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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

AUG 13 2003

MARC SPITZER, Chairman  
JIM IRVIN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON

DOCKETED BY *Mac*

IN THE MATTER OF THE APPLICATION OF  
PRIMO COMMUNICATIONS, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04153A-02-0844

DECISION NO. 66173

ORDER

Open Meeting  
August 12 and 13, 2003  
Phoenix, Arizona

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 November 13, 2002, Primo Communications, Inc. ("Applicant" or "Primo") 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. Applicant is a switchless reseller that purchases telecommunications services from a variety of carriers for resale to its customers.

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

4. Primo has authority to transact business in the State of Arizona.

5. On February 20, 2003 and July 7, 2003, Primo filed Affidavits of Publication

1 indicating compliance with the Commission's notice requirements.

2         6.       On March 17, 2003, the Commission's Utilities Division Staff ("Staff") filed a Staff  
3 Report which includes Staff's fair value rate base determination in this matter and recommends  
4 approval of the application subject to certain conditions.

5         7.       In the Staff Report, Staff stated that Primo provided financial statements for the eight  
6 months ending August 31, 2002, which list assets of \$35,315, equity of \$35,315 and net income of  
7 \$205.

8         8.       In its Staff Report, Staff stated that based on information obtained from the Applicant,  
9 it has determined that Primo's fair value rate base ("FVRB") is zero. Staff has determined that  
10 Applicant's FVRB is too small to be useful in a fair value analysis, and is not useful in setting rates.  
11 Staff further stated that in general, rates for competitive services are not set according to rate of return  
12 regulation, but are heavily influenced by the market. Staff recommended that the Commission not set  
13 rates for primo based on the fair value of its rate base.

14         9.       Staff believes that Primo has no market power and that the reasonableness of its rates  
15 will be evaluated in a market with numerous competitors. In light of the competitive market in which  
16 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed  
17 tariffs for its competitive services will be just and reasonable, and recommends that the Commission  
18 approve them.

19         10.      Staff recommended approval of Primo's 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 customer 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 notify the Commission immediately upon  
changes to the Applicant's address or telephone number;

8 (i) If at some future date, the Applicant wants to collect from its customers an  
9 advance, deposit and/or prepayment, it must file information with the Commission for  
10 Staff review. Upon receipt of such filing and after Staff review, Staff would forward  
its recommendation to the Commission;

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

13 (k) The Applicant's maximum rates should be the maximum rates proposed by the  
14 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive  
15 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

16 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
17 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.

18 11. Staff further recommended that Primo's Certificate should be conditioned upon the  
19 Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of  
20 an Order in this matter, or 30 days prior to providing service, whichever comes first.

21 12. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
22 Findings of Fact No. 11, that Primo's Certificate should become null and void without further Order  
23 of the Commission, and that no time extensions for compliance should be granted.

24 13. The rates proposed by this filing are for competitive services.

25 14. Staff's recommendations as set forth herein are reasonable.

26 15. Primo's fair value rate base is zero.

### 27 CONCLUSIONS OF LAW

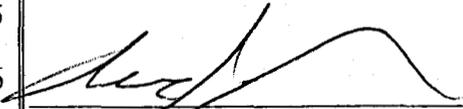
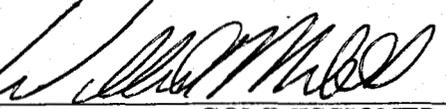
28 1. Applicant is a public service corporation within the meaning of Article XV of the



1 IT IS FURTHER ORDERED that Primo Communications, Inc. shall not require its Arizona  
2 customers to pay advances, prepayments or deposits for any of its products or services.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5  
6     
7 CHAIRMAN COMMISSIONER COMMISSIONER

8    
9 COMMISSIONER COMMISSIONER

10 IN WITNESS WHEREOF, I, JAMES G. JAYNE, Interim  
11 Executive Secretary of the Arizona Corporation Commission,  
12 have hereunto set my hand and caused the official seal of the  
13 Commission to be affixed at the Capitol, in the City of Phoenix,  
14 this 13<sup>th</sup> day of August, 2003.

15   
16 JAMES G. JAYNE  
17 INTERIM EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: PRIMO COMMUNICATIONS, INC.

2 DOCKET NO.: T-04153A-02-0844

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