

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

ORIGINAL

ARIZONA CORPORATION COMMISSION



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

2001 MAR 14 P 3:06

DATE: March 14, 2001
DOCKET NO: T-03931A-00-0700
TO ALL PARTIES:

Arizona Corporation Commission
DOCKETED
ARIZONA CORPORATION COMMISSION
DOCKET CONTROL
MAR 14 2001

DOCKETED BY

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

LCR TELECOMMUNICATIONS, L.L.C.
(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
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
LCR TELECOMMUNICATIONS, LLC FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES EXCEPT
9 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03931A-00-0700

DECISION NO. _____

ORDER

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

12 **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:

15 **FINDINGS OF FACT**

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

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

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

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

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

28 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
16 Commission may designate;
- 17 (d) Applicant should be ordered to maintain on file with the Commission all
18 current tariffs and rates, and any service standards that the Commission may require;
- 19 (e) Applicant should be ordered to comply with the Commission's rules and
20 modify its tariffs to conform to these rules if it is determined that there is a conflict
21 between the Applicant's tariffs and the Commission's rules;
- 22 (f) Applicant should be ordered to cooperate with Commission investigations of
23 customer complaints;
- 24 (g) Applicant should be ordered to participate in and contribute to a universal
25 service fund, as required by the Commission;
- 26 (h) Applicant should be ordered to notify the Commission immediately upon
27 changes to the Applicant's address or telephone number;
- 28 (i) If at some future date, the applicant wants to charge 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;

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 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.

10
11
12 CHAIRMAN

COMMISSIONER

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 ____ day of _____, 2001.

19
20 _____
21 BRIAN C. McNEIL
22 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: LCR TELECOMMUNICATIONS, LLC

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

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