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OPEN MEETING ITEM



RECEIVED  
AZ CORP COMMISSION

JACK ROSE  
EXECUTIVE SECRETARY

COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

ARIZONA CORPORATION COMMISSION NOV 27 3 35 PM '98

DOCKET CONTROL

DATE: NOVEMBER 27, 1998

DOCKET NO: RU-00000A-98-0493

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Lyn Farmer. The recommendation has been filed in the form of an Opinion and Order on:

**RULEMAKING  
(TIME FRAMES FOR PROCESSING OF APPLICATIONS FOR CC&N)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 7, 1998

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

DECEMBER 10, 1998 and DECEMBER 11, 1998

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

JACK ROSE  
EXECUTIVE SECRETARY

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**JIM IRVIN**  
**COMMISSIONER-CHAIRMAN**  
**RENZ D. JENNINGS**  
**COMMISSIONER**  
**CARL J. KUNASEK**  
**COMMISSIONER**

**IN THE MATTER OF THE PROPOSED  
RULEMAKING TO PROVIDE TIME FRAMES  
FOR THE PROCESSING OF APPLICATIONS  
FOR CERTIFICATE OF CONVENIENCE AND  
NECESSITY PURSUANT TO TITLE 40 OF THE  
ARIZONA REVISED STATUTES.**

**DOCKET NO. RU-00000A-98-0493**

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

**OPINION AND ORDER**

**DATE OF HEARING:** November 10, 1998  
**PLACE OF HEARING:** Phoenix, Arizona  
**PRESIDING OFFICER:** Lyn Farmer  
**APPEARANCES:** Mr. Reed Peterson on behalf of U S West Communications, Inc.;  
M. Greg Harris, LEWIS & ROCA, on behalf of MCI Telecommunications, Inc.;  
Mr. Patrick Black, Staff Attorney, Legal Division, Mr. David Motycka and Mr. Wil Shand on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On September 4, 1998, the Utilities Division ("Division") of the Arizona Corporation Commission ("Commission") forwarded to the Commission a proposal recommending that the Commission amend A.A.C. R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103, R14-2-1603 (the "Rules"). The amendments to the Rules establish time-frames within which the Division must process regular applications for Certificates of Convenience and Necessity. These Rules are mandated by A.R.S. §§ 41-1072, et. seq. By Decision No. 61120 (September 16, 1998), the Commission directed that a hearing be scheduled for the purpose of taking

1 public comment regarding the amendments to the Rules. By Procedural Order dated September 23,  
2 1998, the public comment hearing was scheduled for November 10, 1998. The Notice of Proposed  
3 Rulemaking was published in the Arizona Administrative Register on October 9, 1998. Notice of  
4 the public comment hearing was also published in an Arizona business newspaper of statewide  
5 circulation.

6 On October 16, 1998, U S WEST Communications, Inc. ("U S WEST") filed written  
7 comments on the amendments to the Rules. On November 6, 1998, the Division filed its Response  
8 to Public Comments. The public comment hearing on the amendments to the Rules took place as  
9 scheduled on November 10, 1998. U S WEST and MCI Telecommunications made public  
10 comments on the amendments to the Rules at the hearing.

11 At the public hearing, the Division explained why the amendments to the Rules should be  
12 adopted, stating that it initiated this rulemaking to bring the Commission into compliance with  
13 A.R.S. §§ 41-1072 et seq. ("Time Frame Statutes"). The Time Frame Statutes require any state  
14 agency that issues licenses to have licensing timeframe rules in place no later than December 31,  
15 1998.

16 The amendments to the Rules establish timeframes in which the Division shall process  
17 applications for Certificates of Convenience and Necessity. The Time Frame Statutes require the  
18 agency to establish an overall time frame consisting of two components: an administrative  
19 completeness review time frame; and a substantive review time frame. The amendments to the  
20 Rules establish separate time frames for each of these components. For water, telephone, and sewer  
21 utilities, and for customer owned pay telephones, the administrative completeness review period is  
22 30 days and the substantive review period is 150 days, for a combined overall timeframe of 180  
23 days. For electric and gas utilities, the administrative completeness review period is 120 days and  
24 the substantive review period is 150 days, for a combined overall timeframe of 270 days. For  
25 electric competition rules, the administrative completeness review period is 120 days and the  
26 substantive review period is 180 days, for a combined overall timeframe of 300 days. For  
27 competitive telecommunications services, the administrative completeness review period is 10 days  
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1 and the substantive review period is 270 days, for a combined overall timeframe of 280 days. For  
2 alternative operator services, the administrative completeness review period is 365 days and the  
3 substantive review period is 365 days, for a combined overall timeframe of 730 days.

