

ORIGINAL

KATZ, KUTTER, HAIGLER, ALDERMAN, BRY

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com



0000010191

Orlando Office

Suite 900  
111 North Orange Avenue  
ORLANDO, FL 32801  
(407) 841-7100  
fax (407) 648-0660

Tallahassee Office

12<sup>th</sup> Floor  
106 East College Avenue  
TALLAHASSEE, FL 32301  
(850) 224-9634  
fax (850) 222-0103

Reply to Tallahassee Office

Miami Office

Suite 409  
2999 NE 191<sup>st</sup> Street  
AVENTURA, FL 33180  
(305) 932-0996  
fax (305) 932-0972

Washington, DC Office

Suite 750  
801 Pennsylvania Avenue, NW  
WASHINGTON, DC 20004  
(202) 393-6222  
fax (202) 393-5959

November 15, 2001  
Arizona Corporation Commission

DOCKETED

NOV 16 2001

DOCKETED BY	<i>mae</i>
-------------	------------

AZ CORP COMMISSION  
DOCUMENT CONTROL

2001 NOV 16 P 1:41

RECEIVED

Brian C. McNeil, Executive Secretary  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007-2996

In re: Docket Nos. T-02764A-94-0140 & T-03299A-96-0618

Dear Mr. McNeil:

Yesterday, in the course of following up the Fair Value Rate Base ("FVRB") Information filings of Buehner-Fry, Inc. ("Buehner-Fry"), we were disappointed to learn that the Commission has considered the filings to be not compliant with its decisions granting Buehner-Fry Certificates of Convenience and Necessity ("CCN").

In Docket No. T-02764A-94-0140, concerning the May 5, 1994, CCN application of Buehner-Fry d/b/a Resort Operator Services ("ROS"), the Commission issued Decision No. 63543 on March 30, 2001, granting the application. *Attachment A*. On page 5, the Decision required ROS to file FVRB information within 18 months of the date it first provides services. On June 1, 2001, ROS filed its FVRB Information, having agreed with Mr. Patrick C. Williams, Manager, Compliance and Enforcement, Utilities Division, that ROS began service in Arizona on February 10, 2000, for the purpose of the FVRB Information filing. *Attachment B*.

On February 10, 2000, ROS had filed an Updated Information Form, in which it stated that it was currently providing service in Arizona. *Attachment C*. This fact was later acknowledged in a Staff Report on ROS's application dated September 12, 2000. *Attachment D*. This was noted in paragraph 8 of the FVRB Information filing. In fact, the Decision, at page 6, contemplates the possibility that ROS had begun providing service to Arizona customers.

ROS filed a Revision on August 23, 2001, to substitute information ascribable to ROS. The initial filing presented information ascribable to its parent, Buehner-Fry. *Attachment E*.

In Docket No. T-03299A-96-0618, concerning the December 18, 1996, CCN application of Buehner-Fry d/b/a DirectDial USA ("DDUSA"), the Commission issued

Decision No. 63909 on August 6, 2001, granting the application. *Attachment F*. This time, on page 5, the decision required DDUSA to file FVRB information within 18 months of the date it first provides service following certification. Having moved ahead with the ROS FVRB Information filing, this difference was unexpected and it escaped our notice until now. On August 23, 2001, DDUSA filed its FVRB Information, noting in paragraph 8 and footnote 1, that, consistent with the approach taken in the ROS docket, DDUSA would be deemed to have started service in Arizona on April 1, 2000. *Attachment G*.

That start of service date was selected because it was a date on which DDUSA was assuredly providing service in Arizona and a date that accommodated the 18 month FVRB filing period as it was then understood. Our file does not reveal an Updated Information Form filed for DDUSA, as was filed for ROS. However, the fact that DDUSA was providing service in Arizona was acknowledged in a Staff Report on DDUSA's application dated September 12, 2000, *Attachment H*, and contemplated in the DDUSA Decision as well.

The ROS FVRB Information filing is literally consistent with the Commission's Decision, while the subsequent DDUSA FVRB Information filing is consistent with the ROS filing. While the language in the ROS Decision may not have been correct, Buehner-Fry relied upon it in good faith. The Commission did not advise Buehner-Fry that the FVRB filing was untimely or that the language was not correct. As noted above, Buehner-Fry and Commission Staff together established an FVRB Information filing period, which accommodated the June 1, 2001, filing. When the Commission later issued the DDUSA Decision, Buehner-Fry simply acted as it had for ROS.

To resolve this matter, Buehner-Fry would suggest that in these circumstances it is reasonable and appropriate for the Commission to consider and act on the ROS and DDUSA FVRB Information filings now, rather than to require these filings to be made anew many months in the future and at still further expense.

We thank you for your consideration of this matter. We will await your response.

Sincerely,

  
Charles J. Pellegrini

c/ Ms. Janet Wagner  
Mr. Robert J. Metli  
Mr. Patrick C. Williams  
Ms. Marta Kalleberg  
Mr. Devinti Williams

# **ATTACHMENT A**

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER  
5

6 IN THE MATTER OF THE APPLICATION OF  
BUEHNER-FRY, INC. D/B/A RESORT  
7 OPERATOR SERVICES FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
8 COMPETITIVE RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
9 LOCAL EXCHANGE SERVICES

DOCKET NO. T-02764A-94-0140

DECISION NO. 63543

**ORDER**

Arizona Corporation Commission

**DOCKETED**

MAR 30 2001

DOCKETED BY

VL

10 Open Meeting  
March 27 and 28, 2001  
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

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

15 **FINDINGS OF FACT**

16 1. On May 5, 1994, Buehner-Fry, Inc. d/b/a Resort Operator Services, Inc. ("Buehner-  
17 Fry, Inc." or "Applicant") filed with Docket Control of the Commission an application for a  
18 Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange  
19 telecommunications services, except local exchange services, within the State of Arizona.

20 2. Applicant is a Nevada corporation, authorized to do business in Arizona since 1995.

21 3. Applicant is a switchless reseller, which purchases telecommunications services from  
22 Sprint.

23 4. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
24 telecommunications providers ("resellers") were public service corporations subject to the  
25 jurisdiction of the Commission.

26 5. On February 11, 2000 and June 9, 2000, Buehner-Fry, Inc. filed updates to its  
27 application.

28 6. On June 26, 2000, Buehner-Fry, Inc. filed a letter indicating that it currently does not,

1 and will not in the future, charge customers any advances, prepayments, or deposits.

2 7. On July 21, 2000, Buehner-Fry, Inc. filed an amendment to its application as well as  
3 Affidavits of Publication indicating compliance with the Commission's notice requirements.

4 8. On September 13, 2000, the Commission's Utilities Division Staff ("Staff") filed its  
5 Staff Report in this matter. In its Report, Staff stated that Buehner-Fry, Inc. has provided the  
6 financial statements of its parent company for the year ended May 31, 1999. These financial  
7 statements list assets of \$2.37 million, stockholders' equity of \$79,421, and retained earnings of  
8 \$295,995. Based on the foregoing, Staff believes that Applicant lacks adequate financial resources to  
9 be allowed to charge customers any prepayments, advances, or deposits without either establishing an  
10 escrow account or posting a surety bond to cover such prepayments, advances, or deposits. However,  
11 the Applicant has filed a letter indicating that it does not charge its customers for any prepayments,  
12 advances or deposits. If at some future date, the Applicant wants to charge customers any  
13 prepayments, advances or deposits, it must file information with the Commission that demonstrates  
14 the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and  
15 the Commission will make a determination concerning the Applicant's financial viability and  
16 whether customer prepayments, advances or deposits should be allowed. Additionally, Staff believes  
17 that if the Applicant experiences financial difficulty, there should be minimal impact to its customers.  
18 Customers are able to dial another reseller or facilities-based provider to switch to another company.

