



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF THE APPLICATION OF
UCN, INC. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
RESOLD AND FACILITIES-BASED LOCAL
EXCHANGE SERVICES IN THE STATE OF
ARIZONA AND PETITION FOR COMPETITIVE
CLASSIFICATION OF PROPOSED SERVICES.

DOCKET NO. T-03538A-04-0939

DECISION NO. 67979

OPINION AND ORDER

DATE OF HEARING: June 8, 2005
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Amanda Pope
APPEARANCES: Kimm Partridge, on behalf of UCN, Inc.; and
Diane Targovnik, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

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 December 29, 2004, UCN, Inc. ("UCN" or "Applicant") submitted to the Arizona
Corporation Commission ("Commission") an application for a Certificate of Convenience and
Necessity ("Certificate") to provide resold and facilities-based local exchange telecommunications
services within the State of Arizona. The application petitioned the Commission for determination
that its proposed services should be classified as competitive.
2. On April 7, 2005, the Commission's Utilities Division Staff ("Staff") filed a Staff
Report recommending approval of UCN's application subject to certain conditions.
3. On April 11, 2005, a Procedural Order was issued setting this matter for hearing on

1 June 8, 2005 and setting various procedural deadlines.

2 4. On May 2, 2005, Applicant docketed an Affidavit of Publication that complies with
3 Commission rules.

4 5. On June 8, 2005, a full public hearing in this matter was held as scheduled. Kimm
5 Partridge appeared on behalf of UCN. Staff appeared and was represented by counsel. The hearing
6 was conducted before a duly authorized Administrative Law Judge. Evidence was presented and
7 testimony was taken.

8 6. At the conclusion of the hearing, the Administrative Law Judge took the matter under
9 advisement.

10 7. UCN is organized under the laws of the State of Delaware and is authorized to do
11 business in Arizona.

12 8. Applicant has the technical capability to provide the services that are proposed in its
13 Application.

14 9. Currently there are several incumbent providers of local exchange services in the
15 service territory requested by Applicant, and numerous other entities have been authorized to provide
16 competitive local and exchange services in all or portions of that territory.

17 10. It is appropriate to classify all of Applicant's authorized services as competitive.

18 11. According to Staff, UCN submitted unaudited financial statements for the nine month
19 period ending September 30, 2004. These financial statements list assets of \$21,278,844, equity of
20 \$8,366,197, and a net loss of \$285,522.

21 12. Staff recommended that UCN's Application for a Certificate to provide competitive
22 resold and facilities-based local exchange telecommunications services be granted subject to the
23 following conditions:

24 (a) that, unless it provides services solely through the use of its own facilities,
25 UCN be ordered to procure an Interconnection Agreement before being
26 allowed to offer local exchange service. The interconnection agreement should
27 be procured within 365 days of the effective date of the Order in this matter or
28 30 days prior to the provision of service, whichever comes first, and must
remain in effect until further order of the Commission. If the Applicant
provides services solely through the use of its own facilities, no other
information shall be required once the Applicant informs the Commission of
that fact by a letter with the Commission's Docket Control Center under the

1 same timeframe and provision of service criteria as above;

- 2 (b) that UCN file with the Commission, within 365 days of the effective date of
3 the Order in this matter or 30 days prior to the provision of service, whichever
4 comes first, its plan to have its customers' telephone numbers included in the
5 incumbent's Directories and Directory Assistance databases, that must remain
6 in effect until further Order of the Commission;
- 7 (c) that UCN be ordered to pursue permanent number portability arrangements
8 with other LECs pursuant to Commission rules, federal laws and federal rules;
- 9 (c) that UCN be ordered to abide by and participate in the AUSF mechanism
10 instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-
11 00000E-95-0498);
- 12 (d) that UCN be ordered to abide by the quality of service standards that were
13 approved by the Commission for Qwest in Docket No. T-0151B-93-0183;
- 14 (e) that in areas where it is the sole provider of local exchange service facilities,
15 UCN be ordered to provide customers with access to alternative providers of
16 service pursuant to the provisions of Commission rules, federal laws and
17 federal rules;
- 18 (f) that UCN be ordered to abide by all the Commission decisions and policies
19 regarding CLASS services;
- 20 (g) that UCN be ordered to provide 2-PIC equal access;
- 21 (h) that UCN be required to notify the Commission immediately upon changes to
22 its name, address or telephone number;
- 23 (i) that UCN be ordered to comply with all Commission rules, orders, and other
24 requirements relevant to the provision of intrastate telecommunications
25 service;
- 26 (j) that UCN be ordered to maintain its accounts and records as required by the
27 Commission;
- 28 (k) that UCN 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;
- (l) that UCN be ordered to maintain on file with the Commission all current tariffs
and rates, and any service standards that the Commission may require;
- (m) that UCN be ordered to cooperate with Commission investigations including,
but not limited to, customer complaints;
- (n) that UCN be subject to the Commission's rules and the 1996
Telecommunications Act to the extent that they apply to CLECs;
- (o) that pursuant to A.A.C. R14-2-1107, UCN be ordered to file an application
with the Commission should it desire to discontinue service. The Applicant
should be required to notify each of its local exchange customers and the
Commission 60 days prior to filing such application to discontinue service, and
any failure to do so should result in forfeiture of UCN's performance bond;