4 U S WEST and MCI support the amendments to the Rules. U S WEST believes that the  
5 proposed Rules should also include timeframes within which the Commission must process  
6 applications relative to the classification of competitive and non-competitive services. Staff  
7 disagrees that time frames should be established in this rulemaking for classification of competitive  
8 and non-competitive services, because such an application is not an application for a license. Staff  
9 believes that any procedures specifying timeframes for designation of competitive services should  
10 be established as Commission policy rather than by administrative rule. We concur with Staff.  
11 These amendments to the Rules are being adopted pursuant to the requirements of A.R.S. §§ 41-  
12 1072, et. seq. to establish timeframes for applications for licenses. Staff is willing to meet with U  
13 S WEST to discuss procedures for processing applications for competitive services.

14 \* \* \* \* \*

15 Having considered the entire record herein and being fully advised in the premises, the  
16 Commission finds, concludes, and orders that:

17 **FINDINGS OF FACT**

- 18 1. On September 4, 1998, the Division forwarded to the Commission a proposal
- 19 recommending that the Commission adopt the amendments to the Rules.
- 20 2. On September 15, 1998, the Commission issued Decision No. 61118 which
- 21 directed that a hearing be scheduled regarding the amendments to the Rules for the purpose of
- 22 taking public comment.
- 23 3. By Procedural Order issued September 21, 1998, the public comment hearing was
- 24 scheduled for November 10, 1998 in Phoenix, Arizona. The Notice of Proposed Rulemaking was
- 25 published in the Arizona Administrative Register on October 9, 1998.
- 26 4. On October 16, 1998, U S WEST filed written comments on the amendments to
- 27 the Rules. On November 6, 1998, the Division filed its Response to Public Comments.
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JACK ROSE - SECRETARY

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IT IS FURTHER ORDERED that the Commission's Utilities Division is authorized to make changes to the adopted amended Rules, A.A.C. R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103, and R14-2-1603; and to the adopted Economic, Small Business, and Consumer Impact Statement; and to the Concise Explanatory Statement, in response to comments received by the Attorney General's Office during the approval process under A.R.S. § 41-1044 unless, after notification of those changes, the Commission requires otherwise.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER-CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_, 1998.

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JACK ROSE  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
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APPENDIX A

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

ARTICLE 2. ELECTRIC UTILITIES

R14-2-212. Administrative and hearing requirements

A. No change.

B. No change.

C. No change.

D. No change.

E. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.

2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.

3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.

4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or

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deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 120 calendar days.
- b. Substantive review time-frame: 150 calendar days.
- c. Overall time-frame: 270 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**E. ~~Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~**

- 1. ~~Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~
- 2. ~~The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

- F. No change.
- G. No change.





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from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

a. Administrative completeness review time-frame: 120 calendar days.

b. Substantive review time-frame: 150 calendar days.

c. Overall time-frame: 270 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

E. ~~Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~

1. ~~Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~

2. ~~The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

F. No change.

G. No change.

H. No change.

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**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 4. WATER UTILITIES**

**R14-2-411. Administrative and hearing requirements**

A. No change.

B. No change.

**C. Time-frames for processing applications for Certificates of Convenience and Necessity**

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

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5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S § 41-1072, et seq., the Commission has established the following time-frames:

a. Administrative completeness review time-frame: 30 calendar days.

b. Substantive review time-frame: 150 calendar days.

c. Overall time-time: 180 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

~~C. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~

~~1. Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~

~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

D. No change.

E. No change.

F. No change.

G. No change.

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**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 5. TELEPHONE UTILITIES**

**R14-2-510. Administrative and hearing requirements**

- A. No change.
- B. No change.
- C. No change.
- D. No change.

