SECURITY INTEREST IN VANCO'S ASSETS, AND A PLEDGE OF VANCO'S MEMBERSHIP INTERESTS.

DOCKET NO. T-20404A-07-0261

Arizona Corporation Commission
DOCKETED

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PROCEDURAL ORDER

BY THE COMMISSION:

On August 22, 2005, Vanco Direct USA, LLC ("Vanco") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold long distance and resold local exchange telecommunications services within the State of Arizona.

On August 29, 2005, the Commission's Utilities Division Staff ("Staff") issued a letter of insufficiency and data request to Vanco. There were no filings in this docket between August 29, 2005, and August 30, 2006.

On August 30, 2006, by Procedural Order, Staff was directed to provide the Commission an update on the status of the matter and indicate whether the matter should be administratively closed.

1 On September 8, 2006, Staff issued a second letter to Vanco inquiring whether Vanco wished
2 to continue with or withdraw its application for a CC&N.

3 On September 29, 2006, Staff filed an update in this matter recommending that the docket
4 remain open, as Staff had been informed by Vanco's representative that Vanco desired to continue
5 with its application for a CC&N.

6 On October 3, 2006, Vanco filed Responses to Staff's First Set of Data Requests.

7 On February 16, 2007, Staff issued a second letter of insufficiency to Vanco.

8 On April 27, 2007, Vanco filed a letter to inform the Commission of a financial transaction
9 through which Lloyds TSB Bank PLC will make available to Vanco and certain of its affiliates the
10 sum of £100 million (approximately \$200 million), which will be secured by the guarantee of Vanco,
11 a security interest in Vanco's assets, and a pledge of Vanco's membership interests. This letter was
12 assigned Docket No. T-20404A-07-0261.

13 On May 15, 2007, Staff filed a Motion to Consolidate Docket No. T-20404A-05-0599 and
14 Docket No. T-20404A-07-0261.

15 On June 5, 2007, by Procedural Order, Staff's Motion to Consolidate Docket No. T-20404A-
16 05-0599 and Docket No. T-20404A-07-0261 was granted.

17 On August 13, 2007, Vanco filed a revised application indicating that it desires to obtain a
18 CC&N to provide resold long distance and resold private line telecommunications services. Vanco's
19 revised application does not indicate that it desires authority to provide resold local exchange
20 telecommunications services.

21 On October 11, 2007, Staff filed two separate Staff Reports in this matter. In the Staff Report
22 related to Vanco's CC&N application, Staff recommended approval of the application for a CC&N
23 and that a hearing be held. In the Staff Report related to Vanco's financing transaction, Staff
24 determined that the exemption in A.R.S. § 40-301(D) applies to Vanco, but recommended that the
25 Commission authorize Vanco's request to encumber its assets in the State of Arizona, subject to the
26 condition that any Arizona customer deposits and prepayments be excluded from encumbrance or
27 secured by a bond or irrevocable sight draft letter of credit that is not included in the pledged
28 collateral.

1 On October 16, 2007, a Procedural Order was issued in this matter scheduling a hearing for
2 November 26, 2007, and establishing other procedural deadlines, including a deadline for publication
3 of legal notice.

4 On November 21, 2007, Vanco filed a Motion for Continuance, requesting that the hearing be
5 continued for 60 days. The Motion was received by the Hearing Division on November 23, 2007,
6 and failed to make the showing of good cause required by Arizona Administrative Code ("A.A.C.")
7 R14-3-109(Q).

8 On November 26, 2007, a hearing before the undersigned, a duly authorized Administrative
9 Law Judge of the Commission, was commenced as scheduled. Staff appeared through counsel, and
10 Vanco failed to appear. No members of the public appeared to make comments. At the hearing, it
11 was determined that, in light of Vanco's failure to appear at the hearing and failure to file an
12 Affidavit of Publication of legal notice prior to the hearing, it would be appropriate to grant a
13 continuance until February 1, 2008, at 9:00 a.m. Furthermore, it was determined that it would be
14 appropriate to extend the Commission's time clock deadlines in this matter. Staff did not object to
15 the continuance, extension of the Commission's time clock deadlines, or new hearing date and time.

16 IT IS THEREFORE ORDERED that the **hearing** on the above application and petition of the
17 Applicant is continued and shall commence on **February 1, 2008, at 9:00 a.m.**, or as soon thereafter
18 as is practical, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona 85007.

19 IT IS FURTHER ORDERED that the Applicant shall cause legal notice of its applications
20 and the hearing, as stated below, to be published on or before **December 26, 2007**, in a newspaper(s)
21 of general circulation in every county in Arizona in which the Applicant desires to provide service
22 and that the Applicant **shall file with the Commission, no later than January 18, 2008**, Affidavit(s)
23 of Publication evidencing this publication of legal notice.

