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FROM: Ernest G. Johnson  
Director  
Utilities Division

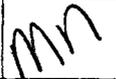
2008 AUG 18 ALEB1  
EA for ELSI  
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Arizona Corporation Commission

DOCKETED

AUG 18 2008

DATE: August 18, 2008

DOCKETED BY 

RE: **UPDATE - IN THE MATTER OF THE APPLICATION OF ATX LICENSING, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD LONG DISTANCE TELECOMMUNICATIONS SERVICES (DOCKET NO. T-04310A-05-0127)**

On February 28, 2005, ATX Licensing, Inc. ("ATX-L" or "Applicant") filed an Application for a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange services within the State of Arizona. The Applicant is a wholly owned, indirect subsidiary of ATX-L Communications, Inc. ("ATX-C"). In its Application, ATX-L submitted, as Attachment D, a copy of ATX Communications, Inc.'s financial statements for the year ending December 31, 2002.

On March 2, 2005, Staff filed a Letter of Insufficiency and its First Set of Data Requests. The Applicant responded to Staff's First Set of Data Requests and filed four revised pages of ATX-L's proposed Arizona tariff on March 28, 2005. On March 30, 2005, the Applicant filed a copy of the Affidavit of Publication from the Arizona Republic of its legal notice of its Application.

ATX-L filed a letter on April 27, 2005, to inform the Commission that ATX-L, its parent company, ATX-C and its affiliates emerged from bankruptcy as of April 22, 2005. As result, ATX-L was ultimately owned by Leucadia National Corporation ("Leucadia").

On June 26, 2006, Staff filed a Letter of Insufficiency and sent its Second Set of Data Requests. The Applicant responded to Staff's Second Set of Data Requests on July 26, 2006.

On September 5, 2006, Brett Ferenchack, the Applicant's legal representative, informed Staff that ATX-L will have a new owner within a month. Mr. Ferenchack also stated that he believed the new owner would not want to have its financial information disclosed. Staff contacted Mr. Ferenchack on September 7, 2006 to determine if the Applicant would rely on the financial resources of the new owner. Mr. Ferenchack stated that he would advise Staff. Mr. Ferenchack has yet to advise Staff of the new owner's position on the disclosure of its financial information.

On June 7, 2007, Mr. Ferenchack, on behalf of ATX-L, provided Staff a copy of the Securities and Exchange Commission Form S-4 financial statements filed by Broadview Networks Holdings, Inc. (“BNHI”). According to the Form S-4 filing, BNHI entered into a merger agreement with ATX Communications, Inc. and its shareholders and Leucadia in June 2006. The merger agreement was closed and became effective in September 2006.<sup>1</sup> ATX-L’s application was not updated to reflect that ownership of ATX-L had been transferred from Leucadia National Corporation to BNHI.

Staff recommends that the Applicant be required to amend its application to reflect any and all changes relating to the Applicant’s responses in its Application and subsequent data requests. Upon the completion of its discovery, Staff will prepare a Staff Report.

EGJ:JFB:red

Originator: John F. Bostwick

Attachment: Original and Thirteen Copies

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<sup>1</sup> Refer to Form S-7 on Page F-7 under “*Change of Ownership*” Heading in the Third Paragraph for details.

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DOCKET NO. T-04310A-05-0127

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