**E. Time-frames for processing applications for Certificates of Convenience and Necessity**

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended

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from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 30 calendar days.
- b. Substantive review time-frame: 150 calendar days.
- c. Overall time-frame: 180 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

~~E. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, late review, or financing requests~~

~~1. Applications will not be docketed until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~

~~2. The Commission shall within 15 days of receipt return the application making note of such deficiencies.~~

F. No change.

G. No change.

H. No change.

JUDICIAL DECISIONS

1 I. No change.

2 J. No change.

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**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 6. SEWER UTILITIES**

**R14-2-610. Administrative and hearing requirements**

**A. No change.**

**B. No change.**

**C. Time-frames for processing applications for Certificates of Convenience and Necessity**

- 1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.**
- 2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.**
- 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.**
- 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.**

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5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

a. Administrative completeness review time-frame: 30 calendar days.

b. Substantive review time-frame: 150 calendar days.

c. Overall time-frame: 180 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

~~C. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, late review, or financing requests~~

~~1. Applications will not be docketed until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~

~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

D. No change.

E. No change.

F. No change.

G. No change.

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**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES**

**R14-2-902. Application for Certificate of Convenience and Necessity**

**A. No change.**

**B. No change.**

**C. No change.**

**D. No change.**

**E. Time-frames for processing applications for Certificates of Convenience and Necessity**

**1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.**

**2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.**

**3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.**

**4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended**

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from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 30 calendar days.
- b. Substantive review time-frame: 150 calendar days.
- c. Overall time-frame: 180 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**E.F.** Subsequent to adoption of this Article, the Commission shall issue an order setting time limitations within which LECs, as well as all customers of record providing service as of the effective date of this Article, shall comply with the requirements contained herein.

14-111-0000-0000

1 TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND  
2 ASSOCIATIONS; SECURITIES REGULATION

3 CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

4 ARTICLE 10. ALTERNATIVE OPERATOR SERVICES

5 R14-2-1002. Application for Certificate of Convenience and Necessity

6 A. No change.

7 B. No change.

8 C. No change.

9 D. No change.

10 E. Time-frames for processing applications for Certificates of Convenience and Necessity

11  
12 1. This rule prescribes time-frames for the processing of any Application for a Certificate  
13 of Convenience and Necessity issued by the Arizona Corporation Commission  
14 pursuant to this Article. These time-frames shall apply to applications filed on or after  
15 the effective date of this rule.

16  
17 2. Within 365 calendar days after receipt of an application for a new Certificate of  
18 Convenience and Necessity, or to amend or change the status of any existing  
19 Certificate of Convenience and Necessity, staff shall notify the applicant, in writing,  
20 that the application is either administratively complete or deficient. If the application  
21 is deficient, the notice shall specify all deficiencies.

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23 3. Staff may terminate an application if the applicant does not remedy all deficiencies  
24 within 60 calendar days of the notice of deficiency.

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26 4. After receipt of a corrected application, staff shall notify the applicant within 30  
27 calendar days if the corrected application is either administratively complete or  
28 deficient. The time-frame for administrative completeness review shall be suspended

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from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 365 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 365 calendar days.
- b. Substantive review time-frame: 365 calendar days.
- c. Overall time-frame: 730 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

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**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES**

**R14-2-1103. Certificates of Convenience and Necessity Required**

**A.** All telecommunications companies providing intrastate telecommunications services shall obtain a Certificate of Convenience and Necessity from the Commission, either under this Article, if competitive services are to be provided or, under Article 5. If the Commission determines that the services identified in an Application filed under this Article are not competitive, the Commission may nevertheless grant a Certificate and authorize provision of the services on a noncompetitive basis pursuant to Article 5.

**B. Time-frames for processing applications for Certificates of Convenience and Necessity**

- 1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.**
- 2. Within 10 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.**
- 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.**
- 4. After receipt of a corrected application, staff shall notify the applicant within 30**

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calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 270 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 10 calendar days.
- b. Substantive review time-frame: 270 calendar days.
- c. Overall time-frame: 280 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

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**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND**

**ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

**R14-2-1603. Certificates of Convenience and Necessity**

- A.** No change.
- B.** No change.
- C.** No change.
- D.** No change.
- E.** No change.
- F.** No change.
- G.** No change.
- H.** No change.
- I.** No change.

**J. Time-frames for processing applications for Certificates of Convenience and Necessity**

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.

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- 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
  
- 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
  
- 5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
  
- 6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 120 calendar days,
  - b. Substantive review time-frame: 180 calendar days,
  - c. Overall time-frame: 300 calendar days.
  
- 6. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
  
- 7. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

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APPENDIX B

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

A. Economic, small business and consumer impact summary.

1. Proposed rulemaking.

The proposed amendments to (R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103, and R14-2-1603) establish the time-frames within which the Utilities Division (the "Division") of the Arizona Corporation Commission (the "Commission") shall process the applications for Certificate of Convenience and Necessity ("CC&N") by utility service providers under its jurisdiction. This rulemaking is mandated by A.R.S. § 41-1072, et seq. (the "time-frame statutes").