19 9. Staff recommended approval of the application subject to the following:

20 (a) The Applicant should be ordered to comply with all Commission rules, orders,  
21 and other requirements relevant to the provision of intrastate telecommunications  
22 service;

23 (b) The Applicant should be ordered to maintain its accounts and records as  
24 required by the Commission;

25 (c) The Applicant should be ordered to file with the Commission all financial and  
26 other reports that the Commission may require, and in a form and at such times as the  
27 Commission may designate;

28 (d) The Applicant should be ordered to maintain on file with the Commission all  
current tariffs and rates, and any service standards that the Commission may require;

1 (e) The Applicant should be ordered to comply with the Commission's rules and  
2 modify its tariffs to conform to these rules if it is determined that there is a conflict  
between the Applicant's tariffs and the Commission's rules;

3 (f) The Applicant should be ordered to cooperate with Commission investigations  
4 of customers complaints;

5 (g) The Applicant should be ordered to participate in and contribute to a universal  
6 service fund, as required by the Commission;

7 (h) The Applicant should be ordered to file its tariffs within 30 days of an Order in  
this matter, and in accordance with the Decision;

8 (i) The Applicant should be ordered to notify the Commission immediately upon  
9 changes to the Applicant's address or telephone number;

10 (j) The Applicant's intrastate interexchange service offerings should be classified  
11 as competitive;

12 (k) The Applicant's competitive services should be priced at the rates proposed by  
the Applicant in its most recently filed tariffs. The maximum rates for these services  
13 should be the maximum rates proposed by the Applicant in its proposed tariffs. The  
14 minimum rates for the Applicant's competitive services should be the Applicant's total  
service long run incremental costs of providing those services; and,

15 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
16 competitive service, the rate stated should be the effective (actual) price to be charged  
for the service as well as the service's maximum rate.

17  
18 10. The Staff Report stated that Applicant has no market power and the reasonableness of  
19 its rates would be evaluated in a market with numerous competitors.

20 11. On August 29, 2000, the Arizona Court of Appeals, Division One ("Court") issued its  
21 Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV,  
22 Section 14 of the Arizona Constitution requires the Arizona Corporation Commission  
23 ("Commission") to "determine fair value rate base for all public service corporations in Arizona prior  
24 to setting their rates and charges."

25 12. On September 12, 2000, the Commission ordered the Hearing Division to open a new  
26 generic docket to obtain comments on procedures to insure compliance with the Constitution should  
27 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. The  
28 Commission also expressed concerns that the cost and complexity of fair value rate base ("FVRB")

1 determinations must not offend the Telecommunications Act of 1996.

2 13. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
3 Supreme Court.

4 14. On February 13, 2001, the Commission's Petition was granted.

5 15. Based on the above, we will approve the application of Buehner-Fry, Inc at this time  
6 with the understanding that it may subsequently have to be amended to comply with the law after the  
7 exhaustion of all appeals.

8 **CONCLUSIONS OF LAW**

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

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

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

14 4. Applicant's provision of resold intrastate telecommunications services is in the public  
15 interest.

16 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive  
17 intrastate telecommunications services as a reseller in Arizona.

18 6. Staff's recommendations in Findings of Fact Nos. 8 and 9 are reasonable and should  
19 be adopted.

20 **ORDER**

21 IT IS THEREFORE ORDERED that the application of Buehner-Fry, Inc. d/b/a Resort  
22 Operator Services for a Certificate of Convenience and Necessity for authority to provide competitive  
23 resold interexchange telecommunications services, except local exchange services, shall be and the  
24 same is hereby granted, except that Buehner-Fry, Inc. d/b/a Resort Operator Services shall not be  
25 authorized to charge customers any prepayments, advances, or deposits. In the future, if Buehner-Fry,  
26 Inc. d/b/a Resort Operator Services desires to initiate such charges, it must file information with the  
27 Commission that demonstrates the Applicant's financial viability. Staff shall review the information  
28 provided and file its recommendation concerning financial viability and/or the necessity of obtaining

1 a performance bond within thirty (30) days of receipt of the financial information, for Commission  
2 approval.

3 IT IS FURTHER ORDERED that Buehner-Fry, Inc. d/b/a Resort Operator Services shall  
4 comply with Staff's recommendations as stated in Findings of Fact No. 8 and 9.

5 IT IS FURTHER ORDERED that Buehner-Fry, Inc. d/b/a Resort Operator Services shall file  
6 the following FVRB information within 18 months of the date that it first provides service. The  
7 FVRB shall include a dollar amount representing the total revenue for the first twelve months of  
8 telecommunications service provided to Arizona customers by Buehner-Fry, Inc. d/b/a Resort  
9 Operator Services following certification, adjusted to reflect the maximum rates Buehner-Fry, Inc.  
10 d/b/a Resort Operator Services requests in its tariff. This adjusted total revenue figure could be  
11 calculated as the number of units sold for all services offered times the maximum charge per unit.  
12 Buehner-Fry, Inc. d/b/a Resort Operator Services shall also file FVRB information detailing the total  
13 actual operating expenses for the first twelve months of telecommunications service provided to  
14 Arizona customers by Buehner-Fry, Inc. d/b/a Resort Operator Services following certification.  
15 Buehner-Fry, Inc. d/b/a Resort Operator Services shall also file FVRB information which includes a  
16 description and value of all assets, including plant, equipment, and office supplies, to be used to  
17 provide telecommunications service to Arizona customers for the first twelve months following  
18 Buehner-Fry, Inc. d/b/a Resort Operator Services' certification.

19 IT IS FURTHER ORDERED that Buehner-Fry, Inc. d/b/a Resort Operator Services shall  
20 comply with the Staff recommendations set forth in Findings of Fact Nos. 8 and 9.

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,  
2 Buehner-Fry, Inc. d/b/a Resort Operator Services shall notify the Compliance Section of the Arizona  
3 Corporation Commission of the date that it will begin or has begun providing service to Arizona  
4 customers.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

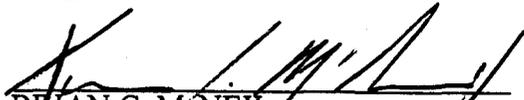
7 

8  
9 CHAIRMAN

  
10 COMMISSIONER

  
11 COMMISSIONER

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Secretary of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 30<sup>th</sup> day of March, 2001.

  
17 BRIAN C. McNEIL  
18 EXECUTIVE SECRETARY

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

1  
2 SERVICE LIST FOR: BUEHNER-FRY, INC. D/B/A RESORT OPERATOR  
SERVICES

3 DOCKET NO.: T-02764A-94-0140

4  
5 Charles J. Pellegrini  
6 Katz, Kutter, Haigler, Alderman, Bryant, & Yon, P.A.  
106 East College Street, 12<sup>th</sup> Floor  
Tallahassee, Florida 32301

7 Steven C. Johnson, Vice President  
8 Buehner-Fry, Inc. d/b/a Resort Operator Services'  
62975 Boyd Acres Road, Suite 3  
9 Bend, Oregon 97701

10 Christopher Kempley, Chief Counsel  
11 Legal Division  
ARIZONA CORPORATION COMMISSION  
12 1200 West Washington Street  
Phoenix, Arizona 85007

13 Deborah Scott, Director  
14 Utilities Division  
ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
Phoenix, Arizona 85007

# **ATTACHMENT B**

# COVER SHEET

## ARIZONA CORPORATION COMMISSION DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO.

RECEIVED

Buehner-Fry, Inc.

T-92764A-94-0140

2001 JUN -4 P 12:16

D/B/A or RESPONDENT:

Resort Operator Services

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL CENTER

### NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

01 UTILITIES - NEW APPLICATIONS

- |   |  |
|---|--|
| <input type="checkbox"/> NEW CC&N   | <input type="checkbox"/> MAIN EXTENSION                                    |
| <input type="checkbox"/> RATES  | <input type="checkbox"/> CONTRACT/AGREEMENTS                               |
| <input type="checkbox"/> INTERIM RATES                                      | <input type="checkbox"/> COMPLAINT (Formal)                                |
| <input type="checkbox"/> CANCELLATION OF CC&N                               | <input type="checkbox"/> RULE VARIANCE/WAIVER REQUEST                      |
| <input type="checkbox"/> DELETION OF CC&N (TERRITORY)                       | <input type="checkbox"/> SITING COMMITTEE CASE                             |
| <input type="checkbox"/> EXTENSION OF CC&N (TERRITORY)                      | <input type="checkbox"/> SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252) |
| <input type="checkbox"/> TARIFF - NEW (NEXT OPEN MEETING)                   | <input type="checkbox"/> SALE OF ASSETS & TRANSFER OF OWNERSHIP            |
| <input type="checkbox"/> REQUEST FOR ARBITRATION<br>(Telecommunication Act) | <input type="checkbox"/> SALE OF ASSETS & CANCELLATION OF CC&N             |
| <input type="checkbox"/> FULLY OR PARTIALLY ARBITRATED                      | <input type="checkbox"/> FUEL ADJUSTER/PGA                                 |
| <input type="checkbox"/> INTERCONNECTION AGREEMENT<br>(Telecom. Act.)       | <input type="checkbox"/> MERGER  |
| <input type="checkbox"/> VOLUNTARY INTERCONNECTION                          | <input type="checkbox"/> FINANCING   |
| <input type="checkbox"/> AGREEMENT (Telecom. Act)                           | <input type="checkbox"/> MISCELLANEOUS<br>Specify                          |

