



0000158648

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

DOCKETED

DEC 11 2014

2014 DEC 11 PM 1 56

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
BNC TELECOM, INC. FOR APPROVAL OF A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE RESOLD LOCAL  
AND FACILITIES-BASED LOCAL  
EXCHANGE TELECOMMUNICATIONS  
SERVICES IN ARIZONA.

DOCKET NO. T-04057A-13-0270

ORIGINAL

PROCEDURAL ORDER  
(Setting Hearing Date)

BY THE COMMISSION:

On August 7, 2013, BNC Telecom, Inc. ("BNC" or the "Company") filed with the Arizona Corporation Commission ("Commission") an application for approval of a Certificate of Convenience and Necessity ("CC&N") to provide resold local exchange telecommunications services in the State of Arizona. BNC's application also requests a determination that its proposed services are competitive in Arizona.

On April 25, 2014, the Company filed an amendment to its application to include a request for authority to provide facilities-based local exchange telecommunications services.

On May 29, 2014, BNC filed its proposed tariff for its requested services.

On June 6, 2014, BNC filed responses to the Commission's Utilities Division's ("Staff") first set of data requests.

On June 16, 2014, BNC filed additional responses to Staff's first set of data requests.

On July 14, 2014, BNC filed its Certificate of Good Standing.

On September 16, 2014, BNC filed an amended proposed tariff.

On October 24, 2014, BNC filed an amendment to its application.

On November 3, 2014, Jason D. Gellman filed a Notice of Appearance on behalf of BNC.

On December 1, 2014, Staff filed a Staff Report recommending approval of BNC's application, subject to certain conditions.

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

3 IT IS THEREFORE ORDERED that the **hearing** on the above-captioned application shall be  
4 held **February 12, 2015 at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's  
5 offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona.

6 IT IS FURTHER ORDERED that **BNC shall publish, by January 5, 2015, notice of the**  
7 **application and hearing date** in a newspaper of general circulation in every county in Arizona in  
8 which **BNC** desires to provide service, in the following form and style, with a heading no less than  
9 10-point bold type, and a body in no less than 8-point regular type:

10 **IN THE MATTER OF THE APPLICATION OF BNC TELECOM, INC FOR**  
11 **APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY**  
12 **TO PROVIDE RESOLD LOCAL EXCHANGE AND FACILITIES-BASED**  
13 **LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES IN ARIZONA**  
14 **(DOCKET NO. T-04057A-13-0270)**

15 On August 7, 2013, BNC Telecom, Inc. ("BNC" or the "Company") filed with the  
16 Arizona Corporation Commission ("Commission") an application for approval of a  
17 Certificate of Convenience and Necessity ("CC&N") to provide resold local exchange  
18 and facilities-based local exchange telecommunications services within the State of  
19 Arizona. BNC's application also requests a determination that its proposed services  
20 are competitive within Arizona. The Commission's Utilities Division ("Staff") has  
21 recommended approval of BNC's application, subject to certain conditions. The  
22 Commission will issue a Decision following consideration of testimony and evidence  
23 presented at an evidentiary hearing. The Commission is not bound by the proposals  
24 made by BNC, Staff, or intervenors. If the Company's application is approved, BNC  
25 will be required to provide service under the rates, charges, terms and conditions  
26 established by the Commission. Copies of BNC's application, the Staff Report, and  
27 any written objections to the Staff Report filed by the Company will be available at  
28 BNC'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's website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function.

22 The Commission will hold a hearing on BNC's application on **February 12, 2015, at**  
23 **10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing  
24 Room No. 2, Phoenix, Arizona. Public comments will be taken on the first day of the  
25 hearing. Written public comments may be submitted via the Commission's website at  
26 [www.azcc.gov](http://www.azcc.gov) by clicking on the "Submit a Public Comment" button, or by mailing  
27 a letter referencing **Docket No. T-04057A-13-0270** to: Arizona Corporation  
28 Commission, Consumer Services Section, 1200 West Washington Street, Phoenix,  
Arizona 85007. If you require assistance, you may contact the Consumer Services  
Section at 1-800-222-7000 or 602-542-4251.

