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Arizona Corporation Commission

**DOCKETED**

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
AFFORDABLE VOICE COMMUNICATIONS,  
INC. FOR A CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03995A-01-0145

DECISION NO. 63910

**ORDER**

Open Meeting  
July 24 and 25, 2001  
Phoenix, Arizona

**BY THE COMMISSION:**

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

**FINDINGS OF FACT**

1. On February 20, 2001, Affordable Voice Communications, Inc. ("Applicant" or "AVCI") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services within the State of Arizona.

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

3. Applicant is a New Mexico corporation, authorized to do business in Arizona since 1999.

4. Applicant is a switchless reseller, which purchases telecommunications services from Touch America.

5. On March 20, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff

1 Report in this matter. In its Staff Report, Staff stated that Affordable Voice Communications, Inc.  
2 provided financial statements for the year ending January 31, 2001. These financial statements list  
3 assets of \$440,268, negative equity of \$328,346, and a net loss of \$39,785. Based on the foregoing,  
4 Staff believes that Applicant lacks adequate financial resources to be allowed to charge customers  
5 any prepayments, advances, or deposits without either establishing an escrow account or posting a  
6 surety bond to cover such customer prepayments, advances, or deposits. The Applicant said in its  
7 application that it does not currently, and will not in the future, charge its customers for any  
8 prepayments, advances, or deposits. If at some future date, the Applicant wants to charge its  
9 customers any prepayments, advances or deposits, it must file information with the Commission that  
10 demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the  
11 information and the Commission will make a determination concerning the Applicant's financial  
12 viability and whether customer 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 customer  
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) The Applicant's intrastate interexchange service offerings should be classified  
3 as competitive pursuant to A.A.C. R14-2-1108;

4 (j) The rates proposed by the Applicant in its most recently filed tariffs should be  
5 approved on an interim basis. The maximum rates for these services should be the  
6 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates  
7 for the Applicant's competitive services should be the Applicant's total service long  
run incremental costs of providing those services; 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  
for the service as well as the service's maximum rate.

10 7. Staff also recommended approval of Affordable Voice Communications, Inc.'s  
11 application subject to the following conditions:

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

14 (b) That the Applicant file in this Docket, within 18 months of the date it first  
15 provides service following certification, sufficient information for Staff  
16 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:

17 1. A dollar amount representing the total revenue for the first twelve months  
18 of telecommunications service provided to Arizona customers by  
Affordable Voice Communications, Inc. following certification, adjusted to  
19 reflect the maximum rates that the Applicant has requested in its tariff.  
This adjusted total revenue figure could be calculated as the number of  
20 units sold for all services offered times the maximum charge per unit.

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

23 3. The value of all assets, listed by major category, including a description of  
24 the assets, used for the first twelve months of telecommunications services  
provided to Arizona customers by the Applicant following certification.  
25 Assets are not limited to plant and equipment. Items such as office  
26 equipment and office supplies should be included in this list.

27 (c) Affordable Voice Communications, Inc.'s failure to meet the condition to  
28 timely file sufficient information for a fair value finding and analysis and  
recommendation of permanent tariffs shall result in the expiration of the

## Certificate of Convenience and Necessity and of the tariffs.

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

4 9. On April 3, 2001, a Procedural Order was issued requiring exceptions to the Staff  
5 Report or a request that a hearing be set, to be filed by July 6, 2001. No exceptions were filed to the  
6 Staff Report, nor did any party request that a hearing be set.

7 10. On May 11, 2001, AVCI filed Affidavits of Publication indicating compliance with  
8 the Commission's notice requirements.

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

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

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

16 **CONCLUSIONS OF LAW**

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

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

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

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

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

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

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**ORDER**

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IT IS THEREFORE ORDERED that the application of Affordable Voice Communications, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted, except that Affordable Voice Communications, Inc. shall not be authorized to charge customers any prepayments, advances, or deposits. In the future, if Affordable Voice Communications, Inc. desires to initiate such charges, it must file information with the Commission that demonstrates the Applicant's financial viability. Staff shall review the information provided and file its recommendation concerning financial viability and/or the necessity of obtaining a surety bond within thirty (30) days of receipt of the financial information, for Commission approval.

IT IS FURTHER ORDERED that Affordable Voice Communications, Inc. shall comply with Staff's recommendations as set forth in Findings of Fact Nos. 6 and 7.

1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,  
2 Affordable Voice Communications, Inc. shall notify the Compliance Section of the Arizona  
3 Corporation Commission of the date that it will begin or has begun providing service to Arizona  
4 customers.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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9 CHAIRMAN



COMMISSIONER



COMMISSIONER

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

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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DISSENT

SG:dp



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SERVICE LIST FOR:

AFFORDABLE VOICE COMMUNICATIONS,  
INC.

DOCKET NO.:

T-03996A-01-0145

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