02 UTILITIES - REVISIONS/AMENDMENTS TO  
PENDING OR APPROVED MATTERS

- |   |   |
|---|---|
| <input type="checkbox"/> APPLICATION      | <input type="checkbox"/> TARIFF                             |
| <input type="checkbox"/> COMPANY          | <input type="checkbox"/> PROMOTIONAL                        |
| <input type="checkbox"/> DOCKET NO. _____ | <input type="checkbox"/> DECISION NO. _____                 |
|   | <input type="checkbox"/> DOCKET NO. _____                   |
|   | <input checked="" type="checkbox"/> COMPLIANCE              |
|   | <input type="checkbox"/> DECISION NO. <u>63543</u>          |
|   | <input type="checkbox"/> DOCKET NO. <u>T-92764A-94-0140</u> |

### SECURITIES or MISCELLANEOUS FILINGS

- |  |  |
|--|--|
| <input type="checkbox"/> 04 AFFIDAVIT                    | <input type="checkbox"/> 29 STIPULATION  |
| <input type="checkbox"/> 12 EXCEPTIONS                   | <input type="checkbox"/> 38 NOTICE OF INTENT<br>(Only notification of future action/no action necessary) |
| <input type="checkbox"/> 18 REQUEST FOR INTERVENTION     | <input type="checkbox"/> 43 PETITION   |
| <input type="checkbox"/> 48 REQUEST FOR HEARING          | <input type="checkbox"/> 46 NOTICE OF LIMITED APPEARANCE   |
| <input type="checkbox"/> 24 OPPOSITION                   | <input type="checkbox"/> 39 OTHER<br>Specify _____   |
| <input type="checkbox"/> 50 COMPLIANCE ITEM FOR APPROVAL |  |
| <input type="checkbox"/> 32 TESTIMONY                    |  |
| <input type="checkbox"/> 47 COMMENTS                     |  |

6-1-01

Date

Charles J. Pellegrini, Esquire

Print Name of Applicant/Company/Contact person/Respondent/Atty.  
(850) 577-6755

Phone

PLEASE SEE NOTICE ON REVERSE SIDE

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com

Orlando Office  
Suite 900  
111 North Orange Avenue  
ORLANDO, FL 32801  
(407) 841-7100  
fax (407) 648-0660

Tallahassee Office  
12<sup>th</sup> Floor  
106 East College Avenue  
TALLAHASSEE, FL 32301  
(850) 224-9634  
fax (850) 222-0103

Miami Office  
Suite 409  
2999 NE 191<sup>st</sup> Street  
AVENTURA, FL 33180  
(305) 932-0996  
fax (305) 932-0972

Washington, DC Office  
Suite 750  
801 Pennsylvania Avenue, NW  
WASHINGTON, D.C. 20004  
(202) 393-1132  
fax (202) 624-0659

*Respond to Tallahassee*

June 1, 2001

**VIA FEDERAL EXPRESS**

Docket Control Center  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

RECEIVED  
2001 JUN -4 P 12:16  
AZ CORP COMMISSION  
DOCUMENT CONTROL

Re: Docket No. T-92764A-94-0140 – In the Matter of the Application of Buehner-Fry, Inc. d/b/a Resort Operator Services for a Certificate of Convenience and Necessity to Provide Competitive Intrastate Telecommunications Services

Dear Docket Control Center:

Enclosed for filing are the original and ten (10) copies of Buehner-Fry, Inc. d/b/a Resort Operator Services' Fair Value Rate Base Information.

Please acknowledge receipt of this transmittal by returning a date-stamped copy of the enclosed cover letter duplicate in the return envelope provided for that purpose.

Please contact me if you have any questions. Thank you for your assistance in this matter.

Sincerely,

  
Charles J. Pellegrini

CJP:plk  
Enclosures  
cc: Mr. Pat Williams, Compliance

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE  
APPLICATION OF BUEHNER-FRY,  
INC. D/B/A RESORT OPERATOR  
SERVICES FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO  
PROVIDE COMPETITIVE RESOLD  
INTRASTATE  
TELECOMMUNICATIONS SERVICES

DOCKET NO. T-02764A-94-0140

FAIR VALUE RATE BASE INFORMATION

COMES NOW Buehner-Fry, Inc. d/b/a Resort Operator Services ("Buehner-Fry"), through counsel, and, pursuant to order, files its Fair Value Rate Base Information, stating in support thereof the following.

1. On May 5, 1994, Buehner-Fry filed an Application for a Certificate of Convenience and Necessity ("Application") to provide competitive resold intrastate telecommunications services within the State of Arizona.
2. On August 29, 2000, the Court of Appeals, Division One, issued its Opinion in Cause No. 1 CA-CV 98-0672, in which it determined that pursuant to the Arizona constitution the Commission must determine the fair value rate base ("FVRB") of all public service corporations in Arizona prior to setting their rates and charges.
3. On September 12, 2000, Staff, Utilities Division, filed a Staff Report in this proceeding over the signature of Deborah R. Scott, Director. The Staff Report recommended that the Application be approved without a hearing pursuant to A.R.S. § 40-281 and that Buehner-Fry be required to file its tariff within 30 days of an order in this matter.
4. On October 3, 2000, the Commission issued a Procedural Order in this proceeding, in which it ordered Buehner-Fry to file its proposed FVRB and other related information by November 3, 2000.

On October 23, 2000, Buehner-Fry filed a Motion for Extension of Time until February 5, 2001, to file its proposed FVRB. The Commission granted Buehner-Fry an extension until February 7, 2001, in a Procedural Order, issued October 26, 2000.

6. On February 2, 2001, Buehner-Fry filed its revised tariff and price list, together with a Petition to Classify Tariffed Rates as Interim Rates. On March 9, 2001, Staff filed Staff's Fair Value Rate Base Comments ("Staff's Comments") in this matter, over the signature of Janet Wagner, in which it recommended that Buehner-Fry's proposed tariffs be approved on an interim basis and that Buehner-Fry be required to submit FVRB information within eighteen months of first providing service, consisting of, at minimum, total revenue for the first twelve months reflecting maximum rates, actual operating expenses for the same period, and the value of all assets used in the same period for providing telecommunications services to Arizona customers.

7. On March 30, 2001, the Commission issued Decision No. 63543, in which it granted Buehner-Fry's Application, while requiring Buehner-Fry to file FVRB information as recommended in the Staff's Comments and to file its tariffs within 30 days of the order.

8. On May 15, 2001, Buehner Fry, pursuant to order, advised the Commission that it is currently providing telecommunications services in Arizona and on May 16, 2001, Buehner-Fry concurred with Compliance Staff, Pat Williams, that for purposes of filing FVRB information, Buehner-Fry's service in Arizona would be deemed to have started on February 10, 2000.

9. On May 22, 2001, Buehner-Fry, pursuant to order, filed its tariff and price list.

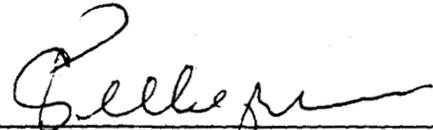
10. Buehner-Fry hereby submits that the "dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by Buehner-Fry Inc. d/b/a Resort Operator Services following certification, adjusted to reflect the maximum rates Buehner-Fry Inc. d/b/a Resort Operator Services requests in its tariff" is \$14,733.83.

Buehner-Fry hereby submits that the "total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by Buehner-Fry Inc. d/b/a Resort Operator Services following certification" are \$8,782.84.

12. Buehner-Fry hereby submits that, since it has no plant, equipment, office supplies, or any other property physically in Arizona, it has derived by imputation that "a description and value of all assets, including plant, equipment, and office supplies, to be used to provide telecommunications service provided to Arizona customers for the first twelve months following Buehner-Fry Inc. d/b/a Resort Operator Services' certification" is \$1,741.00.

WHEREFORE, Buehner-Fry, Inc. d/b/a Resort Operator Services respectfully submits the foregoing FVRB information in accordance with the Third Ordering Paragraph of Commission Decision No. 63543.

Submitted this 1<sup>st</sup> day of June, 2001.



