

ORIGINAL



0000091975

MEMORANDUM

RECEIVED

TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

EA for EGT

2008 DEC 17 P 3:07

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 17 2008

DATE: December 17, 2008

DOCKETED BY	<i>MA</i>
-------------	-----------

RE: MIDVALE TELEPHONE EXCHANGE, INC. - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINE (DOCKET NO. T-02532A-03-0017)

In Decision No. 66510, dated November 10, 2003, the Arizona Corporation Commission ("Commission") approved the application of Midvale Telephone Exchange, Inc. ("Midvale" or "Company") for authorization to provide facilities-based basic local exchange service and toll access telephone service to currently unserved residential developments known as Crossroads Ranch, Poquito Valley and Breezy Pine. In the decision, approval of Midvale's Certificate of Convenience and Necessity ("CC&N") was conditioned upon:

"...Midvale's filing a certification that it has obtained all of the required tower and right-of-way permits with the Director of the Commission's Utilities Division, within 365 days of the effective date of a decision."

On November 17, 2008, Midvale docketed a "request for extension of time for compliance with Decision 66510". In the attached request, the Company states that their original plan was to serve the Poquito subdivision via an above ground radio tower located in the subdivision itself but when the plan met resistance from homeowners, "the plan was abandoned in favor of serving the area by underground cable". The application further states that the need for an extension was discussed with the Commission Staff and the presiding Administrative Law Judge in a related hearing (Docket No. T-02532A-07-0586) and it was agreed that the Company would apply for an extension.

The Company outlines five required permits in the process. Each of these permits and its expected timeframe is shown below:

- A. National Forest Service Permitting – All applications and information submitted. Waiting on a cultural survey report and response. Midvale expects issuance of permit at end of February 2009.
- B. Bureau of Land Management Permitting – Application submitted October 29, 2007, but Bureau only recently assigned personnel to evaluate. Hopeful that issuance of permit will be in early 2009.
- C. Arizona State Land Department Permitting – Application submitted March 18, 2008 to cross Arizona Trust Lands governed by the Arizona State Land Department ("ASLD"). All information supplied. Pending ASLD decision. Midvale expects decision in early 2009.

- D. Arizona Department of Transportation Permitting – Application submitted on April 30, 2008. All required information submitted. Midvale expects a permit to construct to be issued within 30 days of Midvale notice to the department that they are ready for construction.

- E. Yavapai County Permitting – The County has no concerns and will issue an easement upon receipt of an application. Midvale will submit an application in early 2009.

In summary, Midvale encountered a project delay but is moving forward with a new plan to serve customers via underground cable. They have submitted all the required permitting applications (with the exception of Yavapai County) and expect responses in early to mid 2009. The Company is therefore seeking an extension of time until December 31, 2009 for the completion and submission of the various permits.

Staff was aware that the Company would be required to seek numerous permits for the underground cable process and understands the need for additional time for the permitting process. This was communicated directly to the Administrative Law Judge in the hearing on a related Midvale matter.

Staff believes additional time is appropriate due to the Company's shift in construction and the associated permitting responsibilities. Based on the application and all of the above, Staff recommends that the Commission grant Midvale an extension of time to comply with the required permits until December 31, 2009.

EGJ:BKB:lmh

Originator: Brian K. Bozzo

Attachment

SERVICE LIST FOR:
DOCKET NO.

MIDVALE TELEPHONE EXCHANGE, INC.
T-02532A-03-0017

Mr. Lane R. Williams
Midvale Telephone Exchange, Inc.
Post Office Box 7
Midvale, Idaho 83645

Ms. Ann Hobart
Brown & Bain PA
Post Office Box 400
Phoenix, Arizona 85011-0400

Mr. Conley E. Ward
Ms. Cynthia A. Melillo
Givens Pursley, LLP
277 North Sixth Street, Suite 200
Post Office Box 2720
Boise, Idaho 83701

Mr. Joe F. Tarver
2960 North Swan Road, Suite 300
Tucson, Arizona 85712-1292

Mr. John Hayes
General Manager
Table Top Telephone Company, Inc.
600 North Second Avenue
Ajo, Arizona 85321

Mr. Timothy Berg
Ms. Theresa Dwyer
Ms. Darcy Renfro
Fennemore Craig
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
Attorneys for Qwest Corporation

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

Ms. Janice M. 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

ORIGINAL

1 Gary H. Horton, Esq.
2 Arizona Bar No.: 021517
3 PMB 447
4 989 S. Main St., Suite A
5 Cottonwood, Arizona 86326
6 928-649-9413

7 Attorney for Midvale Telephone Exchange, Inc.

RECEIVED

2008 NOV 17 A 9:41

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

198

BEFORE THE ARIZONA CORPORATION COMMISSION

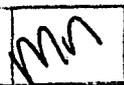
Arizona Corporation Commission

DOCKETED

NOV 17 2008

COMMISSIONERS

9 MIKE GLEASON - Chairman
10 JEFF HATCH-MILLER
11 WILLIAM A. MUNDELL
12 KRISTIN K. MAYES
13 GARY PIERCE

DOCKETED BY 

14 **IN THE MATTER OF THE**
15 **APPLICATION OF MIDVALE**
16 **TELEPHONE EXCHANGE, INC. FOR**
17 **AUTHORIZATION TO PROVIDE**
18 **FACILITIES-BASED LOCAL EXCHANGE**
19 **SERVICE TO CURRENTLY UNSERVED**
20 **RESIDENTIAL DEVELOPMENTS**
21 **KNOWN AS CROSSROADS RANCH,**
22 **POQUITO VALLEY AND BEEZY PINE.**