Each amendment consists of two processing components each with its own time-frames' The first component is an administrative completeness review time-frame. Within a specified number of days after receipt of the application for a new CC&N or to change the status of an existing CC&N the Commission provides notice to the applicant that the application is administratively complete or deficient. If deficient, the notice specifies all deficiencies. The applicant receiving the deficiency notice is required to provide the Commission with the needed information within a specified number of days after receipt of the deficiency notice. Once the Commission receives the information requested in the deficiency notice, it shall have a specified number of days to notify the applicant, in writing, that the application is either administratively complete or deficient with deficiencies identified. Within a specified number of days after the application is deemed administratively complete, the Commission shall approve or reject the application.

If an applicant requests, and is granted, an extension or continuance, the appropriate time frames are tolled from the date of the request through the duration of the extension or continuance. During the second component, the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame.

2. Information contained in this report.

This economic, small business and consumer impact statement analyzes the costs, savings, and benefits that accrue to the Commission, Secretary of State, CC&N applicants, and the public. The impact of the proposed amendments on established Commission procedures, Commission staff time, and other administrative costs is minimal. The benefits to the Commission are minimal. The estimated additional cost to the Secretary of State's office is minimal. This additional cost stems from the Secretary of State's staff time publishing the rule. The benefits provided by the proposed rules are non-quantifiable. The rules should benefit the Commission's relations with regulated utility service providers by preventing misunderstandings about the time necessary for acquiring a CC&N. The public will benefit from clear and concise standards for the certification process.

3. Name and address of agency employees to contact regarding this statement.

Ray Williamson, Acting Director, Utilities Division or Paul Bullis, Chief Counsel, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007.

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2 **B. Economic, small business and consumer impact statement.**

3 **1. Proposed rulemaking.**

4 The proposed amendments to R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-  
5 902, R14-2-1002, R14-2-1103, and R14-2-1603,) establish time-frames within which the Division shall  
6 process applications by utility companies for a Certificate of Convenience and Necessity. This  
7 rulemaking is mandated by A.R.S. §41-1072, et seq.

8 Each amendment consists of two components. The first is an administrative completeness review  
9 time-frame. Within a specified number of days after receipt of the application for a new CC&N, or to  
10 change the status of an existing CC&N the Commission provides notice to the applicant that the  
11 application is administratively complete or deficient. If deficient, the notice specifies all deficiencies.

12 The applicant receiving the deficiency notice is required to provide the Commission with the needed  
13 information within a specified number of days after receipt of the deficiency notice. Once the  
14 Commission receives the information requested in the deficiency notice, it shall have a specified number  
15 of days to notify the applicant, in writing, that the application is either administratively complete or  
16 deficient with deficiencies identified. Within a specified number of days after the application is deemed  
17 administratively complete, the Commission shall approve or reject the application.

18 If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames  
19 shall be tolled from the date of the request through the duration of the extension or continuance. During  
20 the substantive review time-frame, the Commission may, upon its own motion or that of any interested  
21 party to the proceeding, request a suspension of the time-frame.

22 **2. Persons who will be directly affected by, bear the costs of, or directly benefit from  
23 the proposed rulemaking.**

24 Those affected by the proposed rulemaking include fixed utility service company applicants  
25 seeking a CC&N that will allow them to provide customer services. For Fiscal Year 1997, the Division  
26 processed 136 CC&N applications.

27 **Cost bearers**

28 The costs of the time-frame rules are borne by the Commission.

**Beneficiaries**

The citizens of Arizona, certificated fixed utility companies, and the Commission benefit from  
clear and concise standards for the certification process.

**3. Cost/benefit analysis.**

**Cost/revenue scale**

1 Annual costs/revenues changes are designated as minimal when less than \$1000 in additional  
2 costs or revenues, moderate when between \$1000 and \$10,000 in additional costs or revenues, and  
3 substantial when greater than \$10,000 in additional costs or revenues.

4 **a. Probable costs and benefits to the implementing agencies directly**  
5 **affected by the implementation and enforcement of the proposed**  
6 **rulemaking.**

7 The increased cost to the Commission to provide staff time to draft the rule  
8 amendments and an economic and small business and consumer impact statement is  
9 minimal. The rules are not expected to result in any change in revenues. There are no  
10 expected increase in costs arising from noncompliance with the time-frames set by the  
11 rule.

