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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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MAY 13 2011

AZ CORP COMMISSION
DOCKET CONTROL

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IN THE MATTER OF THE APPLICATION OF ZAYO GROUP, LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE FACILITIES-BASED LOCAL EXCHANGE AND RESOLD AND FACILITIES-BASED INTRALATA AND INTERLATA PRIVATE LINE TELECOMMUNICATION SERVICES IN ARIZONA.

DOCKET NO. T-20783A-11-0024

PROCEDURAL ORDER
DENYING MOTION AND
SETTING HEARING

BY THE COMMISSION:

On January 24, 2011, Zayo Group, LLC (“Zayo” or “Company”) filed with the Arizona Corporation Commission (“Commission”) an application for approval of a Certificate of Convenience and Necessity (“CC&N”) to provide facilities-based local exchange and resold and facilities-based intraLATA and interLATA private line telecommunication services in Arizona (“Application”). The Company’s Application also requests a determination that its proposed services are competitive in Arizona.

On March 15, 2011, Zayo filed an amended tariff.

On April 29, 2011, the Commission’s Utilities Division (“Staff”) filed a Staff Report recommending approval of Zayo’s application, subject to certain conditions.

On May 2, 2011, Zayo filed a Request for Expedited Hearing (“Request”) stating that approval of the Application in this docket will allow the Company to proceed with a merger transaction filed in a separate docket with the Commission.¹ Zayo contends that merger approvals in all other states will be finalized by mid-May and that an expedited hearing in this matter is necessary to complete the merger transactions.

¹ Docket No. T-20783A-11-0097

1 Given the requirement for a hearing in this matter and the Commission's limited resources,
2 Zayo's Request must be denied. However, the hearing on Zayo's Application should be set.

3 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern
4 the preparation and conduct of this proceeding.

5 IT IS THEREFORE ORDERED that Zayo's Request for Expedited Hearing is denied.

6 IT IS FURTHER ORDERED that the **hearing** on the above-captioned application shall
7 commence on **July 6, 2011, at 10:00 a.m.**, or as soon thereafter as is practicable, at the
8 Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona 85007.

9 IT IS FURTHER ORDERED that **Zayo shall, by June 6, 2011, publish notice** of the
10 application and the hearing date, as stated below, in a newspaper of general circulation in every
11 county in Arizona in which Zayo desires to provide service.

12
13 **IN THE MATTER OF THE APPLICATION OF ZAYO GROUP, LLC FOR**
14 **APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY**
15 **TO PROVIDE FACILITIES-BASED LOCAL EXCHANGE AND RESOLD**
16 **AND FACILITIES-BASED INTRALATA AND INTERLATA PRIVATE LINE**
17 **TELECOMMUNICATION SERVICES IN ARIZONA.**
18 **(DOCKET NO. T-20783A-11-0024)**

19 On January 24, 2011, Zayo Group, LLC ("Zayo" or "Company") filed with the
20 Arizona Corporation Commission ("Commission") an application for approval of
21 a Certificate of Convenience and Necessity ("CC&N") to provide facilities-based
22 local exchange and resold and facilities-based intraLATA and interLATA private
23 line telecommunication services in Arizona ("Application"). The Company's
24 Application also requests a determination that its proposed services are
25 competitive in Arizona. The Commission's Utilities Division ("Staff") has
26 recommended approval of Zayo's Application, subject to certain conditions. The
27 Commission will issue a Decision following consideration of testimony and evidence
28 presented at an evidentiary hearing. The Commission is not bound by the proposals
made by Zayo, Staff, or any intervenors. Zayo will be required to provide service
under the rates, charges, terms, and conditions established by the Commission.
Copies of the Application, Staff Report, and any written objections to the Staff Report
filed by Zayo or intervenor(s) will be available at Zayo's offices [**Insert Company
Address**]; at the Commission's Docket Control Center at 1200 West Washington,
Phoenix, Arizona; and on the internet via the Commission website (www.azcc.gov)
using the e-Docket function.

25 The Commission will hold a hearing on Zayo's application on **July 6, 2011, at 10:00**
26 **a.m.**, at the Commission's offices, 1200 West Washington Street, Room 100,
27 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.
28 Written public comments may be submitted via email (for instructions go to
<http://www.azcc.gov/Divisions/Utilities/consumerservices.asp>) or by mailing a
letter referencing Docket No. T-20783A-11-0024 to: Arizona Corporation
Commission, Consumer Services Section, 1200 West Washington Street, Phoenix,

1 AZ 85007. If you require assistance, you may contact the Consumer Services Section
2 at 1-800-222-7000 or 602-542-4251.

3 The law provides for an open public hearing at which, under appropriate
4 circumstances, interested parties may intervene. Any person or entity entitled by law
5 to intervene and having a direct and substantial interest in the matter will be permitted
6 to intervene. If you would like to intervene, you must file a written motion to
7 intervene with the Commission, and you must send copies of the motion to Zayo or
8 its counsel and to all parties of record in the case. Your motion to intervene must
9 contain the following:

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

17 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
18 that all motions to intervene must be filed on or before **June 20, 2011**. The granting
19 of intervention, among other things, entitles a party to present sworn evidence at the
20 hearing and to cross examine other witnesses. However, failure to intervene will not
21 preclude any interested person or entity from appearing at the hearing and making a
22 statement on their own behalf. If representation by counsel is required by Arizona
23 Supreme Court Rule 31, intervention will be conditioned upon the intervenor
24 obtaining counsel to represent the intervenor.

25 The Commission does not discriminate on the basis of disability in admission to its
26 public meetings. Persons with a disability may request a reasonable accommodation
27 such as a sign language interpreter, as well as request this document in an alternative
28 format, by contacting the ADA Coordinator, Shaylin Bernal, at SABernal@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 **Zayo shall file an Affidavit of Publication** with the
Commission **no later than June 20, 2011**.

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 **June 20, 2011**.

IT IS FURTHER ORDERED that any **objections to intervention(s)** shall be filed by **June
27, 2011**.

IT IS FURTHER ORDERED that **Zayo and/or any intervenor shall** file any specific
disagreements/comments regarding the Staff Report or Application by **June 20, 2011**.

1 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
2 31 and 38 and A.R.S. § 40-243 with respect to practice of law in Arizona and before the Commission
3 and admission *pro hac vice*.

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

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

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

15 Dated this 13th day of May, 2011.

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21 YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

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27 ...
28 ...

1 Copies of the foregoing mailed/delivered
2 this 13th day of May, 2011 to:

3 Michael T. Hallam
4 LEWIS AND ROCA, LLP
5 40 North Central Avenue, Suite 1900
6 Phoenix, AZ 85004
7 Attorneys for Zayo Group, LLC

8 Janice Alward, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, AZ 85007

13 Steven M. Olea, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, AZ 85007

18 ARIZONA REPORTING SERVICE, INC.
19 2200 North Central Avenue, Suite 502
20 Phoenix, AZ 85004-1184

21 By: 
22 Debra Broyles
23 Secretary to Yvette B. Kinsey
24
25
26
27
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