

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER



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ARIZONA CORPORATION COMMISSION

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DATE: March 14, 2001  
DOCKET NO: T-03441A-97-0533  
TO ALL PARTIES:

Arizona Corporation Commission  
DOCKETED  
SECURED CONTROL  
MAR 14 2001

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Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Order on:

TELEPHONE COMPANY OF CENTRAL FLORIDA, INC.  
(RESELLER)

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

MARCH 23, 2001

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

MARCH 27, 2001 and MARCH 28, 2001

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

*Brian C. McNeil*  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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  
TELEPHONE COMPANY OF CENTRAL  
7 FLORIDA, INC. FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
8 COMPETITIVE RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES EXCEPT  
9 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03441A-97-0533

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

**ORDER**

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

**BY THE COMMISSION:**

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

**FINDINGS OF FACT**

16 1. On September 26, 1997, Telephone Company of Central Florida, Inc. ("TCCF" or  
17 "Applicant") filed with Docket Control of the Arizona Corporation Commission ("Commission") an  
18 application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive  
19 resold interexchange telecommunications services, except local exchange services, within the State of  
20 Arizona.

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

24 3. Applicant is a Florida corporation authorized to do business in Arizona since 1997.

25 4. Applicant is a switchless reseller, which purchases telecommunications services from  
26 WilTel.

27 5. On December 13, 2000, Applicant filed Affidavits of Publication indicating  
28

1 compliance with the Commission's notice requirements.

2 6. On January 5, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff  
3 Report in this matter.

4 7. In the Staff Report, Staff stated that the Applicant provided its unaudited financial  
5 statements for the period ending May 31, 2000. These financial statements list assets of \$1.88  
6 million, negative shareholders' equity of \$1.77 million, and a net loss of \$3.13 million on revenues of  
7 \$1.75 million. Based on the foregoing, Staff believes that Applicant lacks adequate financial  
8 resources to be allowed to charge customers any prepayments, advances or deposits without  
9 establishing an escrow account or posting a surety bond. The Applicant stated in its application that  
10 it does not charge its customers for any prepayments, advances, or deposits.

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

13 9. In its Report, Staff the following:

14 (a) The Applicant should be ordered to comply with all Commission rules, orders  
15 and other requirements relevant to the provision of intrastate telecommunications  
16 services;

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

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

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

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

27 (f) The Applicant should be ordered to cooperate with Commission investigations  
28 of customer complaints;

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

(h) The Applicant should be ordered to notify the Commission immediately upon

1 changes to the Applicant's address or telephone number;

2 (i) The Applicant's intrastate interexchange service offerings should be classified  
3 as competitive pursuant to A.A.C. R14-2-1108;

4 (j) The rates proposed by the Applicant in its most recently filed tariffs should be  
5 approved on an interim basis. The maximum rates for these services should be the  
6 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates  
7 for the Applicant's competitive services should be the Applicant's total service long  
8 run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;  
9 and

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

13 10. Staff recommended approval of the application subject to the following conditions:

14 (a) That Applicant should be ordered to file conforming tariffs within 30 days of  
15 an Order in this matter, and in accordance with the Decision;

16 (b) That Applicant should be required to file in this Docket, within 18 months of  
17 the date it first provides service following certification, sufficient information for Staff  
18 analysis and recommendation for a fair value finding, as well as for an analysis and  
19 recommendation for permanent tariff approval. This information must include, at a  
20 minimum, the following:

21 1. A dollar amount representing the total revenue for the first twelve  
22 months of telecommunications service provided to Arizona customers by the  
23 Applicant following certification, adjusted to reflect the maximum rates that  
24 the Applicant has requested in its tariff. This adjusted total revenue figure  
25 could be calculated as the number of units sold for all services offered times  
26 the maximum charge per unit.

27 2. The total actual operating expenses for the first twelve months of  
28 telecommunications service provided to Arizona customers by the Applicant  
following certification.