Charles J. Pellegrini  
Katz, Kutter, Haigler, Alderman,  
Bryant & Yon, P.A.  
106 East College Street, 12<sup>th</sup> Floor  
Tallahassee, Florida 32301  
Telephone: 850 224 9634  
Facsimile: 850 224 0402  
email: [cjpellegrini@katzlaw.com](mailto:cjpellegrini@katzlaw.com)

Attorney for Buehner-Fry, Inc. d/b/a  
Resort Operator Services

# **ATTACHMENT C**

COVER SHEET

ROS

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO.

Buehner-Fry, Inc.

T-02764A-94-0140

D/B/A or RESPONDENT:

d/b/a Resort Operator Services

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark item that describes the nature of the case/filing

01 UTILITIES - NEW APPLICATIONS

NEW CC&N

RATES -

INTERIM RATES

CANCELLATION OF CC&N

DELETION OF CC&N (TERRITORY)

EXTENSION OF CC&N (TERRITORY)

TARIFF - NEW (NEXT OPEN MEETING)

REQUEST FOR ARBITRATION

(Telecommunications Act)

FULLY OR PARTIALLY ARBITRATED

INTERCONNECTION AGREEMENT

(Telecom. Act)

VOLUNTARY INTERCONNECTION

AGREEMENT (Telecom. Act)

MAIN EXTENSION

CONTRACT/AGREEMENTS

COMPLAINT (Formal)

RULE VARIANCE/WAIVER REQUEST

SITING COMMITTEE CASE

SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252)

SALE OF ASSETS & TRANSFER OF OWNERSHIP

SALE OF ASSETS & CANCELLATION OF CC&N

FUEL ADJUSTER/PGA

MERGER

FINANCING

MISCELLANEOUS

Specify \_\_\_\_\_

x 02 UTILITIES - NEW APPLICATIONS  
UTILITIES - NEW APPLICATIONS

APPLICATION

COMPANY Buehner-Fry, Inc.

DOCKET NO. T-02764A-94-0140

TARIFF

PROMOTIONAL

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

DOCKET NO. \_\_\_\_\_

COMPLIANCE

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

DOCKET NO. \_\_\_\_\_

SECURITIES or MISCELLANEOUS FILINGS

04 AFFIDAVIT

12 EXCEPTIONS

18 REQUEST FOR INTERVENTION

48 REQUEST FOR HEARING

24 OPPOSITION

50 COMPLIANCE ITEM FOR APPROVAL

32 TESTIMONY

47 COMMENTS

29 STIPULATION

38 NOTICE OF INTENT

(Only notification of future action/no action necessary)

43 PETITION

46 NOTICE OF LIMITED APPEARANCE

OTHER

Specify \_\_\_\_\_

February 10, 2000

Date

Susan Davis Morlev

Print Name of Applicant/Company/Contact Person/Respondent/Atty.

(850) 385-6007

Phone

PLEASE SEE NOTICE ON REVERSE SIDE

WIGGINS & VILLACORTA, P.A.  
ATTORNEYS AT LAW

POST OFFICE DRAWER 1657  
TALLAHASSEE, FLORIDA 32302

2145 DELTA BOULEVARD, SUITE 200  
TALLAHASSEE, FLORIDA 32303

TELEPHONE (850) 385-6007  
FACSIMILE (850) 385-6008  
INTERNET: wiggvill@nettally.com

February 10, 2000

VIA FACSIMILE AND FEDERAL EXPRESS

Cynthia Mercurio-Sandoval  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

Re: Certificate of Convenience and Necessity Application for Buehner-Fry, Inc. d/b/a Resort Operator Services ("BFI"), Docket No. T-02764A-94-0140

Dear Ms. Sandoval:

Enclosed for filing are an original and ten (10) copies of Buehner-Fry, Inc. d/b/a Resort Operator Services' (Docket No. T-02764A-94-0140) updated application information form. Current Company information is also listed below.

The correct name, address and telephone number of BFI:

Buehner-Fry, Inc. d/b/a Resort Operator Services  
62975 Boyd Acres Road, Suite 3  
Bend, Oregon 97701  
(541) 385-5255  
(541) 385-5255, press 3 FAX

The name, address, and telephone number of the attorney for BFI:

Susan Davis Morley  
Wiggins & Villacorta, P.A.  
2145 Delta Boulevard, Suite 200  
Post Office Drawer 1657  
Tallahassee, Florida 32302  
(850) 385-6007  
(850) 385-6008 FAX  
E-mail: [sdmorlev@nettally.com](mailto:sdmorlev@nettally.com)

Ms. Sandoval  
February 10, 2000  
Page 2

The name, address, and telephone number of the management contact of BFI:

Steven C. Johnson – Vice President, Treasurer and Secretary  
Buehner-Fry, Inc. d/b/a Resort Operator Services  
62975 Boyd Acres Road, Suite 3  
Bend, Oregon 97701  
(541) 385-5255  
(541) 385-5255, press 3 FAX  
E-mail: scjohnson@buehner-fry.com

The name and address of the firm who will bill for BFI's services:

Billing Information Concepts, Inc.  
7411 John Smith Drive  
Suite 200  
San Antonio, TX 78229

Please acknowledge receipt of this transmittal by returning a date-stamped copy of the enclosed cover letter duplicate in the return envelope provided for that purpose.

Please contact me if you have any questions. Thank you for your assistance in this matter.

Sincerely,

  
Susan Davis Morley

SDM:keh

Enclosures

cc: Docket Control Center

ARIZONA CORPORATION COMMISSION  
UPDATED INFORMATION FORM

(Please check the paragraphs that apply to the company's situation)

Return to: Cynthia Mercurio-Sandoval  
Arizona Corporation Commission -Utilities Division  
1200 W Washington  
Phoenix, Arizona 85007

1. The full name and address of the applicant for a Certificate of Convenience and Necessity (CC&N) to resell telecommunications services within the State of Arizona and for a determination that services of the company are competitive is:

Buehner-Fry, Inc. d/b/a Resort Operator Services

62975 Boyd Acres Road, Suite 3

Bend, Oregon 97701

2. The company is currently providing service in Arizona? Yes / No

3. The company no longer wants to do business in Arizona. A Request To Withdraw it's application will be filed by submitting an original and 10 copies of the Request To Withdraw and a Docket Cover Sheet, to the Docket Control Center, 1200 W Washington, Phoenix, AZ 85007 by **February 11, 2000** (Form attached for your convenience)

4. The company wishes to have its application processed, and therefore, will file updated information, including name, address, names of contact people, their addresses; telephone numbers and e-mail addresses in the Docket Control Center.

- 4a. The updated information will be provided by mailing an original Amended Application, 10 copies and a Docket Cover Sheet to: the Docket Control Center, 1200 W Washington, Phoenix, AZ 85007, by **February 11, 2000**.

5. The company wishes to have its application processed and all information in the pending application is accurate and current.

Susan Davis Morley 2/10/00  
Name of person completing form (Please print) Date

Attorney for Buehner-Fry, Inc. d/b/a Resort Operator Services  
Title of person completing form

(850) 385-6007  
Phone number of person completing form

# **ATTACHMENT D**

*serg*

**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**Application For a Certificate of Convenience and Necessity to Provide Resold  
Interexchange Service and For Determination that Services of the Applicant are Competitive**

**Applicant: Buehner-Fry, Inc. d/b/a Resort Operator Services  
Docket No.: T-02764A-94-0140**

On May 5, 1994, the Applicant filed an application for a Certificate of Convenience and Necessity (CC&N) to provide resold interexchange services within the State of Arizona.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange telecommunications services. Staff's review considers the Applicant's integrity, technical, and financial capabilities, and whether the Applicant's proposed rates will be competitive, just, and reasonable.

---

**REVIEW OF APPLICANT INFORMATION**

---

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- The necessary information has been filed to process this application, and the Applicant has authority to transact business in the State of Arizona.
- The Applicant has published legal notice of the application in all counties where service will be provided.

RECEIVED

2000 SEP 13 A 8:32

AZ CORP COMMISSION  
DOCUMENT CONTROL

## REVIEW OF TECHNICAL INFORMATION

---

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- The Applicant is currently providing service in Arizona.
- The Applicant is currently providing service in other states.
- The Applicant is a switchless reseller.
- The Applicant has provided a system diagram that depicts its network that is used for completing calls within Arizona. Local exchange carrier facilities are used to originate and terminate calls carried on the Applicant's interexchange network. The Applicant does not currently own any interexchange facilities. The facilities that are used to complete calls are obtained from a facilities-based carrier operating in the state.
- In the event the Applicant's network fails, end users can access other interexchange service providers.

