

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



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: APRIL 10, 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)

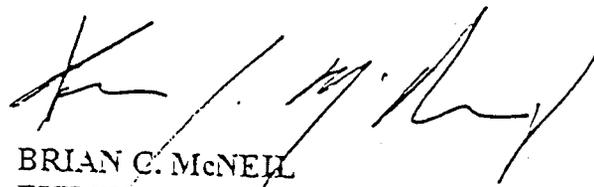
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 19, 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:

APRIL 25, 2000 and APRIL 26, 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
BLACKSTONE COMMUNICATIONS COMPANY
7 FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 INTRASTATE TELECOMMUNICATIONS
SERVICES AS A RESELLER.

DOCKET NO. T-03734A-99-0227

DECISION NO. _____

ORDER

9 Open Meeting
10 April 25 and 26, 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
16 the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
17 provide 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. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101
22 through R14-2-1115 to regulate resellers.

23 4. Applicant is a Florida corporation authorized to do business in Arizona since 1999.

24 5. On November 17, 1999, the Commission's Utilities Division Staff ("Staff") filed a
25 Staff Report.

26 6. In the Staff Report, Staff reported that Applicant provided financial statements for the
27 four months ended April 2, 1999, which indicated that Applicant had total assets of \$337,052, equity
28 of \$337,052, and retained earnings of \$1,076. Based on the foregoing, Staff believes that Applicant

1 does not appear to have sufficient financial resources to make necessary plant additions or incur
2 operating losses. Accordingly, Staff recommended as a condition of certification that pursuant to
3 A.A.C. R14-2-1105.D, if Applicant desires to charge customers for any prepayments, advances or
4 deposits, Applicant must maintain for a minimum of one year, an escrow account equal to the total
5 amount of any prepayments, advances and deposits that Applicant may collect from its customers. In
6 the alternative, Applicant could file a letter stating that it does not currently charge customers any
7 prepayments, advances or deposits, and does not intend to do so in the future. If at some future date
8 Applicant desired to charge customers any prepayments, advances or deposits, it must file
9 information with Staff that demonstrates Applicant's financial viability. Staff would review the
10 information and provide Applicant its decision concerning financial viability within 30 days of
11 receipt of the information. Staff believes that if Applicant experiences financial difficulty, there
12 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-
13 based provider, and may permanently switch to another company without forfeiting any prepayment,
14 advance or deposit.

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

17 8. Staff recommended that:

18 (a) Applicant's application for a Certificate should be approved without a hearing
19 subject to A.A.C. R14-2-1106.B;

20 (b) Applicant's intrastate toll service offerings should be classified as competitive
pursuant to A.A.C. R14-2-1108;

21 (c) Applicant's competitive services should be priced at the effective rates set
22 forth in Applicant's tariffs and the maximum rates for these services should be the
23 maximum rates proposed by Applicant in its tariffs. The minimum rates for
Applicant's competitive services should be Applicant's long run incremental costs of
providing those services as set forth in A.A.C. R14-2-1109;

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

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

9. By Procedural Order dated December 3, 1999, the Commission set a deadline of December 31, 1999, for publishing notice of its application pursuant to A.A.C. R14-2-1104.

10. By Procedural Order dated February 8, 2000, the Commission extended the deadline for providing notice until February 28, 2000, and extended the deadline contained in A.A.C. R14-2-1103(B)(5) until May 31, 2000.

11. Applicant has not filed proof of publication pursuant to A.A.C. R14-2-1104, as required in the December 3, 1999 and February 8, 2000 Procedural Orders.

CONCLUSIONS OF LAW

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

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

3. Notice of the application was not given in accordance with the law.

4. For its failure to adhere to Commission rules and regulations and the requirements of the December 3, 1999 and February 8, 2000 Procedural Orders, Applicant is not a fit and proper entity to receive a Certificate for providing competitive intrastate telecommunication services as a reseller in Arizona.

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ORDER

IT IS THEREFORE ORDERED that the Application of Blackstone Communications Company for a Certificate of Convenience and Necessity for authority to provide competitive resold intrastate telecommunication services shall be, and the same is hereby denied, and the Docket closed.

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

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SERVICE LIST FOR:

BLACKSTONE COMMUNICATIONS COMPANY

DOCKET NO.

T-03734A-99-0227

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