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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 

6 IN THE MATTER OF THE APPLICATION OF
7 SCINDO NETWORKS, INC. FOR A
8 CERTIFICATE OF CONVENIENCE AND
9 NECESSITY TO PROVIDE COMPETITIVE
FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE, INTEREXCHANGE, AND ACCESS
TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03978A-01-0033

DECISION NO. 62924

OPINION AND ORDER

10 DATE OF HEARING: June 20, 2001
11 PLACE OF HEARING: Phoenix, Arizona
12 ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes
13 APPEARANCES: Brett Wallace, FITZGIBBONS LAW OFFICES, P.L.C.,
14 on behalf of Scindo Telecom, Inc.;;
15 Devinti Williams, Staff Attorney, Legal Division, on
16 behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

17
18 Having considered the entire record herein and being fully advised in the premises, the
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

- 20
21 1. On January 10, 2001, Scindo Networks, Inc. ("Scindo" or "Applicant") filed with the
22 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
23 competitive facilities-based and resold local exchange, interexchange, and access telecommunications
24 services in Arizona.
25 2. Scindo is a Delaware corporation, authorized to do business in Arizona.
26 3. On March 14, 2001, Scindo filed Affidavits of Publication indicating compliance with
27 the Commission's notice requirements. Scindo published notice in, and seeks authority for,
28 Maricopa, Pinal, and Pima Counties only.

1 4. On March 26, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff
2 Report, which recommended approval of the application and included a number of additional
3 recommendations.

4 5. On April 5, 2001, a Procedural Order was issued setting the matter for hearing on June
5 20, 2001.

6 6. A hearing was held on June 20, 2001, at which Applicant and Staff presented
7 evidence. At the hearing, Staff made several minor changes to the Staff Report recommendations.

8 7. Qwest and Scindo are currently negotiating an interconnection agreement.

9 8. The management of Scindo has many years of experience in the telecommunications
10 industry.

11 9. Applicant has the technical capability to provide the services that are proposed in its
12 application.

13 10. Currently there are several incumbent providers of local exchange, toll, and exchange
14 access services in the service territory requested by Applicant, and numerous other entities have been
15 authorized to provide competitive local exchange services in all or portions of that territory.

16 11. It is appropriate to classify all of Applicant's authorized services as competitive.

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

19 13. According to Staff, Scindo submitted an unaudited balance sheet as of December 31,
20 2000. These financial data list assets of \$1.39 million, total equity of \$1.38 million, and a negative
21 net income of \$494,147. Based on this information, Staff believes that Scindo lacks sufficient
22 financial strength to offer the requested telecommunications services in Arizona absent the
23 procurement of a performance bond.

24 14. Staff recommends, as amended, that Scindo's application for a Certificate to provide
25 competitive facilities-based and resold telecommunications services be granted subject to the
26 following conditions:

- 27 (a) unless its provides services solely through the use of its own facilities, Scindo
28 should be ordered to procure an Interconnection Agreement before being
 allowed to offer local exchange service;

- 1 (b) Scindo should be ordered to file with the Commission, within 30 days of an
2 Order in this matter, its plan to have its customers' telephone numbers included
3 in the incumbent's Directories and Directory Assistance databases;
- 4 (c) Scindo be ordered to pursue permanent number portability arrangements with
5 other LECs pursuant to Commission rules, federal laws and federal rules;
- 6 (d) Scindo be ordered to abide by and participate in the AUSF mechanism
7 instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-T-
8 03905A-00-0513E-95-0498);
- 9 (e) Applicant be ordered to abide by the quality of service standards that were
10 approved by the Commission for USWC in Docket No. T-0151B-93-0183;
- 11 (f) in areas where Applicant is the sole provider of local exchange service
12 facilities, Scindo be ordered to provide customers with access to alternative
13 providers of service pursuant to the provisions of Commission rules, federal
14 laws and federal rules;
- 15 (g) Scindo be ordered to certify, through the 911 service provider in the area in
16 which it intends to provide service, that all issues associated with the provision
17 of 911 service have been resolved with the emergency service providers within
18 30 days of an Order in this matter;
- 19 (h) Scindo be ordered to abide by all the Commission decisions and policies
20 regarding CLASS services;
- 21 (i) Scindo be ordered to provide 2-PIC equal access;
- 22 (j) Scindo be required to certify that all notification requirements have been
23 completed prior to a final determination in this proceeding;
- 24 (k) Scindo be required to notify the Commission immediately upon changes to its
25 address or telephone number;
- 26 (l) Scindo be ordered to comply with all Commission rules, orders, and other
27 requirements relevant to the provision of intrastate telecommunications
28 service;
- (m) Scindo be ordered to maintain its accounts and records as required by the
Commission;
- (n) Scindo should be ordered 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;
- (o) Scindo maintain on file with the Commission all current tariffs and rates, and
any service standards that the Commission may require;
- (p) Scindo should be ordered to cooperate with Commission investigations of
customer complaints;
- (q) Scindo be ordered to participate in and contribute to a universal service fund,
as required by the Commission; and

