

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: MAY 22, 2000
DOCKET NO: T-03734A-99-0227
TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

BLACKSTONE COMMUNICATIONS COMPANY
(CC&N/RESELLER)

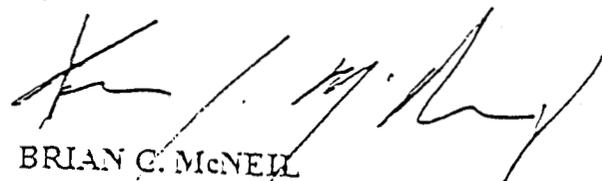
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MAY 31, 2000

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:

JUNE 6, 2000 and JUNE 7, 2000

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



BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
7 BLACKSTONE COMMUNICATIONS COMPANY
8 FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
INTRASTATE TELECOMMUNICATIONS
SERVICES AS A RESELLER.

DOCKET NO. T-03734A-99-0227

DECISION NO. _____

ORDER

9 Open Meeting
10 June 6 and 7, 2000
Phoenix, Arizona

11 **BY THE COMMISSION:**

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

14 **FINDINGS OF FACT**

15 1. On April 29, 1999, Blackstone Communications Company ("Applicant") filed with the
16 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
17 competitive intrastate telecommunications services as a reseller within the State of Arizona.

18 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
19 telecommunications providers ("resellers") were public service corporations subject to the
20 jurisdiction of the Commission.

21 3. Applicant is a Florida corporation authorized to do business in Arizona since 1999.

22 4. On November 17, 1999, the Commission's Utilities Division Staff ("Staff") filed a Staff
23 Report.

24 5. In the Staff Report, Staff reported that Applicant provided financial statements for the four
25 months ended April 2, 1999, which indicated that Applicant had total assets of \$337,052, equity of
26 \$337,052, and retained earnings of \$1,076. Based on the foregoing, Staff believes that Applicant
27 does not appear to have sufficient financial resources to make necessary plant additions or incur
28 operating losses. Accordingly, Staff recommended as a condition of certification that if Applicant

1 desires to charge customers for any prepayments, advances or deposits, Applicant must maintain for a
2 minimum of one year, an escrow account equal to the total amount of any prepayments, advances and
3 deposits that Applicant may collect from its customers. In the alternative, Applicant could file a
4 letter stating that it does not currently charge customers any prepayments, advances or deposits, and
5 does not intend to do so in the future. If at some future date Applicant desired to charge customers
6 any prepayments, advances or deposits, it must file information with Staff that demonstrates
7 Applicant's financial viability. Staff would review the information and provide Applicant its
8 decision concerning financial viability within 30 days of receipt of the information. Staff believes
9 that if Applicant experiences financial difficulty, there should be minimal impact to its customers.
10 Customers are able to dial another reseller or facilities-based provider, and may permanently switch
11 to another company without forfeiting any prepayment, advance or deposit.

12 6. The Staff Report stated that Applicant has no market power and the reasonableness of its
13 rates would be evaluated in a market with numerous competitors.

14 7. Staff recommended that:

15 (a) Applicant's application for a Certificate should be approved without a hearing;

16 (b) Applicant's intrastate toll service offerings should be classified as competitive;

17 (c) Applicant's competitive services should be priced at the effective rates set forth in
18 Applicant's tariffs and the maximum rates for these services should be the maximum
19 rates proposed by Applicant in its tariffs. The minimum rates for Applicant's
20 competitive services should be Applicant's long run incremental costs of providing
21 those services;

22 (d) In the event that Applicant states only one rate in its tariff for a competitive
23 service, the rate stated should be the effective (actual) price to be charged for the
24 service as well as the maximum rate;

25 (e) Applicant should be required to comply with the Commission's rules and modify
26 its tariffs to conform with the rules if it is determined there is a conflict between
27 Applicant's tariffs and the Commission's rules; and

28 (f) The Applicant should be required to file its tariffs within 30 days of an Order in
this matter, and in accordance with the Decision.

8. By Procedural Order dated December 3, 1999, and modified by Procedural Orders dated
February 8, 2000 and April 27, 2000, the Commission set a deadline of May 2, 2000 to publish notice
of the application.

1 9. On May 16, 2000, Applicant filed an affidavit of publication, as required in the Procedural
2 Orders.

3 10. No entity has objected to Applicant's application nor has any entity requested a hearing.

4 **CONCLUSIONS OF LAW**

5 1. Applicant is a public service corporation within the meaning of Article XV of the Arizona
6 Constitution and A.R.S. §§ 40-281 and 40-282.

7 2. The Commission has jurisdiction over Applicant and the subject matter of the application.

8 3. Notice of the application was given in accordance with the law.

9 4. Staff's recommendations set forth in Findings of Fact Nos. 5 and 7 are reasonable and
10 should be adopted.

11 5. As conditioned herein, Applicant is a fit and proper entity to receive a Certificate for
12 providing competitive intrastate telecommunication services as a reseller in Arizona.

13 **ORDER**

14 IT IS THEREFORE ORDERED that the Application of Blackstone Communications
15 Company for a Certificate of Convenience and Necessity for authority to provide competitive resold
16 intrastate telecommunication services shall be, and the same is hereby granted, except that Blackstone
17 Communications Company shall not initiate charges for prepayments, advances or deposits,
18 including, but not limited to prepaid calling cards. In the event Blackstone Communications
19 Company desires to initiate such charges, it must file information with the Commission that
20 demonstrates the company's financial viability or establish an escrow account equal to the amount of
21 any prepayments, advances or deposits. Staff shall review the information provided and file its
22 recommendation concerning financial viability within thirty days of receipt of the financial
23 information, for Commission approval.

24 IT IS FURTHER ORDERED that the modified tariffs shall be filed within 30 days from the
25 effective date of this Decision.

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IT IS FURTHER ORDERED that Blackstone Communications Company shall comply with the Staff recommendations set forth in Findings of Fact No. 7.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, 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 _____, 2000.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
JR:bbs

1 SERVICE LIST FOR: BLACKSTONE COMMUNICATIONS COMPANY

2 DOCKET NO. T-03734A-99-0227

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