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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
LCR TELECOMMUNICATIONS, LLC FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES EXCEPT  
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03931A-00-0700

DECISION NO. 63538

Arizona Corporation Commission  
**ORDER DOCKETED**

MAR 30 2001

Open Meeting  
March 27 and 28, 2001  
Phoenix, Arizona

DOCKETED BY JL

**BY THE COMMISSION:**

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

**FINDINGS OF FACT**

1. On September 14, 2000, LCR Telecommunications, LLC ("Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services, except local exchange services, within the State of Arizona.

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

3. Applicant is a Michigan corporation authorized to do business in Arizona since 2000.

4. Applicant is a switchless reseller, which purchases telecommunications services from various telecommunications service providers.

5. On September 27, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter.

6. Staff stated that the Applicant provided its financial statements for the period ending

1 July 24, 2000, which listed assets of \$119,854, negative shareholders' equity of \$8,161, and a net  
2 income of \$64,752 on revenues of \$421,916. Based on the foregoing, Staff believes that Applicant  
3 lacks adequate financial resources to be allowed to charge customers any prepayments, advances or  
4 deposits without establishing an escrow account or posting a surety bond. Applicant filed a letter on  
5 September 22, 2000, stating that it does not currently, and will not in the future, charge its customers  
6 for any prepayments, advances or deposits.

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

9 8. In its Report, Staff recommended the following:

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

12 (b) Applicant should be ordered to maintain its accounts and records as required  
13 by the Commission;

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

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

18 (e) Applicant should be ordered to comply with the Commission's rules and  
19 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;

20 (f) Applicant should be ordered to cooperate with Commission investigations of  
21 customer complaints;

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

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

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

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

3 (k) The rates proposed by the Applicant in its most recently filed tariffs should be  
4 approved on an interim basis. The maximum rates for these services should be the  
5 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates  
6 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

7 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
8 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.

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

13 10. On October 17, 2000, Applicant filed Affidavits of Publication indicating compliance  
14 with the Commission's notice requirements.

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

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

### 23 CONCLUSIONS OF LAW

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

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

28

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

2 4. Applicant's provision of resold interexchange telecommunications services is in the  
3 public interest.

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

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

8 **ORDER**

9 IT IS THEREFORE ORDERED that the application for LCR Telecommunications, LLC for a  
10 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange  
11 telecommunications services, except local exchange services, as a reseller shall be and the same is  
12 hereby granted, except that LCR Telecommunications, LLC shall not be authorized to charge  
13 customers any prepayments, advances, or deposits. In the future, if LCR Telecommunications, LLC  
14 desires to initiate such charges, it must file information with the Commission that demonstrates the  
15 Applicant's financial viability. Staff shall review the information provided and file its  
16 recommendation concerning financial viability and/or the necessity of obtaining a performance bond  
17 within thirty (30) days of receipt of the financial information, for Commission approval.

18 IT IS FURTHER ORDERED that LCR Telecommunications, LLC shall comply with the  
19 Staff recommendations set forth in Findings of Fact No 8.

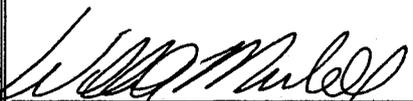
20 IT IS FURTHER ORDERED that LCR Telecommunications, LLC shall file the following  
21 FVRB information within 18 months of the date that it first provides service. The FVRB shall  
22 include a dollar amount representing the total revenue for the first twelve months of  
23 telecommunications service provided to Arizona customers LCR Telecommunications, LLC  
24 following certification, adjusted to reflect the maximum rates that LCR Telecommunications, LLC  
25 requests in its tariff. This adjusted total revenue figure could be calculated as the number of units  
26 sold for all services offered times the maximum charge per unit LCR Telecommunications, LLC shall  
27 also file FVRB information detailing the total actual operating expenses for the first twelve months of  
28 telecommunications service provided to Arizona customers LCR Telecommunications, LLC

1 following certification. LCR Telecommunications, LLC shall also file FVRB information which  
2 includes a description and value of all assets, including plant, equipment, and office supplies, to be  
3 used to provide telecommunications service to Arizona customers for the first twelve months  
4 following LCR Telecommunications, LLC's certification.

5 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, LCR  
6 Telecommunications, LLC shall notify the Compliance Section of the Arizona Corporation  
7 Commission of the date that it will begin or has begun providing service to Arizona customers.

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

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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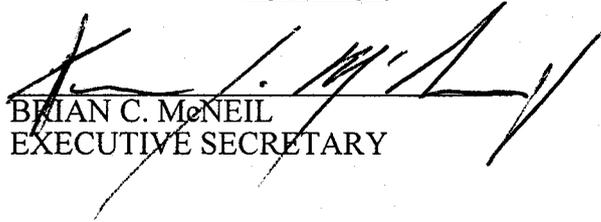
12 CHAIRMAN

11 

12 COMMISSIONER

12 COMMISSIONER

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

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19 BRIAN C. McNEIL  
20 EXECUTIVE SECRETARY

20 DISSENT \_\_\_\_\_  
21 AG:mlj

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1 SERVICE LIST FOR: LCR TELECOMMUNICATIONS, LLC

2 DOCKET NO.: T-03931A-00-0700

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