

ORIGINAL



0000093159

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2009 JAN 28 P 3: 32

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
BANDWIDTH.COM CLEC, LLC, FOR
APPROVAL OF A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
RESOLD LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES, RESOLD
LONG DISTANCE TELECOMMUNICATIONS
SERVICES, FACILITIES-BASED LOCAL
EXCHANGE TELECOMMUNICATIONS
SERVICES, AND FACILITIES-BASED LONG
DISTANCE TELECOMMUNICATIONS
SERVICES.

DOCKET NO. T-20562A-07-0615

Arizona Corporation Commission
DOCKETED

JAN 28 2009

DOCKETED BY

PROCEDURAL ORDER

BY THE COMMISSION:

On October 23, 2007, Bandwidth.com CLEC, LLC ("Bandwidth" or "Company"), submitted to the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold local exchange telecommunications services, resold long distance telecommunications services, facilities-based local exchange telecommunications services, and facilities-based long distance telecommunications services in Arizona ("Application").

On November 26, 2007, the Commission's Utilities Division ("Staff") filed its Letter of Insufficiency and First Set of Data Requests ("Data Requests") in this matter.

On November 29, 2007, Bandwidth filed its Attachment B to Application.

On January 18, 2008, Bandwidth filed its Amended Application.

On January 31, 2008, Bandwidth filed its Response to the Data Requests.

On July 31, 2008, Bandwidth filed its second Amended Application.

On August 28, 2008, Bandwidth filed its Supplemental Response to the Data Requests.

On December 10, 2008, Bandwidth filed its Supplemental Response to Staff's Second Set of Data Requests.

1 On January 16, 2009, Staff filed its Staff Report recommending approval of the Application.
2 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern
3 the preparation and conduct of this proceeding.

4 IT IS THEREFORE ORDERED that the **hearing** on the above application shall commence
5 on **March 18, 2009, at 10:00 a.m.** or as soon thereafter as is practical, at the Commission’s offices,
6 Hearing Room 100, 1200 West Washington Street, Phoenix, Arizona 85007.

7 IT IS FURTHER ORDERED that Company shall publish notice of the hearing as stated
8 below, in a newspaper(s) of general circulation in every county in Arizona in which Company desires
9 to provide service **as soon as possible, but no later than February 18, 2009**, and shall file
10 Affidavits of Publication with the Commission no later than **March 4, 2009**.

11 **IN THE MATTER OF THE APPLICATION OF BANDWIDTH.COM CLEC,**
12 **LLC, FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND**
13 **NECESSITY TO PROVIDE TO PROVIDE RESOLD LOCAL EXCHANGE**
14 **TELECOMMUNICATIONS SERVICES, RESOLD LONG DISTANCE**
15 **TELECOMMUNICATIONS SERVICES, FACILITIES-BASED LOCAL**
16 **EXCHANGE TELECOMMUNICATIONS SERVICES, AND FACILITIES-**
17 **BASED LONG DISTANCE TELECOMMUNICATIONS SERVICES.**

18 **Docket No. T-20562A-07-0615**

19 On October 23, 2007, Bandwidth.com CLEC, LLC (“Company”) submitted to the
20 Arizona Corporation Commission (“Commission”) an application for a Certificate of
21 Convenience and Necessity (“Certificate”) to provide resold local exchange
22 telecommunications services, resold long distance telecommunications services,
23 facilities-based long distance telecommunications services, and facilities-based local
24 exchange telecommunications services. The Commission’s Utilities Division (“Staff”)
25 has recommended approval of the Company’s application. The Commission is not
26 bound by the proposals made by the Company, Staff, or any intervenors, and the
27 Company will be required to provide this service under the rates and charges and
28 terms and conditions established by the Commission. Copies of the application, report
of Staff, and any written exceptions to the report of Staff filed by the Company will be
available at the Company’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 **March 18, 2009, at
10:00 a.m.**, at the Commission’s offices, Hearing Room 100, 1200 West Washington,
Phoenix, Arizona. Public comments will be taken on the first day of the hearing.
Written public comments may be submitted via email (visit
<http://www.azcc.gov/utility/cons/index.htm> for instructions), or by mailing a letter
referencing **Docket Number T-20562A-07-0615** to: Arizona Corporation
Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ
85007.

