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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

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CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

DOCKETED BY *sd*

IN THE MATTER OF THE APPLICATION OF
VARTEC TELECOM, INC. DBA VARTEC
TELECOM, CLEAR CHOICE
COMMUNICATIONS AND TELEPHONE
EXPRESS FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE INTERLATA/INTRALATA
RESOLD TELECOMMUNICATIONS SERVICES
EXCEPT LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03401A-97-0382

DECISION NO. 62238

ORDER

Open Meeting
January 5 and 6, 2000
Phoenix, Arizona

BY THE COMMISSION:

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

FINDINGS OF FACT

1. On July 23, 1997, VarTec Telecom, Inc. dba VarTec Telecom, Clear Choice Communications and Telephone Express ("VarTec" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold interLATA/intraLATA telecommunications service in the State of Arizona.
2. On January 16, 1998, VarTec filed affidavits of publication of its application in newspapers in counties where service is to be provided.
3. 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.
4. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101 through R14-2-1115 to regulate resellers.
5. VarTec is a Texas corporation, which has been qualified to conduct business in

1 Arizona since 1992.

2 6. VarTec is a switchless reseller, which resells services primarily from MCI WorldCom.

3 7. On December 18, 1998, the Commission's Utilities Division Staff ("Staff") filed a
4 Staff Report. On January 25, 1999, Staff filed an amendment to the Staff Report. All further
5 references to the Staff Report are to the Report as amended.

6 8. The Staff Report stated that VarTec provided audited financial statements for the year
7 ended December 31, 1997, which indicated a positive net income, net assets totaling \$300 million,
8 and retained earnings in excess of \$100 million.

9 9. Staff stated that Applicant has adequate financial resources to make necessary plant
10 additions or incur operating losses.

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

13 11. Staff recommended that:

14 (a) Applicant's application for a Certificate should be approved subject to A.A.C.
15 R14-2-1106.B;

16 (b) Applicant's intrastate toll service offerings should be classified as competitive
17 pursuant to A.A.C. R14-2-1108;

18 (c) Applicant's competitive services should be priced at the effective rates set
19 forth in Applicant's tariffs and the maximum rates for these services should be
20 the maximum rates proposed by Applicant in its tariffs. The minimum rates
21 for Applicant's competitive services should be Applicant's long run
22 incremental costs of providing those services as set forth in A.A.C. R14-2-
23 1109. Any future changes to the maximum rates in Applicant's tariffs must
24 comply with A.A.C. R14-2-1110;

25 (d) Applicant should be required to comply with the Commission's Rules and
26 modify its tariffs to conform with these Rules, if it is determined that there is a
27 conflict between Applicant's tariffs and the Commission's Rules; and

28 (e) The application may be approved without a hearing.

12. By Procedural Order dated January 29, 1999, the Commission set a deadline of
February 26, 1999 for filing exceptions to the Staff Report; requesting that a hearing be set; or
requesting intervention as interested parties.

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

1 be set, nor were any requests for intervention filed with Docket Control.

2 14. On October 18, 1999, VarTec filed a statement indicating that for the calendar year
3 1998, it had assets of \$400 million, equity of \$125 million and revenues of \$1 million.

4 15. On February 19, 1998, Applicant filed a request that the Commission close the file of
5 TeleConcepts of New Mexico, Inc. dba Telephone Express ("Telephone Express"), Docket No. T-
6 2704A-93-0020. On January 15, 1993, Telephone Express filed an application to provide intrastate
7 interexchange services in the State of Arizona.

8 16. Applicant indicated that Telephone Express is a wholly-owned subsidiary of VarTec,
9 and will cease doing business, incorporating its services under VarTec's Certificate.

10 17. It is appropriate to close the file of Telephone Express.

11 **CONCLUSIONS OF LAW**

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

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

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

17 4. The provision of competitive interLATA/intraLATA reseller services in Arizona by
18 Applicant is in the public interest.

19 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
20 interLATA/intraLATA reseller services in Arizona.

21 6. Staff's recommendations in Findings of Fact No. 11 are reasonable and should be
22 adopted.

23 7. It is reasonable to dismiss the application and close the docket of Telephone Express.

24 **ORDER**

25 IT IS THEREFORE ORDERED that the application of VarTec Telecom, Inc. dba VarTec
26 Telecom, Clear Choice Communications and Telephone Express for a Certificate of Convenience and
27 Necessity for authority to provide competitive interLATA/intraLATA resold telecommunications
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1 services except local exchange services shall be, and the same is, hereby granted.

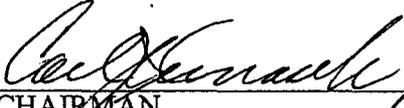
2 IT IS FURTHER ORDERED that VarTec Telecom, Inc. dba VarTec Telecom, Clear Choice
3 Communications and Telephone Express shall comply with the Staff recommendations set forth in
4 Findings of Fact No. 11.

5 IT IS FURTHER ORDERED that the application of TeleConcepts of New Mexico, Inc. dba
6 Telephone Express, Docket No. T-02704A-93-0020, shall be dismissed, and the docket closed.

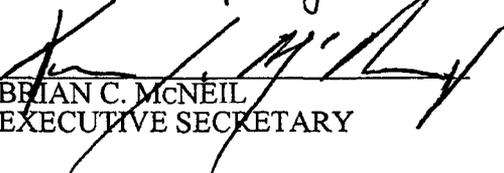
7 IT IS FURTHER ORDERED that the modified tariffs shall be filed within 30 days from the
8 effective date of this Decision.

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

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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15 CHAIRMAN COMMISSIONER 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 12th day of January, 2000.

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22 BRIAN C. McNEIL
23 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR:

VARTEC TELECOM, INC. dba VARTEC TELECOM,
CLEAR CHOICE COMMUNICATIONS AND
TELEPHONE EXPRESS

2

3 DOCKET NO.

T-03401A-97-0382

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