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MEMORANDUM RECEIVED

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FROM: Ernest G. Johnson
Director
Utilities Division

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AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

JAN 30 2009

DATE: January 30, 2009

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RE: NAVIGATOR TELECOMMUNICATIONS, LLC - REQUEST FOR EXTENSION OF TIME (DOCKET NO. T-20398A-06-0346)

In Decision No. 69884, dated August 28, 2007, the Arizona Corporation Commission ("Commission") approved the application of Navigator Telecommunications, LLC ("Navigator") for a Certificate of Convenience and Necessity ("CC&N") to provide telecommunications services in Arizona.

As part of Decision No. 69884, the Commission made the following compliance requirement of Navigator:

"Procure a performance bond or irrevocable sight draft letter of credit equal to \$125,000."

"Docket Proof of the performance bond or irrevocable sight draft letter of credit within 365 days of the effective date of a Decision in this matter or 30 Days prior to the provision of service, whichever comes first."

Based on the 365 days of time allotted in Decision No. 69884, the bond or letter of credit was originally due on or about August 28, 2008.

On December 30, 2008, Navigator docketed a letter to the Commission requesting an extension of time to provide the bond or letter of credit outlined above. The Company asked that the Commission extend the August 28, 2008 due date for an appropriate time to allow the processing of another Navigator case (Docket No. T-20398A-08-0463) in which the Company is seeking to cancel the portion of the CC&N related to facilities-based local services. That application also seeks a reduction of the bond requirement.

Staff contacted Mr. Michael McAlister, the Company's General Counsel, to discuss the request for extension. Typically, Staff requires an applicant for extension of time to provide a stated/proposed length of time for the requested extension. However, Mr. McAlister stated that the proper extension period is uncertain due to the pending Navigator case for cancellation of the CC&N. That case has no specific time clock and requests a change in the bond amount that is required of the company. Because of the pending nature of the cancellation case and the uncertainty of the date of conclusion, the Company requested a generic extension of time equivalent to the time necessary for the Commission to fully consider Docket No. T-20398A-08-0463. It is important to note that the Company has not yet begun serving customers.

Staff's records also indicated that an original tariff associated with Decision No. 69884 was also due to the Commission. The due date on the tariff was August 28, 2009. Mr. McAlister indicated that although it failed in its verbiage, the extension motion was meant to cover an extension for both the bond and the tariff. Staff accepted this as a verbal request to amend the December 30, 2008 request for bond extension, to include a similar extension on the provision of the tariff. Staff, therefore, considers the amended request for extension of time to be for both the bond and tariff.

Although the Company is willing to cooperate to comply, Staff cannot recommend equivalent extensions for the tariff and the bond. The bond issue is contingent on the pending cancellation case and has strong reasoning for requiring an extension. Staff, therefore, agrees that an extension of time is warranted until such time as a conclusion is reached in the pending docket. At that time, the Company will know if the Commission concurs with their request for cancellation and reduction of the bond. Since there is no certainty as to when the case may finalize, Staff will recommend an extension of the due date for docketing of the bond or letter of credit until 30 days after a Decision has been issued in Docket No. T-20398A-08-0463, or 30 days before the provision of service to its first customer, whichever comes first. As for the tariff, although the Company apparently connected the tariff and bond requirements administratively, the provision of the tariff does not hinge on any element of the bond filing. It should therefore already have been provided. The Company should be admonished for missing this due date and should be ordered to meet each individual compliance requirement in a timely fashion. However, since there are no customers effected, and in order to allow the Company the opportunity to come into compliance. Staff recommends a March 31, 2009 due date for the tariff. Staff recommends that no further extensions of time be granted in this matter absent good cause.

EGJ:BKB:lhm

Originator: Brian K. Bozzo

SERVICE LIST FOR:
DOCKET NO.

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T-20398A-06-0346

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