

**ORIGINAL**

**OPEN MEETING ITEM**



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Executive Director

**COMMISSIONERS**  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



**ARIZONA CORPORATION COMMISSION**

DATE: MARCH 11, 2010  
DOCKET NO.: T-03823A-08-0428

Arizona Corporation Commission  
**DOCKETED**  
MAR 11 2010

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

**BCGI COMMUNICATIONS, CORP.**  
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 22, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MARCH 31, 2010 and APRIL 1, 2010

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION  
DOCKET CONTROL

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION  
9 OF BCGI COMMUNICATIONS CORP. FOR THE  
10 CANCELLATION OF ITS CERTIFICATE OF  
11 CONVENIENCE AND NECESSITY FOR  
12 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03823A-08-0428

DECISION NO. \_\_\_\_\_

**ORDER**

13 Open Meeting  
14 March 31 and April 1, 2010  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 Having considered the entire record herein and being fully advised in the premises, the  
18 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

19 **FINDINGS OF FACT**

20 1. BCGI Communications Corp. ("BCGI" or "Company") has a Certificate of  
21 Convenience and Necessity ("CC&N") to provide competitive intrastate interexchange  
22 telecommunications services within Arizona pursuant to Decision No. 62719 (June 30, 2000).

23 2. On August 12, 2008, the Company filed with the Commission an application for  
24 cancellation of its CC&N ("Application"). BCGI stated that it does not provide, and has never  
25 provided service in Arizona and currently has no customers in Arizona.

26 3. On January 29, 2010, the Commission's Utilities Division Staff ("Staff") filed its Staff  
27 Report recommending approval of the Application.

28 4. The Company requests a waiver from compliance with the terms of Arizona  
Administrative Code ("A.A.C."), R-14-2-1107 requiring the Company to provide notice to customers  
of its discontinuation of service, a plan for the refund of deposits, a list of alternate providers, and to  
publish notice of the Application. BCGI requested a waiver of these provisions because it never

1 provided service to any customers in Arizona and, because it has not had any customers, the  
2 Company has not collected any advances, prepayments and/or deposits.

3 5. Staff concurs with BCGI's reasoning and recommends that Company compliance with  
4 the provisions of A.A.C. R-14-2-1107 should be waived.

5 6. As discussed in Decision No. 67404 (November 2, 2004), it would render A.A.C.  
6 R14-2-1107 meaningless and would run afoul of the rule's intent and plain language to exempt a  
7 Company from the requirements of the rule because it has no customers due to its discontinuation of  
8 service. However, as discussed in that Decision, the intent of the rule is to ensure that existing  
9 customers have advance notice of a telecommunications provider's pending plan to discontinue  
10 service such that they will be afforded an opportunity to procure service through an alternative  
11 provider prior to such discontinuance.

12 7. The Company has never had any Arizona customers and did not collect any advances,  
13 prepayments and/or deposits. Under these circumstances, the requirements of A.A.C. R-14-2-1107  
14 should be waived.

15 8. The Commission's Consumer Services Section of the Commission's Utilities Division  
16 reported that there were no customer complaints, inquiries or opinions against the Company from  
17 January 1, 2006, through November 5, 2009. According to Staff, Consumer Services reported that  
18 BCGI's license to do business in Arizona was revoked on September 30, 2003, by the Commission's  
19 Corporations Division for failure to file annual reports.

20 9. Staff recommends approval of BCGI's Application and cancellation of the Company's  
21 CC&N and its A.C.C. Tariff No. 1.

22 10. Staff's recommendation is reasonable and should be adopted.

### 23 CONCLUSIONS OF LAW

24 1. The Company is a public service corporation within the meaning of Article XV of the  
25 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

26 2. The Commission has jurisdiction over the Company and the subject matter of the  
27 Application.

28 3. The cancellation of the Company's CC&N is in the public interest.

1 4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding  
2 Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

3 5. The requirements of A.A.C. R14-2-1107 should be waived in this case.

4 6. Staff's recommendation is reasonable and should be adopted.

5 **ORDER**

6 IT IS THEREFORE ORDERED that the Application of BCGI Communications Corp. for the  
7 cancellation of its Certificate of Convenience and Necessity to provide competitive intrastate  
8 interexchange telecommunications services in Arizona is hereby approved, and its Certificate of  
9 Convenience and Necessity and its A.C.C. Tariff No. 1 are hereby cancelled.

10 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

12  
13  
14 CHAIRMAN

COMMISSIONER

15  
16 COMMISSIONER

COMMISSIONER

COMMISSIONER

17  
18 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON  
19 Executive Director of the Arizona Corporation Commission,  
20 have hereunto set my hand and caused the official seal of the  
21 Commission to be affixed at the Capitol, in the City of Phoenix,  
22 this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

23 \_\_\_\_\_  
24 ERNEST G. JOHNSON  
25 EXECUTIVE DIRECTOR

26 DISSENT \_\_\_\_\_

27  
28 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: BCGI COMMUNICATIONS CORP.

2 DOCKET NO.: T-03823A-08-0428

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