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ARIZONA CORPORATION COMMISSION

DOCKETED

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BEFORE THE ARIZONA CORPORATION COMMISSION

1
2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

DOCKETED BY
lod

6 IN THE MATTER OF THE APPLICATION OF
7 VISTA VOICE & DATA, INC. FOR A
8 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES

DOCKET NO. T-03998A-01-0198

DECISION NO. 63900

ORDER

9 Open Meeting
10 July 24 and 25, 2001
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13
14 Having considered the entire record herein and being fully advised in the premises, the
15 Commission finds, concludes, and orders that:

16 **FINDINGS OF FACT**

17 1. On March 5, 2001, Vista Voice & Data, Inc. ("Vista" or "Applicant") filed with the
18 Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience
19 and Necessity ("Certificate") to provide competitive resold interexchange telecommunications
20 services within the State of Arizona.

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

24 3. Applicant is an Arizona corporation, authorized to do business in Arizona since May
25 of 1996.

26 4. Applicant is a switchless reseller, which purchases telecommunications services from
27 a variety of carriers.

28 5. On June 5, 2001, Applicant filed Affidavits of Publication indicating compliance with

1 the Commission's notice requirements.

2 6. On April 17, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff
3 Report recommending approval of the application with some conditions.

4 7. In its Staff Report, Staff stated that Vista provided financial statements for the period
5 ending December 31, 2000. These financial statements list assets of \$1.2 million, total equity of
6 \$324,324, and a net profit of \$207,009. Based on the foregoing, Staff believes that Applicant lacks
7 adequate financial resources to be allowed to charge customers any prepayments, advances, or
8 deposits without posting a surety bond to cover such prepayments, advances, and/or deposits.

9 8. Staff believes that if the Applicant experiences financial difficulty, there should be
10 minimal impact to its customers. Customers are able to choose another reseller or a facilities-based
11 provider.

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

14 10. Staff recommended approval of the application subject to the following conditions,
15 that:

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 customers 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 intrastate interexchange service offerings should be classified
6 as competitive;

7 (j) The Applicant's competitive services should be priced at the rates proposed by
8 the Applicant in its most recently filed tariffs. Those rates should be approved on an
9 interim basis. The maximum rates for these services should be the maximum rates
10 proposed by the Applicant in its proposed tariffs. The minimum rates for the
11 Applicant's competitive services should be the Applicant's total service long run
12 incremental costs of providing those services; and

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

16 11. Staff further recommended approval of Vista's application subject to the following
17 conditions:

18 (a) That the Applicant file conforming tariffs within 30 days of an Order in this
19 matter, and in accordance with the Decision;

20 (b) That the Applicant file in this Docket, within 18 months of the date it first
21 provides service following certification, sufficient information for Staff
22 analysis and recommendation for a fair value finding, as well as for an analysis
23 and recommendation for permanent tariff approval. This information must
24 include, at a minimum, the following:

25 1. A dollar amount representing the total revenue for the first twelve months
26 of telecommunications service provided to Arizona customers by United
27 following certification, adjusted to reflect the maximum rates that the
28 Applicant has requested in its tariff. This adjusted total revenue figure
could be calculated as the number of units sold for all services offered
times the maximum charge per unit;

2. The total actual operating expenses for the first twelve months of
telecommunications service provided to Arizona customers by the
Applicant following certification;

3. The value of all assets, listed by major category, including a description of
the assets, used for the first twelve months of telecommunications services
provided to Arizona customers by the Applicant following certification.
Assets are not limited to plant and equipment. Items such as office

equipment and office supplies should be included in this list;

- 1
- 2 (c) Applicant's failure to meet the condition to timely file sufficient information
- 3 for a fair value finding and analysis and recommendation of permanent tariffs
- 4 shall result in the expiration of the Certificate of Convenience and Necessity
- 5 and of the tariffs; and
- 6 (d) In order to protect the Applicant's customers,
- 7
- 8 1. Applicant should be ordered to procure a performance bond equal to
- 9 \$10,000. The minimum bond amount of \$10,000 should be increased if
- 10 at any time it would be insufficient to cover prepayments, advances,
- 11 and/or deposits collected from the Applicant's customers;
- 12
- 13 2. Proof of the performance bond should be docketed within 90 days of
- 14 the effective date of an order in this matter or 30 days prior to the
- 15 provision of service, whichever comes first; and
- 16
- 17 3. After one year of operation under the CC&N granted by the
- 18 Commission, Staff recommends that the Applicant be allowed to file a
- 19 request for cancellation of its established performance bond. Such
- 20 request should be accompanied by information demonstrating the
- 21 Applicant's financial viability. Upon receipt of such filing and after
- 22 Staff review, Staff will forward its recommendation to the Commission
- 23 for a Decision that the requested cancellation is in the public interest.

