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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

DEC 19 2002

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKETED BY 

IN THE MATTER OF THE APPLICATION OF
WESTEL, INC. f/k/a WESTEL LONG DISTANCE
COMMUNICATIONS, CO. FOR A CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
PROVIDE COMPETITIVE RESOLD
INTEREXCHANGE TELECOMMUNICATIONS
SERVICES, EXCEPT LOCAL EXCHANGE
SERVICES.

DOCKET NO. T-02694A-96-0348

DECISION NO. 65459

ORDER

Open Meeting
December 17 and 18, 2002
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 January 20, 1996, Westel, Inc., f/k/a Westel Long Distance, Co. ("Applicant" or "Westel") 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. Westel has authority to transact business in the State of Arizona.

5. On October 25, 2002, Westel filed an Affidavit of Publication indicating compliance with the Commission's notice requirements.

1 6. On November 21, 2002, the Commission's Utilities Division Staff ("Staff") filed a
2 Staff Report in this matter recommending approval of the application subject to certain conditions,
3 and making other recommendations.

4 7. In its Staff Report, Staff stated that based on information obtained from the Applicant,
5 it has determined that Westel's fair value rate base ("FVRB") is \$25,782. Staff stated Applicant's
6 FVRB is too small to be useful in setting rates. Staff further stated that in general, rates for
7 competitive services are not set according to rate of return regulation, but are heavily influenced by
8 the market. Staff recommended that the Commission not set rates for Applicant based on the fair
9 value of its rate base.

10 8. Staff believes that Applicant has no market power and that the reasonableness of its
11 rates will be evaluated in a market with numerous competitors. In light of the competitive market in
12 which the Applicant will be providing its services, Staff believes that the rates in Applicant's
13 proposed tariffs for its competitive services will be just and reasonable, and recommends that the
14 Commission approve them.

15 9. Staff recommended approval of Applicant's application subject to the following:

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

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

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

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

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

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

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

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

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

7 (j) The Applicant's maximum rates should be the maximum rates proposed by the
8 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive
9 services should be the Applicant's total service long run incremental costs of
10 providing those services as set forth in A.A.C. R14-2-1109; and

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

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

17 11. Westel's proposed tariff indicates that it intends to collect advances, deposits, and
18 prepayments from its customers. Westel provided its unaudited financial statements for the period
19 ending June 30, 2002. The financial statements list assets of \$14.1 million, equity of \$3.4 million and
20 a net income of \$505,164.

21 12. Based on Westel's indication it will collect advances, deposits, and prepayments, Staff
22 also recommended that:

23 (a) Westel's Certificate should be conditioned upon the Applicant procuring a
24 performance bond as described below, and filing proof of that performance
25 bond within 365 days from the date of an Order in this matter, or 30 days prior
26 to providing service, whichever comes first, in accordance with the Decision;
27 and

28 (b) Westel be required to procure a performance bond in the initial amount of
\$10,000, with the minimum bond amount of \$10,000 to be increased if at any
time it would be insufficient to cover all advances, deposits, or prepayments
collected from its customers, in the following manner: The bond amount
should be increased in increments of \$5,000, with such increases to occur
whenever the total amount of the advances, deposits, and prepayments reaches
a level within \$1,000 under the actual bond amount, and

(c) If at some time in the future, Westel does not collect from its customers any
advances, prepayments or deposits, then Westel should be allowed to file with

1 the Commission a request for cancellation of its established performance bond.
2 Staff stated that after a review of such filing, Staff would forward its
3 recommendation on the matter to the Commission for a Decision.

4 13. Staff recommended that if the Applicant fails to meet the timeframes outlined in
5 Findings of Fact. Nos. 10 and 12 above, then Westel's Certificate should become null and void
6 without further Order of the Commission, and that no time extensions for compliance should be
7 granted.

8 14. The rates proposed by this filing are for competitive services.

9 15. Staff's recommendations as set forth herein are reasonable.

10 16. Westel's fair value rate base is \$25,782.

11 CONCLUSIONS OF LAW

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

14 2. The Commission has jurisdiction over Applicant and the subject matter of the
15 application.

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

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

19 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for
20 providing competitive resold interexchange telecommunications services in Arizona.

21 6. Staff's recommendations in Findings of Fact No. 7, 8, 9, 10, 12 and 13 should be
22 adopted.

23 7. Westel's fair value rate base is not useful in determining just and reasonable rates for
24 the competitive services it proposes to provide to Arizona customers.

25 8. Westel's rates, as they appear in its proposed tariffs, are just and reasonable and
26 should be approved.

27 ORDER

28 IT IS THEREFORE ORDERED that the application of Westel, Inc. f/k/a Westel Long
Distance Communications, Co. for a Certificate of Convenience and Necessity for authority to

1 provide competitive resold interexchange telecommunications services, except local exchange
2 services, is hereby granted, conditioned upon its compliance with the conditions recommended by
3 Staff as set forth in Findings of Fact Nos. 10 and 12 above.

4 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
5 7, 8, 9, 10 and 12 above are hereby adopted.

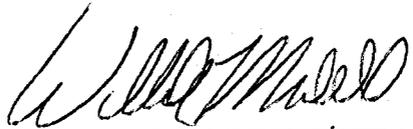
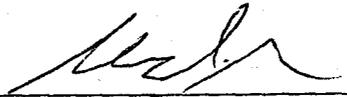
6 IT IS FURTHER ORDERED that Westel, Inc. f/k/a Westel Long Distance Communications,
7 Co. shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 9, 10
8 and 12 above.

9 IT IS FURTHER ORDERED that if Westel, Inc. f/k/a Westel Long Distance
10 Communications, Co. fails to meet the timeframes outlined in Findings of Fact Nos. 10 and 12 above,
11 then the Certificate conditionally granted herein shall become null and void without further Order of
12 the Commission.

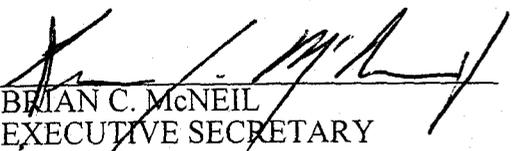
13 IT IS FURTHER ORDERED that the performance bond that Westel, Inc. f/k/a Westel Long
14 Distance Communications, Co. is required to procure shall remain in effect until further Order of the
15 Commission.

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

17 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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20	CHAIRMAN	COMMISSIONER	COMMISSIONER

21 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
22 Secretary of the Arizona Corporation Commission, have
23 hereunto set my hand and caused the official seal of the
24 Commission to be affixed at the Capitol, in the City of Phoenix,
25 this 19th day of December 2002.

26 
27 BRIAN C. McNEIL
28 EXECUTIVE SECRETARY

27 DISSENT _____
28 PD:mlj

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