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BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission

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

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ARIZONA CORP COMMISSION
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6 IN THE MATTER OF THE APPLICATION OF
7 UNITED SERVICES TELEPHONE, L.L.C. FOR A
8 CERTIFICATE OF CONVENIENCE AND
9 NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03439A-97-0505

PROCEDURAL ORDER

10 **BY THE COMMISSION:**

11 On September 17, 1997, United Services Telephone, L.L.C. ("Applicant" or "United") filed
12 with Docket Control of the Arizona Corporation Commission ("Commission") an application for a
13 Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange
14 telecommunications services as a reseller, except local exchange services, within the State of
15 Arizona.

16 Pursuant to Commission rules, Applicant is required to publish notice of its filing in
17 newspapers in all counties where service is to be provided. The record shows that Applicant has not
18 filed a Notice of Filing Affidavits of Publication that would indicate compliance with the publishing
19 requirement.

20 On August 30, 3000, Commission Staff ("Staff") sent letters to United indicating that Staff
21 needed additional information to process the application.

22 On November 21, 2000, Staff filed a Staff Report recommending denial of United's
23 application due to United's failure to respond to Staff.

24 United, thereafter, contacted Staff and requested additional time to file the information Staff
25 sought.

26 On March 13, 2001, Staff filed another Staff Report, but this time recommending approval of
27 United's application based on the additional information United has provided.

28 Pursuant to A.R.S. § 40-282, the Commission may act on an application for a Certificate to

1 provide resold telecommunications services without a hearing, or with a hearing if one is requested
2 by any party.

3 Pursuant to A.A.C. R14-2-1106 and R14-2-1108, the Commission now issues this Procedural
4 Order to govern the preparation and conduct of this proceeding.

5 IT IS THEREFORE ORDERED that United shall file a letter listing a current address, not a
6 post office box, by **April 6, 2001**.

7 IT IS FURTHER ORDERED that United shall file a letter listing a toll free telephone number
8 at which its customers may contact it, by **April 6, 2001**.

9 IT IS FURTHER ORDERED that United shall file written exceptions to the Staff Report or
10 request that a hearing be set by May 11, 2001.

11 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-2-105,
12 except that all motions to intervene must be filed on or before May 11, 2001.

13 IT IS FURTHER ORDERED that United shall publish notice, as stated below, in newspapers
14 in every county in Arizona in which United desires to provide service by **April 20, 2001**:

15 **NOTICE OF APPLICATION FOR A CERTIFICATE**
16 **OF CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE RESOLD**
17 **INTEREXCHANGE TELECOMMUNICATIONS SERVICES BY**
UNITED SERVICES TELEPHONE, LLC

18 United Services Telephone, LLC ("Applicant") has filed with the Arizona
19 Corporation Commission ("Commission") an application for a Certificate of
20 Convenience and Necessity ("Certificate") to provide competitive resold interexchange
21 telecommunications services in the State of Arizona. Applicant will be required by the
22 Commission to provide this service under the rates and charges and terms and conditions
23 established by the Commission.

24 A.R.S. § 40-282 provides that the Commission may act on an application for a
25 Certificate to provide resold telecommunications services without a hearing, or with a
26 hearing, if one is requested by any party. Applicant or any other party must request a
27 hearing by May 11, 2001, or the Commission will rule on the application without a
28 hearing.

29 The application, report of the Commission's Utilities Division Staff, and any
30 written exceptions to the staff report prepared by the applicant are available for
31 inspection during regular business hours at the offices of the Commission located at 1200
32 West Washington Street, Phoenix, Arizona 85007, and at Applicant, [address].

33 Under appropriate circumstances, interested parties may intervene in the
34 proceedings and participate as a party. Intervention shall be in accordance with A.A.C.
35 R14-3-105, except that all motions to intervene must be filed on or before May 11, 2001.
36 You may have the right to intervene in the proceeding, or you may make a statement for

1 the record. If you have any comments, mail them to:

2 The Arizona Corporation Commission
3 Attention Docket Control
4 re: United Services Telephone, LLC
5 T-03439A-97-0505
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 All comments should be received by May 11, 2001.

9 If you have any questions about this application or have any objections to its
10 approval, you may contact the Consumer Services Section of the Commission at 1200
11 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

12 The Commission does not discriminate on the basis of disability in admission to
13 its public meetings. Persons with a disability may request a reasonable accommodations
14 such as sign language interpreter, as well as request this document in an alternative
15 format, by contacting Shelley Hood, ADA Coordinator, voice phone number 602/542-
16 0838, E-Mail shood@cc.state.az.us. Requests should be made as early as possible to
17 allow time to arrange the accommodation.

18 IT IS FURTHER ORDERED that United shall file Affidavits of Publication indicating that it
19 has published notice pursuant to Commission rules by **May 4, 2001**.

20 IT IS FURTHER ORDERED that the failure of United to comply with any or all of the
21 Ordering paragraphs set forth in this Procedural Order within the timeframes specified may result in
22 the denial of United's application.

23 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
24 pursuant to Rule 6(a) or (e) of the Arizona Rules of Civil Procedure.