1 (r) In order to protect Scindo's customers:

- 2 (1) Scindo should be ordered to procure a performance bond equal to
 3 \$100,000. The minimum bond amount of \$100,000 should be increased if
 4 at any time it would be insufficient to cover prepayments or deposits
 5 collected from Scindo's customers;
- 6 (2) that if the Applicant desires to discontinue service, it should file an
 7 application with the Commission pursuant to A.A.C. R14-2-1107;
- 8 (3) that the Applicant should be required to notify each of its customers and
 9 the Commission 60 days prior to filing an application to discontinue
 10 service pursuant to A.A.C. R14-2-1107; and any failure to do so should
 11 result in forfeiture of the Applicant's performance bond;
- 12 (4) that proof of the performance bond should be docketed within 90 days of
 13 an Order in this matter or 30 days prior to the provision of service,
 14 whichever comes first, and must remain in effect; however,
- 15 (5) if, at some time in the future, the Applicant's financial outlook improves,
 16 Staff recommends that the Applicant be allowed to file a request for
 17 cancellation of its established performance bond. Such request should be
 18 accompanied by information demonstrating the Applicant's financial
 19 viability. Upon receipt of such filing and after Staff review, Staff will
 20 forward its recommendation to the Commission.

21 15. Staff further recommended that Scindo's tariffs be approved on an interim basis
 22 subject to the following:

- 23 (a) That Scindo file tariffs in accordance with this Decision within 30 days of an
 24 Order in this matter or within 30 days of an Order approving its
 25 interconnection agreement, whichever is later;
- 26 (b) That Scindo should be required to file in this Docket, within 18 months of the
 27 date it first provides service following certification, sufficient information for
 28 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 Scindo
 following certification, adjusted to reflect the maximum rates that Scindo
 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 Scindo

1 following certification.

2 3. The value of all assets, listed by major category, used for the first twelve
3 months of telecommunications services provided to Arizona customers by
4 Scindo following certification. Assets are not limited to plant and
5 equipment. Items such as office equipment and office supplies should be
6 included in this list.

7 (c) Scindo's failure to meet the condition to timely file sufficient information for a
8 fair value finding and analysis and recommendation of permanent tariffs
9 should result in the expiration of the Certificate of Convenience and Necessity
10 and of the tariffs.

11 16. At the hearing, Scindo agreed to comply with all of Staff's recommendations. The
12 Applicant indicated that it intends to offer both local and long-distance services in Arizona, as well as
13 high-speed data services. Scindo expects to begin operating in Arizona between August 2001 and
14 August 2002.

15 17. On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion
16 in U S West Communications, Inc. vs. Arizona Corporation Commission, 1 CA-CV 98-0672, holding
17 that "the Arizona Constitution requires the Commission to determine fair value rate bases for all
18 public service corporations in Arizona prior to setting their rates and charges."

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

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.

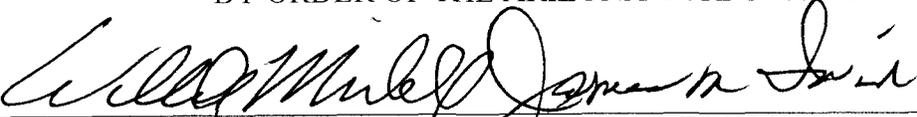
28 2. The Commission has jurisdiction over Applicant and the subject matter of the
application.

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

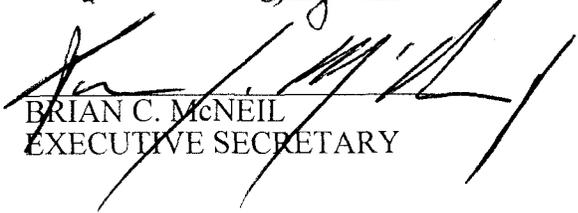
1 IT IS FURTHER ORDERED that Scindo Networks, Inc. shall file with the Compliance
2 Section of the Utilities Division a letter indicating the date on which it will begin providing service at
3 least 60 days prior to providing service.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6 
7 CHAIRMAN COMMISSIONER COMMISSIONER

8
9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
10 Secretary of the Arizona Corporation Commission, have
11 hereunto set my hand and caused the official seal of the
12 Commission to be affixed at the Capitol, in the City of Phoenix,
13 this 6th day of August, 2001.

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15 BRIAN C. McNEIL
16 EXECUTIVE SECRETARY

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2 DOCKET NO.: T-03944A-00-0783

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