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**IN THE MATTER OF THE APPLICATION OF VANCO DIRECT USA, LLC,
FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD LONG DISTANCE
TELECOMMUNICATIONS SERVICES AND RESOLD PRIVATE LINE
TELECOMMUNICATIONS SERVICES.**

(Docket No. T-20404A-05-0599)

**IN THE MATTER OF THE APPLICATION OF VANCO DIRECT USA, LLC,
FOR APPROVAL TO INFORM THE COMMISSION OF A TRANSACTION
WHEREBY LLOYDS TSB BANK, PLC, WILL MAKE AVAILABLE TO
VANCO AND CERTAIN OF ITS AFFILIATES THE SUM OF 100 MILLION
POUNDS STERLING WHICH WILL BE SECURED BY THE GUARANTEE
OF VANCO, A SECURITY INTEREST IN VANCO'S ASSETS, AND A
PLEDGE OF VANCO'S MEMBERSHIP INTERESTS.**

(Docket No. T-20404A-07-0261)

On August 22, 2005, Vanco Direct USA, LLC ("Applicant") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold long distance and resold local exchange telecommunications services in the State of Arizona. On August 13, 2007, the Applicant revised its CC&N application to request authority to provide resold long distance and resold private line telecommunications services in the State of Arizona. On April 27, 2007, the Applicant filed a letter to inform the Commission of a transaction through which Lloyds TSB Bank PLC will make available to the Applicant and certain of its affiliates the sum of £100 million (approximately \$200 million), which will be secured by the guarantee of the Applicant, a security interest in the Applicant's assets, and a pledge of the Applicant's membership interests. The Commission's Utilities Division Staff ("Staff") has recommended approval of the Applicant's CC&N application and financing transaction. The Commission is not bound by the proposals made by the Applicant, Staff, or any intervenors, and the Applicant will be required to provide this service under the rates and charges and terms and conditions established by the Commission. Copies of the application, the Staff Report, and any written exceptions to the Staff Report filed by the Applicant are available at the Applicant's offices [insert address] and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

The Commission will hold a hearing on this matter beginning **February 1, 2008, at 9:00 a.m.**, at the Commission's offices, 1200 West Washington, Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission no later than **January 9, 2008**. The motion to intervene must be sent to the Applicant or its counsel and to all parties of record and must contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made, if different from the intervenor;
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Applicant, a shareholder of the Applicant, etc.); and

- 1 3. A statement certifying that a copy of the motion to intervene has been
2 mailed to the Applicant or its counsel and to all parties of record in the
3 case.

4 The granting of intervention, among other things, entitles a party to present sworn
5 evidence at the hearing and to cross-examine other witnesses. However, failure to
6 intervene will not preclude any interested person or entity from appearing at the
7 hearing and providing public comment on the application or from filing written
8 comments in the record of the case. You will not receive any further notice of this
9 proceeding unless you request it.

10 If you have any questions about this application, you may contact the
11 Applicant at **[insert telephone number]**. If you wish to file written comments on the
12 application or want further information on intervention, you may contact the
13 Consumer Services Section of the Commission at 1200 West Washington Street,
14 Phoenix, Arizona 85007, or call 1-800-222-7000.

15 The Commission does not discriminate on the basis of disability in admission
16 to its public meetings. Persons with a disability may request a reasonable
17 accommodation such as a sign language interpreter and may request this document in
18 an alternative format by contacting the Commission's ADA Coordinator, Linda
19 Hogan, by e-mail at LHogan@azcc.gov or by voice phone number at (602) 542-3931.
20 Requests should be made as early as possible to allow time to arrange the
21 accommodation.

22 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
23 105, except that all motions to intervene must be filed on or before **January 9, 2008**.

24 IT IS FURTHER ORDERED that any objection to a motion to intervene must be filed on or
25 before **January 18, 2008**.

26 IT IS FURTHER ORDERED that the Applicant shall file specific disagreements/comments,
27 if any, regarding the Staff Reports on or before **December 26, 2007**, and that intervenors shall file
28 specific disagreements/comments, if any, regarding the applications and Staff Reports on or before
January 18, 2008.

IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
pro hac vice.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
Rules of the Arizona Supreme Court). Representation before the Commission includes appearing at
all hearings, procedural conferences, and Open Meetings at which the matter is scheduled for

1 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
2 Law Judge or the Commission.

3 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113—Unauthorized
4 Communications) applies to this proceeding and shall remain in effect until the Commission's
5 Decision in this matter is final and non-appealable.

6 IT IS FURTHER ORDERED that the Commission's time clock deadlines in this matter are
7 hereby extended by 68 days.

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

10 DATED this 27th day of November, 2007.

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13 
14 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed
16 this 27th day of November, 2007 to:

17 Benjamin W. Bronston
18 NOWALSKY, BRONSTON & GOTHARD, APLLC
19 3500 North Causeway Blvd., Suite 1442
Metairie, LA 70002
Attorney for Vanco Direct USA, LLC

20 Mr. Christopher Kempley, Chief Counsel
Legal Division
21 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
22 Phoenix, Arizona 85007

23 Mr. Ernest Johnson, Director
Utilities Division
24 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
25 Phoenix, Arizona 85007

26 ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
27 Phoenix, AZ 85004-1481

By: 
Debra Broyles
Secretary to Sarah N. Harpring

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