



0000030349

Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION DOCKETED

AUG 06 2001

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

DOCKETED BY *sd*

6 IN THE MATTER OF THE APPLICATION OF
7 TOLEDO AREA TELECOMMUNICATIONS
8 SERVICES, INC. D/B/A BUCKEYE
9 TELESYSTEM, INC. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03852A-00-1066

DECISION NO. 63903

ORDER

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

BY THE COMMISSION:

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

FINDINGS OF FACT

16 1. On December 29, 2000, Toledo Area Telecommunications Services, Inc. d/b/a
17 Buckeye Telesystem, Inc. ("Applicant" or "Toledo") filed with the Commission an application for a
18 Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange
19 telecommunications 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 Ohio corporation, authorized to do business in Arizona since 2000.

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

26 5. On March 2, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff
27 Report in this matter. In its Staff Report, Staff stated that Toledo Area Telecommunications Services,
28

1 Inc. d/b/a Buckeye Telesystem, Inc. provided financial statements for the year ended December 31,
2 1999. These financial statements list assets of \$40,000, negative total equity of \$90,171, and
3 negative retained earnings of \$100,950. Based on the foregoing, Staff believes that Applicant lacks
4 adequate financial resources to be allowed to charge customers any prepayments, advances, or
5 deposits without either establishing an escrow account or posting a surety bond to cover such
6 customer prepayments, advances, or deposits. The Applicant said in its application that it does not
7 currently, and will not in the future, charge its customers for any prepayments, advances, or deposits.
8 If at some future date, the Applicant wants to charge its customers any prepayments, advances or
9 deposits, it must file information with the Commission that demonstrates the Applicant's financial
10 viability. Upon receipt of such filing, Staff will review the information and the Commission will
11 make a determination concerning the Applicant's financial viability and whether customer
12 prepayments, advances, or deposits should be allowed.

13 6. Staff recommended approval of the application subject to the following conditions,
14 that:

15 (a) The Applicant shall comply with all Commission rules, orders, and other
16 requirements relevant to the provision of intrastate telecommunications service;

17 (b) The Applicant shall maintain its accounts and records as required by the
18 Commission;

19 (c) The Applicant shall file with the Commission all financial and other reports
20 that the Commission may require, and in a form and at such times as the Commission
may designate;

21 (d) The Applicant shall maintain on file with the Commission all current tariffs
22 and rates, and any service standards that the Commission may require;

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

25 (f) The Applicant shall cooperate with Commission investigations of customers
26 complaints;

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

1 (h) The Applicant shall notify the Commission immediately upon changes to the
Applicant's address or telephone number;

2 (i) If at some future date, the Applicant wants to charge any prepayments,
3 advances, or deposits, it must file information with the Commission that demonstrates
4 the Applicant's financial viability. Upon receipt of such filing, Staff will review the
5 information and the Commission will make a determination concerning the
Applicant's financial viability and whether customer prepayments, advances, or
deposits should be allowed;

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

8 (k) The rates proposed by the Applicant in its most recently filed tariffs should be
9 approved on an interim basis. The maximum rates for these services should be the
10 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;

11 (l) 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, and;

14 (m) The Applicant shall certify that all notification requirements have been
15 completed.

16 7. Staff also recommended approval of Toledo Area Telecommunications Services, Inc.
d/b/a Buckeye Telesystem, Inc.'s application subject to the following conditions:

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

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

23 1. A dollar amount representing the total revenue for the first twelve months
of telecommunications service provided to Arizona customers by Toledo
24 Area Telecommunications Services, Inc. d/b/a Buckeye Telesystem, Inc.
following certification, adjusted to reflect the maximum rates that the
25 Applicant has requested in its tariff. This adjusted total revenue figure
could be calculated as the number of units sold for all services offered
26 times the maximum charge per unit.

27 2. The total actual operating expenses for the first twelve months of
28 telecommunications service provided to Arizona customers by the

1 Applicant following certification.

- 2 3. The value of all assets, listed by major category, including a description of
3 the assets, used for the first twelve months of telecommunications services
4 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.

- 5 (c) Toledo Area Telecommunications Services, Inc. d/b/a Buckeye Telesystem,
6 Inc.'s failure to meet the condition to timely file sufficient information for a
7 fair value finding and analysis and recommendation of permanent tariffs shall
8 result in the expiration of the Certificate of Convenience and Necessity and of
the tariffs.

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

11 9. On March 19, 2001, a Procedural Order was issued requiring exceptions to the Staff
12 Report or a request that a hearing be set, to be filed by June 29, 2001. No exceptions were filed to the
13 Staff Report, nor did any party request that a hearing be set.

14 10. On April 11, 2001, Toledo filed Affidavits of Publication indicating compliance with
15 the Commission's notice requirements.

16 11. On August 29, 2000, the Arizona Court issued its Opinion in US WEST
17 Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the
18 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."

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

21 13. On February 13, 2001, the Commission's Petition was granted.

22 CONCLUSIONS OF LAW

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

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

27 3. Notice of the application was given in accordance with the law.
28

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

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

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

7 **ORDER**

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

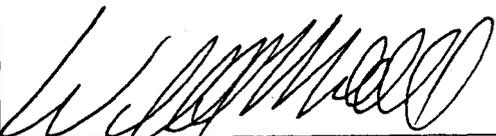
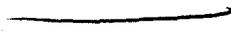
19 IT IS FURTHER ORDERED that Toledo Area Telecommunications Services, Inc. d/b/a
20 Buckeye Telesystem, Inc. shall comply with Staff's recommendations as set forth in Findings of Fact
21 Nos. 6 and 7.

22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...

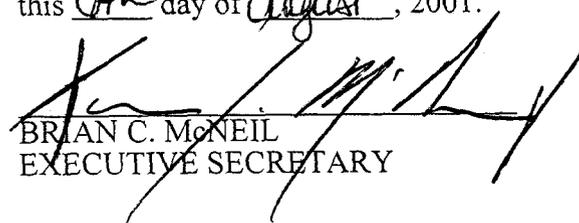
1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
2 Toledo Area Telecommunications Services, Inc. d/b/a Buckeye Telesystem, Inc. shall notify the
3 Compliance Section of the Arizona Corporation Commission of the date that it will begin or has
4 begun providing service to Arizona customers.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7
8   
9 CHAIRMAN COMMISSIONER COMMISSIONER

10
11
12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Secretary of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this 6th day of August, 2001.

17 
18 BRIAN C. McNEIL
19 EXECUTIVE SECRETARY

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST FOR:

TOLEDO AREA TELECOMMUNICATIONS
SERVICES, INC. D/B/A BUCKEYE
TELESYSTEM, INC.

DOCKET NO.:

T-03852A-00-1066

Thomas K. Dawson, Director of Regulatory Affairs
Toledo Area Telecommunications Services, Inc. d/b/a Buckeye Telesystem, Inc.
5566 Southwyck Boulevard
Toledo, Ohio 46314

Thomas M. Forte
Technologies and Management, Inc.
210 Park Ave.
Winter Park, Florida 32789

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Deborah Scott, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007