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COMMISSIONER
MARC SPITZER
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

DATE: April 17, 2001

DOCKET NO: T-03913A-00-0597

APR 17 2001

TO ALL PARTIES:

DOCKETED BY	SD
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Enclosed please find the recommendation of Administrative Law Judge Lyn Farmer. The recommendation has been filed in the form of an Order on:

PAYROLL ADVANCE, INC. dba THE PHONE CONNECTION
(CC&N/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:

APRIL 26, 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:

MAY 1, 2001 and MAY 2, 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
PAYROLL ADVANCE, INC. DBA THE PHONE
7 CONNECTION FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
8 COMPETITIVE RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES EXCEPT
9 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03913A-00-0597

DECISION NO. _____

ORDER

10 Open Meeting
May 1 and 2, 2001
11 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 August 16, 2000, Payroll Advance, Inc. dba The Phone Connection ("Applicant")
17 filed with the Commission an application for a Certificate of Convenience and Necessity
18 ("Certificate") to provide competitive resold interexchange telecommunications services, except local
19 exchange services, 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 an Arkansas 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 22, 2000, the Commission's Utilities Division Staff ("Staff") filed its
27 Staff Report in this matter.

28 6. On December 11, 2000, Applicant filed Affidavits of Publication indicating

1 compliance with the Commission's notice requirements.

2 7. In the Staff Report, Staff stated that the Applicant provided financial statements for
3 the nine months ending September 30, 1999. These financial statements list total assets of \$11.18
4 million and a shareholders' deficit of \$5.58 million. Based on the foregoing, Staff believes that
5 Applicant lacks adequate financial resources to be allowed to charge customers any prepayments,
6 advances or deposits without establishing an escrow account or posting a surety bond. The Applicant
7 stated in its application that it does not charge its customers for any prepayments, advances, or
8 deposits.

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

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

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

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

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

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

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

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

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

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

 (i) The Applicant's intrastate interexchange service offerings should be classified

1 as competitive pursuant to A.A.C. R14-2-1108;

2 (j) The rates proposed by the Applicant in its most recently filed tariffs should be
3 approved on an interim basis. The maximum rates for these services should be the
4 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
5 for the Applicant's competitive services should be the Applicant's total service long
6 run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
7 and

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

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

15 11. On December 6, 2000, the Commission issued a Procedural Order requesting the
16 Applicant to submit its FVRB information for Staff analysis.

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

23 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing
24 be held.

25 CONCLUSIONS OF LAW

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

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

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

4. Applicant's provision of resold interexchange telecommunications services is in the

1 public interest.

2 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
3 resold interexchange telecommunications in Arizona.

4 6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be
5 adopted.

6 **ORDER**

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

17 IT IS FURTHER ORDERED that Payroll Advance, Inc. dba The Phone Connection shall
18 comply with the Staff recommendations set forth in Findings of Fact No. 9.

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

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

5 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
6 Payroll Advance, Inc. dba The Phone Connection shall notify the Compliance Section of the Arizona
7 Corporation Commission of the date that it will begin or has begun providing service to Arizona
8 customers.

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

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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13 CHAIRMAN

COMMISSIONER

COMMISSIONER

14
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 ____ day of _____, 2001.

20 BRIAN C. McNEIL
EXECUTIVE SECRETARY

21 DISSENT _____
22 LAF:dap

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1 SERVICE LIST FOR: PAYROLL ADVANCE, INC. DBA THE PHONE
CONNECTION

2 DOCKET NO.: T-03913A-00-0597

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