## REVIEW OF FINANCIAL INFORMATION

---

The Applicant has provided the unaudited financial statements of its Parent Company, Buehner-Fry, Inc. for the year ended May 31, 1999. These financial statements list assets of \$2.37 million, stockholders' equity of \$79,421, and retained earnings of \$295,995. Based upon all financial information, Staff believes the Applicant lacks the financial wherewithal to be allowed to charge customers any prepayments, advances or deposits without either establishing an escrow account or posting a surety bond to cover such customer prepayments, advances or deposits.

Since this Applicant does not appear to have sufficient financial resources, it has filed a letter stating that it does not currently, and will not in the future, charge its customers for any prepayments, advances or deposits. If at some future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances or deposits should be allowed.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many other companies that provide resold telecommunications service or the customers may choose a facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

---

## COMPETITIVE SERVICES' RATES AND CHARGES

---

### Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

### Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Because Staff believes that the market in which these services will be offered is competitive, Staff recommends that the Applicant's competitive services be priced at the rates proposed by the Applicant in its most recently filed tariffs. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

### Minimum and Maximum Rates

A.A.C. R14-2-1109(A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

---

### STAFF RECOMMENDATIONS

---

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate interexchange services as a reseller and its Petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange services, Staff recommends approval of the application subject to the following:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
6. The Applicant should be ordered to cooperate with Commission investigations of customer complaints;
7. The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;
8. The Applicant should be ordered to file its tariffs within 30 days of an Order in this matter, and in accordance with the Decision; and to
9. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number.
10. If at some future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances or deposits should be allowed.
11. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108.

- 12. The Applicant's competitive services should be priced at the rates proposed by the Applicant in its most recently filed tariffs. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109.
- 13. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate.

This application may be approved without a hearing pursuant to A.R.S. § 40-282.

*Barbara W. Tasker*  
 Deborah R. Scott  
 Director  
 Utilities Division

Date: 9-12-00

Originator: Marta Kalleberg

Date: September 12, 2000

# **ATTACHMENT E**

**ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL CENTER**

**COMPANY NAME:**

**DOCKET NO.**

ner-Fry, Inc.

T-92764A-94-0140

**J/B/A or RESPONDENT:**

Resort Operator Services

Client #	4046.10931	Date	08/23/2001	Shipping	19.25
Cust ID	AZ CC	Weight	2.00	Special	0.00
Attorney	CJP	COD	0.00	Handling	0.00
		DV	0.00	Total	20.02

Track: 493432193976

Mode: FedEx Express Priority

**NATURE OF ACTION OR DESCRIPTION OF DOCUMENT**

Please mark the item that describes the nature of the case/filing:

01 UTILITIES - NEW APPLICATIONS

- |                          |  |                          |   |
|--------------------------|--|--------------------------|---|
| <input type="checkbox"/> | NEW CC&N   | <input type="checkbox"/> | MAIN EXTENSION                                    |
| <input type="checkbox"/> | RATES  | <input type="checkbox"/> | CONTRACT/AGREEMENTS                               |
| <input type="checkbox"/> | INTERIM RATES                                      | <input type="checkbox"/> | COMPLAINT (Formal)                                |
| <input type="checkbox"/> | CANCELLATION OF CC&N                               | <input type="checkbox"/> | RULE VARIANCE/WAIVER REQUEST                      |
| <input type="checkbox"/> | DELETION OF CC&N (TERRITORY)                       | <input type="checkbox"/> | SITING COMMITTEE CASE                             |
| <input type="checkbox"/> | EXTENSION OF CC&N (TERRITORY)                      | <input type="checkbox"/> | SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252) |
| <input type="checkbox"/> | TARIFF - NEW (NEXT OPEN MEETING)                   | <input type="checkbox"/> | SALE OF ASSETS & TRANSFER OF OWNERSHIP            |
| <input type="checkbox"/> | REQUEST FOR ARBITRATION<br>(Telecommunication Act) | <input type="checkbox"/> | SALE OF ASSETS & CANCELLATION OF CC&N             |
| <input type="checkbox"/> | FULLY OR PARTIALLY ARBITRATED                      | <input type="checkbox"/> | FUEL ADJUSTER/PGA                                 |
| <input type="checkbox"/> | INTERCONNECTION AGREEMENT<br>(Telecom. Act.)       | <input type="checkbox"/> | MERGER  |
| <input type="checkbox"/> | VOLUNTARY INTERCONNECTION                          | <input type="checkbox"/> | FINANCING   |
| <input type="checkbox"/> | AGREEMENT (Telecom. Act)                           | <input type="checkbox"/> | MISCELLANEOUS                                     |
- Specify \_\_\_\_\_

x 02 UTILITIES - REVISIONS/AMENDMENTS TO  
PENDING OR APPROVED MATTERS

- |                          |                  |                                     |                                    |
|--------------------------|------------------|-------------------------------------|------------------------------------|
| <input type="checkbox"/> | APPLICATION      | <input type="checkbox"/>            | TARIFF                             |
| <input type="checkbox"/> | COMPANY          | <input type="checkbox"/>            | PROMOTIONAL                        |
| <input type="checkbox"/> | DOCKET NO. _____ | <input type="checkbox"/>            | DECISION NO. _____                 |
|                          |                  | <input type="checkbox"/>            | DOCKET NO. _____                   |
|                          |                  | <input checked="" type="checkbox"/> | COMPLIANCE                         |
|                          |                  | <input type="checkbox"/>            | DECISION NO. <u>63543</u>          |
|                          |                  | <input type="checkbox"/>            | DOCKET NO. <u>T-92764A-94-0140</u> |

SECURITIES or MISCELLANEOUS FILINGS

- |                          |                                 |                          |   |
|--------------------------|---------------------------------|--------------------------|---|
| <input type="checkbox"/> | 04 AFFIDAVIT                    | <input type="checkbox"/> | 29 STIPULATION  |
| <input type="checkbox"/> | 12 EXCEPTIONS                   | <input type="checkbox"/> | 38 NOTICE OF INTENT<br>(Only notification of future action/no action necessary) |
| <input type="checkbox"/> | 18 REQUEST FOR INTERVENTION     | <input type="checkbox"/> | 43 PETITION   |
| <input type="checkbox"/> | 48 REQUEST FOR HEARING          | <input type="checkbox"/> | 46 NOTICE OF LIMITED APPEARANCE   |
| <input type="checkbox"/> | 24 OPPOSITION                   | <input type="checkbox"/> | OTHER   |
| <input type="checkbox"/> | 50 COMPLIANCE ITEM FOR APPROVAL | <input type="checkbox"/> | 39 Specify _____  |
| <input type="checkbox"/> | 32 TESTIMONY                    |                          |   |
| <input type="checkbox"/> | 47 COMMENTS                     |                          |   |

8-23-01  
Date

Charles J. Pellegrini, Esquire  
Print Name of Applicant/Company/Contact person/Respondent/Atty.  
(850) 577-6755  
Phone

PLEASE SEE NOTICE ON REVERSE SIDE

**KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON**

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com

Orlando Office

Suite 900  
111 North Orange Avenue  
ORLANDO, FL 32801  
(407) 841-7100  
fax (407) 648-0660

Tallahassee Office

12<sup>th</sup> Floor  
106 East College Avenue  
TALLAHASSEE, FL 32301  
(850) 224-9634  
fax (850) 222-0103

Miami Office

Suite 409  
2999 NE 191<sup>st</sup> Street  
AVENTURA, FL 33180  
(305) 932-0996  
fax (305) 932-0972

Washington, DC Office

Suite 750  
801 Pennsylvania Avenue, NW  
WASHINGTON, D.C. 20004  
(202) 393-1132  
fax (202) 624-0659

*Respond to Tallahassee*

August 23, 2001

**VIA FEDERAL EXPRESS**

Docket Control Center  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

Re: Docket No. T-92764A-94-0140 - In the Matter of the Application of  
Buehner-Fry, Inc. d/b/a Resort Operator Services for a Certificate of  
Convenience and Necessity to Provide Competitive Intrastate  
Telecommunications Services

Dear Docket Control Center:

Enclosed for filing are the original and ten (10) copies of Buehner-Fry, Inc. d/b/a  
Resort Operator Services' Revision of Fair Value Rate Base Information.

Please acknowledge receipt of this transmittal by returning a date-stamped copy  
of the enclosed cover letter duplicate in the return envelope provided for that  
purpose.

Please contact me if you have any questions. Thank you for your assistance in  
this matter.