DOCKET NO.: T-0253A-03-0017

REQUEST FOR EXTENSION OF TIME
FOR COMPLIANCE WITH DECISION
66510

23 Midvale Telephone Exchange, (hereinafter "Midvale" or "Applicant"), through counsel,
24 hereby respectfully submits an updated status of its compliance with Decision 66510 and
25 requests an extension of time to December 31, 2009 for its compliance with Decision 66510.

Midvale avows that it has discussed with Arizona Corporation Commission Utility Division Staff
("Staff") its request for an extension of time to comply with Decision 65510 and that Staff
indicated no objection to the requested extension of time.

1 **I. REQUIRED COMPLIANCE**

2 Midvale has one remaining compliance issue stemming from Decision 66510. The
3 decision requires Midvale to:

4 File a certification with the Director of the Utilities Division that all the required
5 tower and right of way permits have been obtained within 365 days of the
6 effective date of this Decision.

7 **II. COMPLIANCE STATUS**

8 Midvale originally intended to serve the Poquito subdivision by locating a receiving
9 microwave radio tower in the subdivision. However, that plan met substantial resistance from
10 the homeowners. The plan was abandoned in favor of serving the area by underground cable.

11 On November 9, 2008 Midvale filed a "Status of Compliance" updating the status of Midvale's
12 various permit applications required for the installation of necessary cable.

13 The issue of Midvale's compliance in this docket was discussed with Commission Staff
14 and with the presiding Administrative Law Judge in a hearing regarding Midvale's application to
15 extend its service territory in docket T-02532A-07-0586. It was agreed that Midvale would file a
16 request for extension of time to comply with decision 66510. An updated status of Midvale's
17 required permits follows.

18 **A. National Forest Service Permitting**

19 An application was submitted on February 20, 2007, to cross approximately ten miles
20 within the Prescott National Forest. The required application has been submitted to, and
21 accepted by the National Forest Service. The National Forest Service indicates Midvale has
22 provided all requested information required under the National Environmental Policy Act for
23 evaluation of Midvale's permit application.

24 The Forest Service now indicates that it has forwarded the cultural survey report to AZ
25 SHPO and is waiting for the SHPO reply. The Forest Service indicates that the SHPO reply will

1 complete all necessary information on which to base its decision. Midvale estimates the
2 necessary permit will be issued by the end of February, 2009.

3 **B. Bureau of Land Management Permitting**

4 An application was submitted on October 29, 2007 to cross approximately ½ mile of land
5 administered by the Bureau of Land Management (BLM). It is our understanding that the BLM
6 has only recently assigned personnel to evaluate the application. Midvale hopes to receive the
7 BLM decision early in 2009.

8 **C. Arizona State Land Department Permitting**

9 An application was submitted on March 18, 2008 to cross approximately seven miles of
10 Arizona Trust Lands over which the Arizona State Land Department (ASLD) exercises
11 authority. ASLD has informed Midvale that ASLD has all required information to make its
12 decision. Midvale anticipates a decision in early 2009.

13 **D. Arizona Department of Transportation Permitting**

14 An application was submitted to the Arizona Department of Transportation (ADOT) on
15 April 30, 2008 to cross approximately seven miles of State Route 89A right of way. On August
16 26, 2008, ADOT informed Midvale that all required information has been received and a permit
17 to construct will be issued within 30 days of Midvale indicating to ADOT that it is ready to begin
18 construction.

19 **E. Yavapai County Permitting**

20 On January 11, 2008, Yavapai County indicated it had no concerns regarding the project.
21 The County further indicated that it would issue an easement to occupy the right-of-way upon
22 receipt of an application. Midvale will submit its application early in 2009 when the other
23 permitting agencies near completion of their respective permitting processes.

24

25

1 **III. REQUEST FOR EXTENSION OF TIME TO COMPLY**

2 Due to concerns regarding its construction of the planned microwave tower, progress on
3 the Poquito project has been significantly delayed. Midvale is moving forward with providing
4 service to the area via buried cable. Applications for required permits have been submitted with
5 the exception of the Yavapai County right-of-way permit. Midvale estimates that all permitting
6 will be completed no later than December 31, 2009 and requests its time to comply be extended
7 until December 31, 2009. Staff has indicated it does not object to the requested extension.

8 RESPECTFULLY SUBMITTED this 14th day of November, 2008.

9
10
11
12 
13 _____
14 Gary H. Horton, Esq.
15 Attorney for Midvale Telephone Exchange, Inc.
16
17

18 Original and 14 copies of the foregoing
19 mailed this 14th day of November, 2008 to:

20 Docket Control
21 Arizona Corporation Commission
22 1200 West Washington St.
23 Phoenix, Arizona 85007-2996

24 Copies of the foregoing mailed this
25 14th day of November, 2008 to:

Lynn Farmer, Esq.
Chief Administrative Law Judge
Hearing Division