3. The value of all assets, listed by major category, used for the first  
twelve months of telecommunications service provided to Arizona customers  
by the Applicant following certification. Assets are not limited to plant and  
equipment. Items such as office equipment and office supplies should be  
included in this list.

(c) Applicant's failure to meet the condition to file sufficient information for a fair  
value finding and analysis and recommendation of permanent tariffs shall result in the  
expiration of the certificate of the tariffs.

1  
2 11. On August 29, 2000, the Court of Appeals, Division One ("Court") issued its Opinion  
3 in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding  
4 that "the Arizona Constitution requires the Commission to determine fair value rate base ("FVRB")  
5 for all public service corporations in Arizona prior to setting their rates and charges."

6 12. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
7 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this  
8 time, we are going to request FVRB information to insure compliance with the Constitution should  
9 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are  
10 also concerned that the cost and complexity of FVRB determinations must not offend the  
11 Telecommunications Act of 1996.

12 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
13 be held.

#### 14 CONCLUSIONS OF LAW

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

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

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

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

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

24 6. Staff's recommendations in Findings of Fact Nos. 9 and 10 are reasonable and should  
25 be adopted.

#### 26 ORDER

27 IT IS THEREFORE ORDERED that the application for Telephone Company of Central  
28 Florida, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive

1 resold interexchange telecommunications services, except local exchange services, shall be and the  
2 same is hereby granted, except that Telephone Company of Central Florida, Inc. shall not be  
3 authorized to charge customers any prepayments, advances, or deposits. In the future, if Telephone  
4 Company of Central Florida, Inc. desires to initiate such charges, it must file information with the  
5 Commission that demonstrates the Applicant's financial viability. Staff shall review the information  
6 provided and file its recommendation concerning financial viability and/or the necessity of obtaining  
7 a performance bond within thirty (30) days of receipt of the financial information, for Commission  
8 approval.

9 IT IS FURTHER ORDERED that Telephone Company of Central Florida, Inc. shall comply  
10 with the Staff recommendations set forth in Findings of Fact Nos. 9 and 10.

11 IT IS FURTHER ORDERED that Telephone Company of Central Florida, Inc. shall file the  
12 following FVRB information within 18 months of the date that it first provides service. The FVRB  
13 shall include a dollar amount representing the total revenue for the first twelve months of  
14 telecommunications service provided to Arizona customers by Telephone Company of Central  
15 Florida, Inc. following certification, adjusted to reflect the maximum rates that Telephone Company  
16 of Central Florida, Inc. requests in its tariff. This adjusted total revenue figure could be calculated as  
17 the number of units sold for all services offered times the maximum charge per unit. Telephone  
18 Company of Central Florida, Inc. shall also file FVRB information detailing the total actual operating  
19 expenses for the first twelve months of telecommunications service provided to Arizona customers by  
20 Telephone Company of Central Florida, Inc. following certification. Telephone Company of Central  
21 Florida, Inc. shall also file FVRB information which includes a description and value of all assets,  
22 including plant, equipment, and office supplies, to be used to provide telecommunications service to  
23 Arizona customers for the first twelve months following Telephone Company of Central Florida,  
24 Inc.'s certification.

25 ...  
26 ...  
27 ...  
28 ...

1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,  
2 Telephone Company of Central Florida, Inc. 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.

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9 CHAIRMAN COMMISSIONER COMMISSIONER

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IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
Secretary of the Arizona Corporation Commission, have  
hereunto set my hand and caused the official seal of the  
Commission to be affixed at the Capitol, in the City of Phoenix,  
this \_\_\_\_ day of \_\_\_\_\_, 2001.

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\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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DISSENT \_\_\_\_\_  
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1 SERVICE LIST FOR: TELEPHONE COMPANY OF CENTRAL FLORIDA, INC.

2 DOCKET NO.: T-03441A-97-0533

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