Sincerely,

  
Charles J. Pellegrini

CJP:plk

Enclosures

cc: Mr. Pat Williams, Compliance

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE  
APPLICATION OF BUEHNER-FRY,  
INC. D/B/A RESORT OPERATOR  
SERVICES FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO  
PROVIDE COMPETITIVE RESOLD  
INTRASTATE  
TELECOMMUNICATIONS SERVICES

DOCKET NO. T-02764A-94-0140

REVISION OF FAIR VALUE RATE BASE INFORMATION

COMES NOW Buehner-Fry, Inc. d/b/a Resort Operator Services ("Buehner-Fry"), through counsel, and files this Revision of Fair Value Rate Base Information, stating in support thereof the following.

1. On June 1, 2001, pursuant to Decision No. 63543, Buehner-Fry filed its Fair Value Rate Base Information ("FVRB Information") with the Commission.
2. The FVRB Information so filed was incorrect in that it reflects the combined operations of Buehner-Fry in Arizona as Resort Operator Services and DirectDial USA.
3. Therefore, Buehner-Fry hereby submits that the "dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by Buehner-Fry Inc. d/b/a Resort Operator Services following certification, adjusted to reflect the maximum rates Buehner-Fry Inc. d/b/a Resort Operator Services requests in its tariff" is \$6,682.84.
4. Buehner-Fry hereby submits that the "total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by Buehner-Fry Inc. d/b/a Resort Operator Services following certification" are \$3,971.60.
5. Buehner-Fry hereby submits that, since it has no plant, equipment, office supplies, or any other property physically in Arizona, it has derived by imputation that "a description and value of all assets, including plant, equipment, and office supplies, to be

used to provide telecommunications service provided to Arizona customers for the first twelve months following Buehner-Fry Inc. d/b/a Resort Operator Services' certification" is \$787.29.

WHEREFORE, Buehner-Fry, Inc. d/b/a as Resort Operator Services respectfully submits the foregoing revised FVRB information in accordance with the Third Ordering Paragraph of Commission Decision No. 63543.

Submitted this 23<sup>rd</sup> day of August, 2001.



Charles J. Pellegrini  
Katz, Kutter, Haigler, Alderman,  
Bryant & Yon, P.A.  
106 East College Street, 12<sup>th</sup> Floor  
Tallahassee, Florida 32301  
Telephone: 850 224 9634  
Facsimile: 850 224 0402  
email: [cjpellegrini@katzlaw.com](mailto:cjpellegrini@katzlaw.com)

Attorney for Buehner-Fry, Inc. d/b/a  
as Resort Operator Services

# **ATTACHMENT F**

1 **BEFORE THE ARIZONA CORPORATION COMMISSION** Arizona Corporation Commission  
2

3 WILLIAM A. MUNDELL  
4 CHAIRMAN  
5 JIM IRVIN  
6 COMMISSIONER  
7 MARC SPITZER  
8 COMMISSIONER

DOCKETED  
AUG 06 2001

DOCKETED BY	<i>sd</i>
-------------	-----------

9 IN THE MATTER OF THE APPLICATION OF  
10 BUEHNER-FRY, INC. D/B/A DIRECTDIAL USA  
11 FOR A CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY TO PROVIDE COMPETITIVE  
13 RESOLD INTEREXCHANGE  
14 TELECOMMUNICATIONS SERVICES, EXCEPT  
15 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03299A-96-0618

DECISION NO. 63909

**ORDER**

16 Open Meeting  
17 July 24 and 25, 2001  
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

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

22 **FINDINGS OF FACT**

23 1. On December 18, 1996, Buehner-Fry, Inc. d/b/a DirectDial USA ("BFI" or  
24 "Applicant") filed with the Commission an application for a Certificate of Convenience and  
25 Necessity ("Certificate") to provide competitive resold interexchange telecommunications services,  
26 except local exchange services, within the State of Arizona.

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

3. Applicant is a Nevada corporation, authorized to do business in Arizona since 1995.

4. Applicant is a switchless reseller, which purchases telecommunications services from  
a variety of carriers.

5. On February 11, 1997 and on July 21, 2000, BFI filed Affidavits of Publication  
indicating compliance with the Commission's notice requirements.

6. On September 13, 2000, the Commission's Utilities Division Staff ("Staff") filed its

1 Staff Report recommending approval of the application.

2       7. In its Staff Report, Staff stated that BFI provided financial statements for the year  
3 ending May 31, 1999. These financial statements list assets of \$2.37 million, shareholders' equity of  
4 \$79,421, and retained earnings of \$295,995. Based on the foregoing, Staff believes that Applicant  
5 lacks adequate financial resources to be allowed to charge customers any prepayments, advances, or  
6 deposits without either establishing an escrow account or posting a surety bond to cover such  
7 prepayments, advances, or deposits. On June 9, 2000, BFI filed a letter indicating that it does not  
8 charge its customers for any prepayments, advances or deposits. If at some future date, the Applicant  
9 wants to charge customers any prepayments, advances or deposits, it must file information with the  
10 Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff  
11 will review the information and the Commission will make a determination concerning the  
12 Applicant's financial viability and whether customer prepayments, advances or deposits should be  
13 allowed. Additionally, Staff believes that if the Applicant experiences financial difficulty, there  
14 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-  
15 based provider to switch to another company.

16       8. Staff recommended approval of the application subject to the following conditions.  
17 that:

18           (a) The Applicant should be ordered to comply with all Commission rules, orders,  
19 and other requirements relevant to the provision of intrastate telecommunications  
20 service;

21           (b) The Applicant should be ordered to maintain its accounts and records as  
22 required by the Commission;

23           (c) The Applicant should be ordered to file with the Commission all financial and  
24 other reports that the Commission may require, and in a form and at such times as the  
25 Commission may designate;

26           (d) The Applicant should be ordered to maintain on file with the Commission all  
27 current tariffs and rates, and any service standards that the Commission may require;

28           (e) The Applicant should be ordered to comply with the Commission's rules and  
modify its tariffs to conform to these rules if it is determined that there is a conflict  
between the Applicant's tariffs and the Commission's rules;

1 (f) The Applicant should be ordered to cooperate with Commission investigations  
2 of customers complaints;

3 (g) The Applicant should be ordered to participate in and contribute to a universal  
4 service fund, as required by the Commission;

5 (h) The Applicant should be ordered to notify the Commission immediately upon  
6 changes to the Applicant's address or telephone number;

7 (i) If at some future date, the Applicant wants to charge any prepayments,  
8 advances, or deposits, it must file information with the Commission that demonstrates  
9 the Applicant's financial viability. Upon receipt of such filing, Staff will review the  
10 information and the Commission will make a determination concerning the  
11 Applicant's financial viability and whether customer prepayments, advances, or  
12 deposits should be allowed;

13 (j) The Applicant's interexchange service offerings should be classified as  
14 competitive;

15 (k) The Applicant's competitive services should be priced at the rates proposed by  
16 the Applicant in its most recently filed tariffs. The maximum rates for these services  
17 should be the maximum rates proposed by the Applicant in its proposed tariffs. The  
18 minimum rates for the Applicant's competitive services should be the Applicant's total  
19 service long run incremental costs of providing those services;

20 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
21 competitive service, the rate stated should be the effective (actual) price to be charged  
22 for the service as well as the service's maximum rate; and

23 (m) The Applicant file its tariffs within 30 days of an Order in this matter, and in  
24 accordance with the Decision.

25 9. The Staff Report also stated that Applicant has no market power and the  
26 reasonableness of its rates would be evaluated in a market with numerous competitors.

27 10. On February 26, 2001, BFI filed updated financial information for the year ending  
28 May 31, 2000. These statements list assets of \$1.98 million, negative stockholders' equity of  
\$59,860, and retained earnings of \$156,714.

11. On June 1, 2001, BFI filed a letter indicating that it agrees to abide by the conditions  
specified in the Staff Report.

12. On August 29, 2000, the Arizona Court issued its Opinion in US WEST  
Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the

1 Arizona Constitution requires the Commission to determine fair value rate bases for all public service  
2 corporations in Arizona prior to setting their rates and charges.”

3 13. On October 26, 2000, the Commission filed a Petition for Review to the Supreme  
4 Court.

5 14. On February 13, 2001, the Commission’s Petition was granted.

### 6 CONCLUSIONS OF LAW

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

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

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

12 4. Applicant’s provision of resold interexchange telecommunications services is in the  
13 public interest.

14 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive  
15 resold interexchange telecommunications services in Arizona.

16 6. Staff’s recommendations in Findings of Fact No. 7 and 8 are reasonable and should be  
17 adopted.