12 Minimal increase costs for the Secretary of State will result from staff time  
13 needed to prepare and print the proposed rules in the Register.

14 **b. Probable costs and benefits to a political subdivision of this state**  
15 **directly affected by the implementation and enforcement of the**  
16 **proposed rulemaking.**

17 None.

18 **c. Probable costs and benefits to businesses directly affected by the**  
19 **proposed rulemaking including any anticipated affect on the revenues**  
20 **or payroll expenditures of employers who are subject to the proposed**  
21 **rulemaking.**

22 None.

23 Since no fees are collected for companies to apply for a CC&N, the time-frame rule will  
24 have no financial impact. All parties however, will benefit from a clear, concise, and an  
25 understandable certification process with definite time-frames. The use of definite time-  
26 frames prevents misunderstanding and promotes better communication between the  
27 Commission and the regulated public.

28 **4. Probable impact on private and public employment in businesses, agencies and**  
**political subdivisions of this state directly affected by the proposed rulemaking.**

The rules should have no impact on private and public employment.

**5. Probable impact of the proposed rulemaking on small businesses.**

**a. Identification of the small businesses subject to the proposed rulemaking.**

No small business will be subject to the requirements of the proposed rulemaking:

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however, any fixed utility service company that meets the definition of "small business" under A.R.S. § 41-1001 (19) will benefit from the rules.

**b. Administrative and other costs required for compliance with the proposed rulemaking.**

None.

**c. A description of the methods that the agency may use to reduce the impact on small businesses.**

Not applicable.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

Utility service companies under the jurisdiction of the Commission are required to obtain a CC&N before offering service to the public. These companies will be affected by the proposed rulemaking. There is no Commission fee for a company to apply for a CC&N. The time-frame rules will benefit applicants by providing a clear, concise, and understandable certification process with definite time frames.

**6. Probable effect on state revenues.**

The proposed rulemaking has no effect on state revenues.

**7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.**

The rulemaking is mandated by A.R.S. § 41-1072 and no alternative is necessary or possible. The only possible cost will be borne by the Commission.

**8. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.**

Not applicable.

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APPENDIX C

CONCISE EXPLANATORY STATEMENT

This explanatory statement is provided to comply with the provisions of A.R.S. § 41-1036.

**I. CHANGES IN THE TEXT OF THE PROPOSED RULES FROM THAT CONTAINED IN THE NOTICE OF RULEMAKING FILED WITH THE SECRETARY OF STATE**

None.

**II. EVALUATION OF THE ARGUMENTS FOR AND AGAINST THE PROPOSED RULES**

**A. ARTICLE 1. IN GENERAL**

**A.A.C. R14-1-103:** In response to the requirement of A.R.S. § 41-1072 *et seq.* to enact licensing time-frame rules, the Arizona Corporation Commission initiated rulemaking to prescribe time-frames for the processing of any certificate or license issued by the Arizona Corporation Commission pursuant to Title 40 of the Arizona Revised Statutes. To provide the public with clear timeframes for processing applications for Certificates of Convenience and Necessity, the Commission has promulgated new Rules A.A.C. R14-2-212, A.A.C. R14-2-312, A.A.C. R14-2-411, A.A.C. R14-2-510, A.A.C. R14-2-610, A.A.C. R14-2-902, A.A.C. R14-2-1002, A.A.C. R14-2-1103, and A.A.C. R14-2-1603.

The Rules establish time frames in which the Utilities Division shall process applications for Certificates of Convenience and Necessity. The Time Frame Statutes require the agency to establish an overall timeframe consisting of two components: an administrative completeness review timeframe; and a substantive review timeframe. The Rules establish separate timeframes for each of these components. For water, telephone, and sewer utilities, and for customer owned pay telephones, the administrative completeness review period is 30 days and the substantive review period is 150 days, for a combined overall time frame of 180 days. For electric and gas utilities, the administrative completeness review period is 120 days and the substantive review period is 150 days, for a combined overall timeframe of 270 days. For electric competition rules, the administrative completeness review period is 120 days and the substantive review period is 180 days, for a combined overall timeframe of 300 days. For competitive telecommunications services, the administrative completeness review period is 10 days and the substantive review period is 270 days, for a combined overall timeframe of 280 days. For alternative