1 and

- 2 (p) that UCN be required to certify, through the 911 service provider in the area in
3 which it intends to provide service, that all issues associated with the provision
4 of 911 service have been resolved with the emergency service providers,
5 within 365 days of the effective date of the Order in this matter or 30 days
6 prior to the provision of service, whichever comes first, and must remain in
7 effect until further Order of the Commission.

8 27. Staff additionally recommended that UCN's application for a CC&N to provide
9 intrastate telecommunications services should be granted subject to the following conditions:

- 10 (a) UCN be ordered to file conforming tariffs within 365 days from the date of an
11 Order in this matter or 30 days prior to providing service, whichever occurs
12 first, and in accordance with the Decision; and
- 13 (b) If the above timeframe is not met, that UCN's CC&N should become null and
14 void without further Order of the Commission and no extensions for
15 compliance should be granted;

16 30. In order to protect UCN's customers, Staff recommended:

- 17 (a) that UCN should be ordered to procure a performance bond equal to \$125,000.
18 The minimum bond amount of \$125,000 should be increased if at any time it
19 would be insufficient to cover prepayments or deposits collected from UCN's
20 customers. The bond amount should be increased in increments of \$62,500
21 whenever the total amount of the advances, deposits and prepayments is within
22 \$12,500 of the bond amount;
- 23 (b) that UCN should docket proof of the performance bond within 365 days of the
24 effective date of this Order or 30 days prior to the provision of service,
25 whichever comes first, and must remain in effect until further Order of the
26 Commission; and
- 27 (c) If the above timeframe is not met, that UCN's CC&N should become null and
28 void without further Order of the Commission and no extensions for
compliance should be granted.

31. In its Staff Report, Staff stated that based on information obtained from the Applicant,
it has determined that UCN's fair value rate base is zero, and is too small to be useful in a fair value
analysis.

32. Staff further stated that in general, rates for competitive services are not set according
to rate of return regulation, and Staff reviewed the rates to be charged by the company and believes
that they are just and reasonable as they are comparable to other competitive local carriers and local

1 incumbent carriers operating in Arizona and comparable to the rates the Applicant proposes to charge
2 in other jurisdictions. Therefore, while Staff considered the fair value rate base information
3 submitted by UCN, the fair value rate base information provided should not be given substantial
4 weight in this analysis.

5 33. Staff's recommendations, as set forth herein, are reasonable.

6 34. UCN's fair value rate base is determined to be zero for purposes of this proceeding.

7 CONCLUSIONS OF LAW

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

10 2. The Commission has jurisdiction over Applicant and the subject matter of the
11 Application.

12 3. Notice of the Application was given in accordance with the law.

13 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a
14 Certificate to provide competitive telecommunications services.

15 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
16 Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth
17 in its Application.

18 6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide
19 competitive resold and facilities-based local exchange telecommunications services in Arizona as
20 conditioned by Staff's recommendations.

21 7. The telecommunications services that the Applicant intends to provide are competitive
22 within Arizona.

23 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
24 it is just and reasonable and in the public interest for Applicant to establish rates and charges that are
25 not less than the Applicant's total service long-run incremental costs of providing the competitive
26 services approved herein.

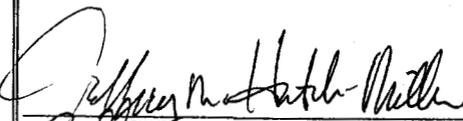
27 9. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

28

1 IT IS FURTHER ORDERED that if UCN, Inc. fails to notify each of its local exchange
2 customers and the Commission at least 60 days prior to filing an application to discontinue service
3 pursuant to A.A.C. R14-2-1107, that in addition to voidance of its Certificate of Convenience and
4 Necessity, UCN, Inc.'s performance bond shall be forfeited.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

8
9 
10 CHAIRMAN

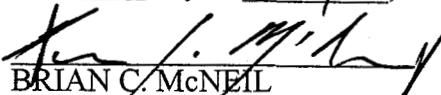

COMMISSIONER

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14 COMMISSIONER


COMMISSIONER


COMMISSIONER

15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Secretary of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this 18th day of July, 2005.


20 BRIAN C. McNEIL
21 EXECUTIVE SECRETARY

22 DISSENT _____

23 DISSENT _____

24 AP:mj

1 SERVICE LIST FOR: UCN, INC.

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