### 18 ORDER

19 IT IS THEREFORE ORDERED that the application of Buehner-Fry, Inc. d/b/a DirectDial  
20 USA for a Certificate of Convenience and Necessity for authority to provide competitive resold  
21 interexchange telecommunications services, except local exchange services, is hereby granted, except  
22 that Buehner-Fry, Inc. d/b/a DirectDial USA shall not be authorized to charge customers any  
23 prepayments, advances, or deposits. In the future, if Buehner-Fry, Inc. d/b/a DirectDial USA desires  
24 to initiate such charges, it must file information with the Commission that demonstrates the  
25 Applicant’s financial viability. Staff shall review the information provided and file its  
26 recommendation concerning financial viability and/or the necessity of obtaining a surety bond within  
27 thirty (30) days of receipt of the financial information, for Commission approval.

28 IT IS FURTHER ORDERED that Buehner-Fry, Inc. d/b/a DirectDial USA shall file the

1 following FVRB information within 18 months of the date that it first provides service following  
2 certification. The FVRB shall include a dollar amount representing the total revenue for the first  
3 twelve months of telecommunications service provided to Arizona customers by Buehner-Fry, Inc.  
4 d/b/a DirectDial USA following certification, adjusted to reflect the maximum rates Buehner-Fry,  
5 Inc. d/b/a DirectDial USA requests in its tariff. This adjusted total revenue figure could be calculated  
6 as the number of units sold for all services offered times the maximum charge per unit. Buehner-Fry,  
7 Inc. d/b/a DirectDial USA shall also file FVRB information detailing the total actual operating  
8 expenses for the first twelve months of telecommunications service provided to Arizona customers by  
9 Buehner-Fry, Inc. d/b/a DirectDial USA following certification. Buehner-Fry, Inc. d/b/a DirectDial  
10 USA shall also file FVRB information which includes a description and value of all assets, including  
11 plant, equipment, and office supplies, for the first twelve months of telecommunications service  
12 provided to Arizona customers by Buehner-Fry, Inc. d/b/a DirectDial USA following certification.

13 IT IS FURTHER ORDERED that Buehner-Fry, Inc. d/b/a DirectDial USA shall comply with  
14 Staff's recommendations as set forth in Findings of Fact Nos. 7 and 8.

15 ...

16 ...

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

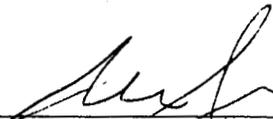
27 ...

28 ...

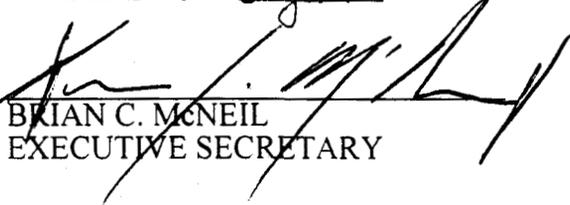
1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision.  
2 Buehner-Fry, Inc. d/b/a DirectDial USA shall notify the Compliance Section of the Arizona  
3 Corporation Commission of the date that it will begin or has begun providing service to Arizona  
4 customers.

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

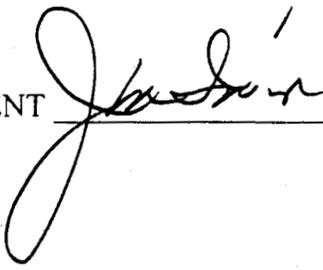
6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7   
8    
9 CHAIRMAN COMMISSIONER COMMISSIONER

10  
11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
12 Secretary of the Arizona Corporation Commission, have  
13 hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 6th day of August, 2001.

16   
17 BRIAN C. McNEIL  
18 EXECUTIVE SECRETARY

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

17 DISSENT  
18 SG:dp 

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SERVICE LIST FOR: BUEHNER-FRY, INC. D/B/A DIRECTDIAL USA

DOCKET NO.: T-03299A-96-0618

Charles J. Peligrini  
Katz, Kutter, Haigler, Alderman, Bryant & Yon  
106 East College Street, 12<sup>th</sup> Floor  
Tallahassee, Florida 32301  
Counsel for Buehner-Fry, Inc. d/b/a DirectDial USA

Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Deborah Scott, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

# **ATTACHMENT G**

# COVER SHEET

## ARIZONA CORPORATION COMMISSION DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO.

Buehner-Fry, Inc.

T-03299A-96-0618

D/B/A or RESPONDENT:

DirectDial USA

### NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

01 UTILITIES - NEW APPLICATIONS

NEW CC&N

RATES

INTERIM RATES

CANCELLATION OF CC&N

DELETION OF CC&N (TERRITORY)

EXTENSION OF CC&N (TERRITORY)

TARIFF - NEW (NEXT OPEN MEETING)

REQUEST FOR ARBITRATION

(Telecommunication Act)

FULLY OR PARTIALLY ARBITRATED

INTERCONNECTION AGREEMENT

(Telecom. Act.)

VOLUNTARY INTERCONNECTION

AGREEMENT (Telecom. Act)

MAIN EXTENSION

CONTRACT/AGREEMENTS

COMPLAINT (Formal)

RULE VARIANCE/WAIVER REQUEST

SITING COMMITTEE CASE

SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252)

SALE OF ASSETS & TRANSFER OF OWNERSHIP

SALE OF ASSETS & CANCELLATION OF CC&N

FUEL ADJUSTER/PGA

MERGER

FINANCING

MISCELLANEOUS

Specify

x 02 UTILITIES - REVISIONS/AMENDMENTS TO  
PENDING OR APPROVED MATTERS

APPLICATION

COMPANY

DOCKET NO.

TARIFF

PROMOTIONAL

DECISION NO.

DOCKET NO.

x COMPLIANCE

DECISION NO.

DOCKET NO.

63909

T-03299A-96-0618

### SECURITIES or MISCELLANEOUS FILINGS

04 AFFIDAVIT

12 EXCEPTIONS

18 REQUEST FOR INTERVENTION

48 REQUEST FOR HEARING

24 OPPOSITION

50 COMPLIANCE ITEM FOR APPROVAL

32 TESTIMONY

47 COMMENTS

29 STIPULATION

38 NOTICE OF INTENT

(Only notification of future action/no action necessary)

43 PETITION

46 NOTICE OF LIMITED APPEARANCE

OTHER

39 Specify

8-23-01

Date

Charles J. Pellegrini, Esquire

Print Name of Applicant/Company/Contact person/Respondent/Atty.

(850) 577-6755

Phone

PLEASE SEE NOTICE ON REVERSE SIDE

**KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON**

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com

Orlando Office

Suite 900  
111 North Orange Avenue  
ORLANDO, FL 32801  
(407) 841-7100  
fax (407) 648-0660

Tallahassee Office

12<sup>th</sup> Floor  
106 East College Avenue  
TALLAHASSEE, FL 32301  
(850) 224-9634  
fax (850) 222-0103

Miami Office

Suite 409  
2999 NE 191<sup>st</sup> Street  
AVENTURA, FL 33180  
(305) 932-0996  
fax (305) 932-0972

Washington, DC Office

Suite 750  
801 Pennsylvania Avenue, NW  
WASHINGTON, D.C. 20004  
(202) 393-1132  
fax (202) 624-0659

*Respond to Tallahassee*

August 23, 2001

**VIA FEDERAL EXPRESS**

Docket Control Center  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

Re: Docket No. T-3299A-96-0618 - In the Matter of the Application of  
Buehner-Fry, Inc. d/b/a DirectDial USA for a Certificate of Convenience  
and Necessity to Provide Competitive Intrastate Telecommunications  
Services as a Reseller Except Local Exchange Services

Dear Docket Control Center:

Enclosed for filing are the original and ten (10) copies of Buehner-Fry, Inc. d/b/a  
DirectDial USA's Fair Value Rate Base Information.

Please acknowledge receipt of this transmittal by returning a date-stamped copy  
of the enclosed cover letter duplicate in the return envelope provided for that  
purpose.

Please contact me if you have any questions. Thank you for your assistance in  
this matter.

Sincerely,

  
Charles J. Pellegrini

CJP:plk  
Enclosures  
cc: Mr. Pat Williams, Compliance

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE  
APPLICATION OF BUEHNER-FRY,  
INC. D/B/A DIRECTDIAL USA FOR A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO PROVIDE  
COMPETITIVE INTRASTATE  
TELECOMMUNICATIONS SERVICES  
AS A RESELLER EXCEPT LOCAL  
EXCHANGE SERVICES

DOCKET NO. T-03299A-96-0618

FAIR VALUE RATE BASE INFORMATION

COMES NOW Buehner-Fry, Inc. d/b/a DirectDial USA ("Buehner-Fry"), through counsel, and, pursuant to order, files its Fair Value Rate Base Information, stating in support thereof the following.