1 The law provides for an open public hearing at which, under appropriate
 2 circumstances, interested parties may intervene. Intervention shall be permitted to any
 3 person entitled by law to intervene and having a direct and substantial interest in the
 4 matter. Persons desiring to intervene must file a written motion to intervene with the
 5 Commission up to the day of the hearing. The motion to intervene must be sent to the
 6 Company or its counsel and to all parties of record, and must contain the following:

- 4 1. The name, address, and telephone number of the proposed intervenor
 5 and of any party upon whom service of documents is to be made if
 6 different from the intervenor;
- 7 2. A short statement of the proposed intervenor's interest in the
 8 proceeding (e.g., a customer of the Company, a shareholder of the
 9 Company, etc.); and
- 10 3. A statement certifying that a copy of the motion to intervene has been
 11 mailed to the Company or its counsel and to all parties of record in the
 12 case.

13 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
 14 that all motions to intervene must be filed on or before February 25, 2009. If
 15 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
 16 Court, intervention will be conditioned upon the intervenor obtaining counsel to
 17 represent the intervenor. For information about requesting intervention, visit the
 18 Arizona Corporation Commission's webpage at
 19 <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among
 20 other things, entitles a party to present sworn evidence at hearing and to cross-examine
 21 other witnesses.

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

27 The Commission does not discriminate on the basis of disability in admission to its
 28 public meetings. Persons with a disability may request a reasonable accommodation
 such as a sign language interpreter, as well as request this document in an alternative
 format, by contacting the ADA Coordinator, Shaylin Bernal, at SBernal@azcc.gov,
 voice phone number 602-542-3931. Requests should be made as early as possible to
 allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
 105, except that all motions to intervene shall be filed by **February 25, 2009**.

IT IS FURTHER ORDERED that any objections to interventions shall be filed by **March 6,**
2009.

IT IS FURTHER ORDERED that Bandwidth or any intervenors shall file specific
 disagreements/comments, if any, regarding the Staff Report by **March 6, 2009**.

IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules

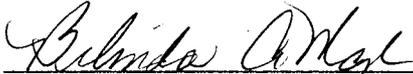
1 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law in Arizona and
2 before the Commission and admission *pro hac vice*.

3 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
4 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
5 Rules of Arizona Supreme Court). Representation before the Commission includes appearance at all
6 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
7 for discussion, unless counsel has previously been granted permission to withdraw by the
8 Administrative Law Judge or the Commission.

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

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

14 Dated this 26^R day of January, 2009.

15
16 
17 _____
18 BELINDA A. MARTIN
19 ADMINISTRATIVE LAW JUDGE

20 Copies of the foregoing mailed/delivered
21 this 26th day of January, 2009, to:

22 Katie Besha, Esq.
23 BINGHAM McCUTCHEN, LLP
24 2020 K Street, N.W.
25 Washington, D.C. 20006

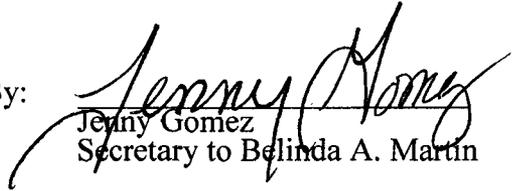
26 Michael T. Hallum, Esq.
27 LEWIS AND ROCA, LLP
28 40 North Central Avenue
Phoenix, Arizona 85004

29 Janice Alward, Chief Counsel
30 Legal Division
31 ARIZONA CORPORATION COMMISSION
32 1200 West Washington Street
33 Phoenix, AZ 85007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Ave., Suite 502
Phoenix, Arizona 85004-1184

By: 
Jenny Gomez
Secretary to Belinda A. Martin