12. No exceptions were filed to the Staff Report, nor did any party request that a hearing
be set.

13. On August 29, 2000, the Arizona Court issued its Opinion in US WEST
Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the
Arizona Constitution requires the Commission to determine fair value rate bases for all public service
corporations in Arizona prior to setting their rates and charges."

14. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
Court.

15. On February 16, 2001, the Commission's Petition was granted.

CONCLUSIONS OF LAW

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

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

1 application.

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

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

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

7 6. Staff's recommendations in Findings of Fact No. 10 and 11 are reasonable and should
8 be adopted.

9 **ORDER**

10 IT IS THEREFORE ORDERED that the application of Vista Voice & Data, Inc. for a
11 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange
12 telecommunications services is hereby granted.

13 IT IS FURTHER ORDERED that Vista Voice & Data, Inc. shall procure a performance bond
14 equal to \$10,000, and that such bond amount shall be increased if at any time it would be insufficient
15 to cover the total amount of prepayments, advances, and/or deposits collected from Vista Voice &
16 Data, Inc.'s customers.

17 IT IS FURTHER ORDERED that Vista Voice & Data, Inc. shall file proof of the performance
18 bond with the Commission within 90 days of the effective date of this order or 30 days prior to
19 providing service, whichever comes first.

20 IT IS FURTHER ORDERED that after one year of operation under the Certificate of
21 Convenience and Necessity granted in this order, Vista Voice & Data, Inc. shall be allowed to file a
22 request for cancellation of the performance bond. Such request should be accompanied by
23 information demonstrating Vista Voice & Data, Inc.'s financial viability. Upon receipt of such
24 request, Staff will review the matter and forward its recommendation to the Commission for a
25 Decision.

26 IT IS FURTHER ORDERED that Vista Voice & Data, Inc. shall file the following fair value
27 rate base ("FVRB") information within 18 months of the date that it first provides service. The
28 FVRB shall include a dollar amount representing the total revenue for the first twelve months of

1 telecommunications service provided to Arizona customers by Vista Voice & Data, Inc. following
2 certification, adjusted to reflect the maximum rates Vista Voice & Data, Inc. requests in its tariff.
3 This adjusted total revenue figure could be calculated as the number of units sold for all services
4 offered times the maximum charge per unit. Vista Voice & Data, Inc. shall also file FVRB
5 information detailing the total actual operating expenses for the first twelve months of
6 telecommunications service provided to Arizona customers by Vista Voice & Data, Inc. following
7 certification. Vista Voice & Data, Inc. shall also file FVRB information which includes a description
8 and value of all assets, including plant, equipment, and office supplies, to be used to provide
9 telecommunications service to Arizona customers for the first twelve months following Vista Voice
10 & Data, Inc.'s certification.

11 .IT IS FURTHER ORDERED that Vista Voice & Data, Inc. shall comply with Staff's
12 recommendations as set forth in Findings of Fact No. 10 and 11.

13 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, Vista
14 Voice & Data, Inc. shall notify the Compliance Section of the Arizona Corporation Commission of
15 the date that it will begin or has begun providing service to Arizona customers.

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1 IT IS FURTHER ORDERED that if Vista Voice & Data, Inc. desires to discontinue service, it
2 shall file an application to discontinue service with the Commission. At least sixty (60) days prior to
3 filing an application to discontinue service, Vista Voice & Data, Inc. shall notify each of its
4 customers and the Commission of its intent to discontinue service. Any failure to comply with this
5 ordering paragraph may result in the forfeiture of Vista Voice & Data, Inc.'s performance bond.

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

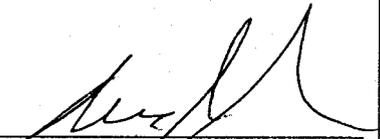
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8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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11 CHAIRMAN

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13 COMMISSIONER

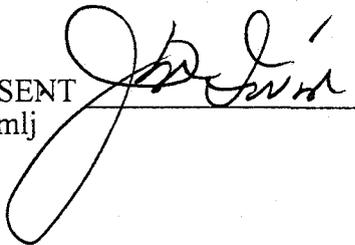
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15 COMMISSIONER

16 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
17 Secretary of the Arizona Corporation Commission, have
18 hereunto set my hand and caused the official seal of the
19 Commission to be affixed at the Capitol, in the City of Phoenix,
20 this 14th day of August, 2001.

21 
22 BRIAN C. McNEIL
23 EXECUTIVE SECRETARY

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19 DISSENT 
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1 SERVICE LIST FOR: VISTA VOICE & DATA, INC.

2 DOCKET NO.: T-03998A-01-0198

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