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MEMORANDUM
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TO: Docket Control Center
FROM: Ernest G. Johnson
Director
Utilities Division

2008 DEC 8 P 3:00
GA FOR GGT
AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

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DEC - 8 2008

DATE: December 8, 2008

DOCKETED BY
MM

RE: AMERICAN FIBER NETWORK, INC. - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINE (DOCKET NO. T-03815A-06-0747)

In Decision No. 70512, dated September 30, 2008, the Arizona Corporation Commission ("Commission") approved the application of American Fiber Network, Inc. ("American Fiber" or "Company") for a Certificate of Convenience and Necessity ("CC&N") to provide facilities based local exchange and switched access telecommunications services. The Company was ordered to do the following within 30 days of the September 30, 2008 decision:

"Provide a performance bond(s) or irrevocable sight draft letter(s) of credit for its facilities based local exchange telecommunications services in the amount of \$100,000, for a combined performance bond(s) or irrevocable sight draft letter(s) of credit of \$125,000."

On November 5, 2008, American Fiber docketed a "request for extension" of time until December 15, 2008 for the provision of the above compliance requirement. In the application (attached), the Company stated that they were "unable to secure said bond or letter of credit due in part to the upheaval in the financial markets". This upheaval was causing the Company to change bonding companies and this was driving the need for an extension of time in providing the Commission ordered filing.

On December 4, 2008, Staff contacted Mr. Rob Heath, Executive Vice President, to discuss the Company request for extension of time. Mr. Heath stated that the Company expected to meet the December 15 proposed date based on previous discussions with one bonding agency but has been forced to search for a new bonding agency. This change will result in a new search centering on discussions with other surety companies over the cost and appropriate language to be utilized in the bond. As such, Mr. Heath stated that he could well require additional time beyond his original December 15, 2008 proposed extension date. Staff accepted Mr. Heath's request as a verbal amendment to the original December 15, 2008 date outlined in his November 5, 2008 application for extension of time.

Based on the uncertainty currently being evidenced in the financial markets, it is reasonable to allow additional time for the Company to comply with the bonding/letter of credit ("LOC") requirement. Further, the Company could have additional issues in negotiating the bond/LOC as they move forward. Finally, during the discussion with Mr. Heath, it was Staff's

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impression that he is concerned about this Commission requirement and is interested in achieving compliance.

In summary, although the Company requested an extension of time until December 15, 2008, they have verbally amended that request and asked for an undefined amount of additional time. Staff believes additional time is appropriate due to the Company's search for bond firm, the markets in general and the holiday season. Based on the application and all of the above, Staff therefore recommends that the Commission grant American Fiber an extension of time to comply with the bond/LOC requirement until January 31, 2009.

EGJ:BKB:lm

Originator: Brian K. Bozzo

Attachment

SERVICE LIST FOR: AMERICAN FIBER NETWORK, INC.
DOCKET NO. T-03815A-06-0747

Mr. Robert Heath
American Fiber Network, Inc.
9401 Indian Creek Parkway, Suite 280
Overland Park, Kansas 66210

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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November 3, 2008

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VIA FedEx

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
Attention: Docket Control
1200 W. Washington Street
Phoenix, AZ 85007-2927

Re: Request for Extension –
Docket No. T-03815A-06-0747 Decision 70512

Dear Sir or Madam:

Enclosed please find an original and thirteen copies of the request by American Fiber Network, Inc. for an extension of time to file the performance bond or letter of credit requested in the above mentioned docket and decision.

If you have any questions, please call me at 214-221-0089 or contact me by email at rob.heath@afnltd.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob E Heath", written over a horizontal line.

Robert E. Heath
EVP

Arizona Corporation Commission
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DOCKETED BY A rectangular stamp with the text "DOCKETED BY" on the left and a box on the right containing the handwritten initials "MN".

ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007-2927

IN THE MATTER OF THE APPLICATION	}	
OF AMERICAN FIBER NETWORK, INC., FOR	}	
APPROVAL OF A CERTIFICATE OF	}	
CONVENIENCE AND NECESSITY TO	}	Docket No.
PROVIDE FACILITIES-BASED LOCAL	}	T-03815A-06-0747
EXCHANGE AND SWITCHED ACCESS	}	
TELECOMMUNICATIONS SERVICES.	}	Decision No. 70512

Request for Extension

American Fiber Network, Inc. ("AFN") hereby requests a forty-six (46) day extension for the filing of the performance bond or letter of credit as required by the above-referenced decision. According to the Opinion and Order of the Arizona Corporation Commission ("Commission") on September 30, 2008, AFN was ordered to procure a performance bond or an irrevocable sight draft letter of credit in the amount of \$125,000 and file the original of bond or letter of credit with the Commission's Business Office and copies with Docket Control within 30 days of the Effective Date of the Decision, or October 30, 2008. AFN has since been unable to secure said bond or letter of credit due in part to the upheaval in the financial markets, which is causing our need to change bond companies. The notification of our need to change bond companies was received late last week. Therefore, we hereby request a forty-six day extension from October 30, 2008 so that the bond or letter of credit will be due December 15, 2008 in order to allow AFN adequate time to arrange for the issuance of the bond or letter of credit.

Submitted this 3rd day of November, 2008



Robert E. Heath
EVP, American Fiber Network, Inc.