25 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive
26 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

27 DATED this 16th day of March, 2001.

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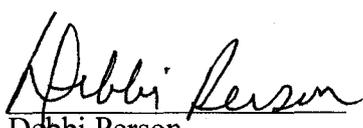
STEPHEN GIBELLI
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed this
2 16th day of March, 2001 to:

3
4 Bobbie Cowan
5 P.O. Box 220
6 Pengram, Tennessee 37143

7 Christopher Kempley, Chief Counsel
8 Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 Deborah Scott, Director
13 Utilities Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, Arizona 85007

17
18 By: 
19 Debbi Person
20 Secretary to Stephen Gibelli
21
22
23
24
25
26
27
28

**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**Application For a Certificate of Convenience and Necessity to Provide Resold
Interexchange Service and For Determination that Services of the Applicant are Competitive**

Applicant: United Service Telephone, Inc.

Docket No.: T-~~03403A~~-97-0505
03439A

On September 17, 1997 the Applicant filed an application for a Certificate of Convenience and Necessity (CC&N) to provide resold interexchange services within the State of Arizona.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange telecommunications services. Staff's review considers the Applicant's integrity, technical, and financial capabilities, and whether the Applicant's proposed rates will be competitive, just, and reasonable.

REVIEW OF APPLICANT INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- The necessary information has been filed to process this application, and the Applicant has authority to transact business in the State of Arizona.

- The Applicant has published legal notice of the application in all counties where service will be provided.

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REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- The Applicant is currently providing service in Arizona.
- The Applicant is currently providing service in other states.
- The Applicant is a switchless reseller.
- The Applicant has provided a system diagram that depicts its network that is used for completing calls within Arizona. Local exchange carrier facilities are used to originate and terminate calls carried on the Applicant's interexchange network. The Applicant does not currently own any interexchange facilities. The facilities that are used to complete calls are obtained from a facilities-based carrier operating in the state.
- In the event the Applicant's network fails, end users can access other interexchange service providers.

REVIEW OF FINANCIAL INFORMATION

The Applicant has provided its unaudited financial statements for the period ending June 30, 2000. These financial statements list assets of \$1.7 million; negative equity of (\$4.7 million); and a net loss of (\$591,323). Based upon this information, Staff believes the Applicant lacks sufficient financial resources to be allowed to charge customers any prepayments or deposits without posting a surety bond to cover such customer prepayments or deposits.

The Applicant stated in a letter that it does not currently, and will not in the future, charge its customers for any prepayments or deposits. If at some future date, the Applicant wants to charge customers any prepayments or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments or deposits should be allowed.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many other companies that provide resold telecommunications service or the customers may choose a facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

- The Applicant has filed a proposed tariff with the Commission.**
- The Applicant has filed with the Commission information sufficient to make a fair value determination.**

The Applicant has submitted proposed tariffs. Applicant's response to Staff's requests for fair value information provides insufficient information for Staff analysis and recommendation for a fair value finding in this case. Without this information, Staff is unable to provide tariff analysis and recommendations in terms of a fair value finding. Therefore, Staff recommends that, if the Applicant wishes to proceed with its certificate application, any tariffs filed in this matter be approved on an interim basis. If a certificate is conditionally granted and tariffs are authorized on an interim basis, the Applicant should be required to file in this Docket, within 18 months of the date it first provides service following certification, sufficient information for Staff analysis and recommendation for a fair value finding, as well as for an analysis and recommendation for permanent tariff approval. This information must include, at a minimum, the following:

1. A dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by the Applicant following certification, adjusted to reflect the **maximum rates** that the 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 all assets, used for the first twelve months of telecommunications service 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.

Staff further recommends that the Applicant's failure to meet the condition to timely file sufficient information for a fair value finding and analysis and recommendation of permanent tariffs should result in the expiration of the certificate and of the tariffs.

COMPETITIVE SERVICES' RATES AND CHARGES

Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Because Staff believes that the market in which these services will be offered is competitive, Staff recommends approval on an interim basis of the rates proposed by the Applicant in its most recently filed tariffs. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

Minimum and Maximum Rates

A.A.C. R14-2-1109(A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate interexchange services as a reseller and its petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange services, Staff recommends approval of the application subject to the following:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should 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;
4. 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;
5. The Applicant should be ordered to comply with the Commission's rules and 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;
6. The Applicant should be ordered to cooperate with Commission investigations of customer complaints;
7. The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;
8. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;
9. If at some future date, the Applicant wants to charge any prepayments, advances, or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances or deposits should be allowed;
10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;
11. The rates proposed by the Applicant in its most recently filed tariffs should be approved on an interim basis. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive 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;

12. In the event that the Applicant states only one rate in its proposed tariff for a 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; and
13. The Applicant should be required to certify that all notification requirements have been completed.

Staff recommends approval of the application subject to the following conditions:

- That the Applicant should be ordered to file conforming tariffs within 30 days of an Order in this matter, and in accordance with the Decision;
- That the Applicant should be required to file in this Docket, within 18 months of the date it first provides service following certification, sufficient information for Staff analysis and recommendation for a fair value finding, as well as for an analysis and recommendation for permanent tariff approval. This information must include, at a minimum, the following:
 - 1 A dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by the Applicant following certification, adjusted to reflect the **maximum rates** that the 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 service 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.

- That the Applicant's failure to meet the condition to file sufficient information for a fair value finding and analysis and recommendation of permanent tariffs shall result in the expiration of the certificate and of the tariffs.

This application may be approved without a hearing pursuant to A.R.S. § 40-282.



Deborah R. Scott
Director
Utilities Division

Date: 3-8-01

Originator: Anthony Gatto

Date: March 2, 2001