27 The law provides for an open public hearing at which, under appropriate  
28 circumstances, interested parties may intervene. Any person or entity entitled by law  
to intervene and having a direct and substantial interest in the matter will be permitted

1 to intervene. If you would like to intervene, you must file a written motion to  
2 intervene with the Commission, no later than **January 19, 2015**, and you must send  
copies of the motion to BNC or its counsel and to all parties of record in the case.  
Your motion to intervene must contain the following:

- 3 1. The name, address, and telephone number of the proposed intervenor and of  
4 any person upon whom service of documents is to be made if different from  
the intervenor;
- 5 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,  
a customer of the Company, a shareholder of the Company, etc.);
- 6 3. A statement certifying that a copy of the motion to intervene has been mailed  
7 to the Company or its counsel and to all parties of record in the case; and
- 8 4. If you are not represented by an attorney who is an active member of the  
9 Arizona State Bar, and are not representing yourself as an individual,  
information and any appropriate documentation demonstrating compliance  
with Arizona Supreme Court Rules 31, 38, and 42, as applicable.

10 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
11 that all motions to intervene must be filed on or before **January 19, 2015**. The  
granting of intervention, among other things, entitles a party to present sworn  
12 evidence at the hearing and to cross examine other witnesses. However, failure to  
intervene will not preclude any interested person or entity from appearing at the  
13 hearing and making a statement on their own behalf. All parties must comply with  
Arizona Supreme Court Rules 31, 38, and 42 and A.R.S. §40-243 with respect to the  
14 practice of law.

15 The Commission does not discriminate on the basis of disability in admission to its  
public meetings. Persons with a disability may request a reasonable accommodation  
16 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](mailto:SBernal@azcc.gov),  
17 voice phone number 602-542-3931. Requests should be made as early as possible to  
allow time to arrange the accommodation.

18  
19 **IT IS FURTHER ORDERED that BNC shall file, by January 19, 2015, an Affidavit of**  
20 **Publication** with the Commission.

21 **IT IS FURTHER ORDERED that all motions for intervention shall be filed by January**  
22 **19, 2015, and shall be in accordance with A.A.C. R14-3-105.**

23 **IT IS FURTHER ORDERED that any objections to intervention(s) shall be filed by**  
24 **February 2, 2015.**

25 **IT IS FURTHER ORDERED that specific disagreements/comments, if any, to the Staff**  
26 **Report or application shall be filed by February 2, 2015.**

27 **IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court**  
28 **Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law in Arizona and before**

1 **the Commission and admission *pro hac vice*.**

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

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

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

13 Dated this 11<sup>th</sup> day of December, 2014.

14  
15   
16 YVETTE B. KINSEY  
17 ADMINISTRATIVE LAW JUDGE

18 Copies of the foregoing mailed/delivered  
this 11<sup>th</sup> day of December, 2014 to:

19 Kathleen Gorey, Regulatory Manager  
20 BNC TELECOM, INC.  
21 550 Hills Drive, Suite 110, 1<sup>st</sup> Floor  
Bedminster, NJ 07921

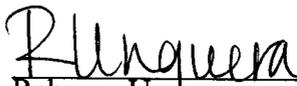
22 Patrick D. Crocker  
23 Crocker & Crocker, Attorneys at Law  
107 West Michigan Avenue, Fourth Floor  
Kalamazoo, MI 49007  
Attorneys for BNC Telecom, Inc.

24 Jason D. Gellman  
25 ROSHKA DeWULF & PATTEN, PLC  
26 One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, AZ 85004  
27 Attorneys for BNC Telecom, Inc.  
28

1 Janice Alward, Chief Counsel  
2 Legal Division  
3 ARIZONA CORPORATION COMMISSION  
4 1200 West Washington Street  
5 Phoenix, AZ 85007

6 Steven M. Olea, Director  
7 Utilities Division  
8 ARIZONA CORPORATION COMMISSION  
9 1200 West Washington Street  
10 Phoenix, AZ 85007

11 COASH & COASH, INC.  
12 Court Reporting, Video and Videoconferencing  
13 1802 North 7<sup>th</sup> Street  
14 Phoenix, AZ 85006

15 By:   
16 Rebecca Unquera  
17 Assistant to Yvette B. Kinsey  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28