1. On December 18, 1996, Buehner-Fry filed an Application for a Certificate of Convenience and Necessity ("Application") to provide competitive resold intrastate telecommunications services within the State of Arizona.
2. On August 29, 2000, the Court of Appeals, Division One, issued its Opinion in Cause No. 1 CA-CV 98-0672, in which it determined that pursuant to the Arizona constitution the Commission must determine the fair value rate base ("FVRB") of all public service corporations in Arizona prior to setting their rates and charges.
3. On September 12, 2000, Staff, Utilities Division, filed a Staff Report in this proceeding over the signature of Deborah R. Scott, Director. The Staff Report recommended that the Application be approved without a hearing pursuant to A.R.S. § 40-281 and that Buehner-Fry be required to file its tariff within 30 days of an order in this matter.
4. On October 2, 2000, the Commission issued a Procedural Order in this proceeding, in which it ordered Buehner-Fry to file its proposed FVRB and other related information by November 1, 2000.

5. On October 23, 2000, Buehner-Fry filed a Motion for Extension of Time until February 5, 2001, to file its proposed FVRB. The Commission granted Buehner-Fry an extension until February 7, 2001, in a Procedural Order, issued October 27, 2000.
6. On February 2, 2001, Buehner-Fry filed its revised tariff and price list, together with a Petition to Classify Tariffed Rates as Interim Rates. On March 6, 2001, Staff filed Staff's Fair Value Rate Base Comments ("Staff's Comments") in this matter, over the signature of Robert J. Metli, in which it recommended that Buehner-Fry's proposed tariffs be approved on an interim basis and that Buehner-Fry be required to submit FVRB information within eighteen months of first providing service, consisting of, at minimum, total revenue for the first twelve months reflecting maximum rates, actual operating expenses for the same period, and the value of all assets used in the same period for providing telecommunications services to Arizona customers.
7. On August 6, 2001, the Commission issued Decision No. 63909, in which it granted Buehner-Fry's Application, while requiring Buehner-Fry to file FVRB information as recommended in the Staff's Comments and to file its tariffs within 30 days of the order.
8. Buehner-Fry represents that for purposes of filing FVRB information, Buehner-Fry's service in Arizona as DirecDial USA should be deemed to have started on April 1, 2000.<sup>1</sup>
9. On August 14, 2001, Buehner-Fry, pursuant to order, filed its tariff and price list.
10. Buehner-Fry hereby submits that the "dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by Buehner-Fry Inc. d/b/a DirectDial USA following certification, adjusted to

---

<sup>1</sup> On May 15, 2001, in Docket No. T-92764A-94-0140, Buehner Fry, pursuant to order, advised the Commission that it is currently providing telecommunications services in Arizona as Resort Operator Services and on May 16, 2001, Buehner-Fry concurred with Compliance Staff, Pat Williams, that for purposes of filing FVRB information, Buehner-Fry's service in Arizona as Resort Operator Services would be deemed to have started on February 10, 2000.

reflect the maximum rates Buehner-Fry Inc. d/b/a DirectDial USA requests in its tariff" is \$8,095.52.

11. Buehner-Fry hereby submits that the "total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by Buehner-Fry Inc. d/b/a DirectDial USA following certification" are \$4,811.24.

12. Buehner-Fry hereby submits that, since it has no plant, equipment, office supplies, or any other property physically in Arizona, it has derived by imputation that "a description and value of all assets, including plant, equipment, and office supplies, to be used to provide telecommunications service provided to Arizona customers for the first twelve months following Buehner-Fry Inc. d/b/a DirectDial USA's certification" is \$953.65.

WHEREFORE, Buehner-Fry, Inc. d/b/a as DirectDial USA respectfully submits the foregoing FVRB information in accordance with the Third Ordering Paragraph of Commission Decision No. 63909.

Submitted this 23<sup>rd</sup> day of August, 2001.



Charles J. Pellegrini  
Katz, Kutter, Haigler, Alderman,  
Bryant & Yon, P.A.  
106 East College Street, 12<sup>th</sup> Floor  
Tallahassee, Florida 32301  
Telephone: 850 224 9634  
Facsimile: 850 224 0402

email: [cjpellegrini@katzlaw.com](mailto:cjpellegrini@katzlaw.com)

Attorney for Buehner-Fry, Inc. d/b/a  
as DirectDial USA

# **ATTACHMENT H**

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



BRIAN C. McNEIL  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

September 13, 2000

Steven C. Johnson  
62975 Boyd Acres Road  
Suite 2  
Bend, Oregon 97701-8237

DOCKET NO. T-03299A-96-0618

Attached hereto, please find the Staff Report filed relating to the above referenced matter.

Sincerely,

Nancy Cole, Administrator  
Docket Control

cc: Steven C. Johnson

**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**Application For a Certificate of Convenience and Necessity to Provide Resold  
Interexchange Service and For Determination that Services of the Applicant are Competitive**

**Applicant: Buchner-Fry, Inc. d/b/a DirectDial USA  
Docket No.: T-03299A-96-0618**

On December 18, 1996, the Applicant filed an application for a Certificate of Convenience and Necessity (CC&N) to provide resold interexchange services within the State of Arizona.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange telecommunications services. Staff's review considers the Applicant's integrity, technical, and financial capabilities, and whether the Applicant's proposed rates will be competitive, just, and reasonable.

---

**REVIEW OF APPLICANT INFORMATION**

---

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- The necessary information has been filed to process this application, and the Applicant has authority to transact business in the State of Arizona.
- The Applicant has published legal notice of the application in all counties where service will be provided.

RECEIVED

2000 SEP 13 A 8 36

AZ CORP COMMISSION  
DOCUMENT CONTROL

### REVIEW OF TECHNICAL INFORMATION

---

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- The Applicant is currently providing service in Arizona.
- The Applicant is currently providing service in other states.
- The Applicant is a switchless reseller.
- The Applicant has provided a system diagram that depicts its network that is used for completing calls within Arizona. Local exchange carrier facilities are used to originate and terminate calls carried on the Applicant's interexchange network. The Applicant does not currently own any interexchange facilities. The facilities that are used to complete calls are obtained from a facilities-based carrier operating in the state.
- In the event the Applicant's network fails, end users can access other interexchange service providers.

### REVIEW OF FINANCIAL INFORMATION

---

The Applicant has provided the unaudited financial statements of its Parent Company, Buehner-Fry, Inc. for the year ended May 31, 1999. These financial statements list assets of \$2.37 million, positive stockholders' equity of \$79,421, and retained earnings of \$295,995. Based upon all financial information, Staff believes the Applicant lacks the financial wherewithal to be allowed to charge customers any prepayments, advances or deposits without either establishing an escrow account or posting a surety bond to cover such customer prepayments, advances or deposits.

Since this Applicant does not appear to have sufficient financial resources, it has filed a letter stating that it does not currently, and will not in the future, charge its customers for any prepayments, advances, or deposits. If at some future date, the Applicant wants to charge customers any prepayments, advances, or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances, or deposits should be allowed.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many other companies that provide resold telecommunications service or the customers may choose a facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

---

## COMPETITIVE SERVICES' RATES AND CHARGES

---

### Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

### Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Because Staff believes that the market in which these services will be offered is competitive, Staff recommends that the Applicant's competitive services be priced at the rates proposed by the Applicant in its most recently filed tariffs. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

### Minimum and Maximum Rates

A.A.C. R14-2-1109(A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

---

**STAFF RECOMMENDATIONS**

---

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate interexchange services as a reseller and its Petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange services, Staff recommends approval of the application subject to the following:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
6. The Applicant should be ordered to cooperate with Commission investigations of customer complaints;
7. The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;
8. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;
9. If at some future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances or deposits should be allowed;
10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

- 11. The Applicant's competitive services should be priced at the rates proposed by the Applicant in its most recently filed tariffs. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109; and
- 12. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate.

Staff recommends approval of the following condition:

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

This application may be approved without a hearing pursuant to A.R.S. § 40-282.

*Deborah R. Scott*

Deborah R. Scott  
Director  
Utilities Division

Date: 9-12-00

Originator: Marta Kalleberg

Date: September 12, 2000