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**BEFORE THE ARIZONA CORPORATION COMMISSION**

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
TONY WEST  
COMMISSIONER

Arizona Corporation Commission

**DOCKETED**

JUN 04 1999

DOCKETED BY *wd*

IN THE MATTER OF THE APPLICATION OF  
CALLS FOR LESS, INC. DBA CFL FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
INTERLATA/INTRALATA RESOLD  
TELECOMMUNICATIONS SERVICES EXCEPT  
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03429A-97-0506

DECISION NO. 61734

**ORDER**

Open Meeting  
June 1 and 2, 1999  
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 December 2, 1998, Calls for Less, Inc. dba Cfl ("Cfl" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold telecommunications service in 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. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101 through R14-2-1115 to regulate resellers.

4. Cfl is a Nebraska corporation, which has been qualified to conduct business in Arizona since 1995.

5. Cfl is a switchless reseller, which purchases telecommunications services primarily from WilTel, MCI and AT&T.

6. On December 2, 1998, the Commission's Utilities Division Staff ("Staff") filed a Staff

1 Report.

2 7. The Staff Report stated that CfL provided unaudited financial statements for the year  
3 ended September 1998, which indicated assets of \$1.39 million, liabilities totaling \$1.49 million,  
4 retained earnings of (\$567,627), stockholders equity of (\$108,021) and income of \$572 on revenues  
5 of \$1.2 million. Staff stated that Applicant does not appear to have sufficient financial resources.  
6 Accordingly, Staff recommended that pursuant to A.A.C. R14-2-1105.D, Applicant maintain for a  
7 minimum of one year, an escrow account equal to the total amount of any prepayments, advances and  
8 deposits that Applicant may collect from its customers as a condition of certification. In the  
9 alternative, Applicant could file a letter stating that it does not currently charge customers any  
10 prepayments, advances or deposits, and does not intend to do so in the future. If at some future date  
11 Applicant desired to charge customers any prepayments, advances or deposits, it must file  
12 information with Staff that demonstrates Applicant's financial viability. Staff would review the  
13 information and provide Applicant its decision concerning financial viability within thirty days of  
14 receipt of the information. Staff believes that if Applicant experiences financial difficulty, there  
15 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-  
16 based provider, and may permanently switch to another company without forfeiting any prepayment,  
17 advance or deposit.

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

20 9. Staff recommended that:

- 21 (a) Applicant's application for a Certificate should be approved subject to A.A.C.  
22 R14-2-1106.B;
- 23 (b) Applicant's intrastate toll service offerings should be classified as competitive  
24 pursuant to A.A.C. R14-2-1108;
- 25 (c) Applicant's competitive services should be priced at the effective rates set  
26 forth in Applicant's tariffs and the maximum rates for these services should be  
27 the maximum rates proposed by Applicant in its tariffs. The minimum rates  
28 for Applicant's competitive services should be Applicant's long run  
incremental costs of providing those services as set forth in A.A.C. R14-2-  
1109. Any future changes to the maximum rates in Applicant's tariffs must  
comply with A.A.C. R14-2-1110;

1 (d) Applicant should be required to comply with the Commission's Rules and  
2 modify its tariffs to conform with these Rules, if it determines that there is a  
3 conflict between Applicant's tariffs and the Commission's Rules; and

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

4 10. On December 29, 1998, CfL filed a notice of the transfer of control of CfL from CfL,  
5 L.L.C. to ILD Telecommunications, Inc. ("ILD").

6 11. By Procedural Order dated January 5, 1999, the Commission set a deadline of  
7 February 5, 1999 for filing exceptions to the Staff Report; requesting that a hearing be set; or  
8 requesting intervention as interested parties.

9 12. On February 26, 1999, Applicant filed a certificate of providing notice of the  
10 application and Staff Report.

11 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
12 be set, nor were any requests for intervention filed with Docket Control.

13 14. On April 8, 1999, ILD requested to guarantee CfL's prepaid services. ILD submitted  
14 financial statements for the nine months ended June 30, 1998, which indicated assets of \$74.2  
15 million, liabilities of \$64.4 million and stockholders equity of \$7.9 million, with retained earnings of  
16 (\$2.9 million). ILD had a net income of (\$733,000) on revenues of \$83 million.

#### 17 CONCLUSIONS OF LAW

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

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

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

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

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

27 6. It is in the public interest to accept the guarantee of CfL's parent company for CfL's  
28 prepayments.

1 7. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be  
2 adopted.

3 **ORDER**

4 IT IS THEREFORE ORDERED that the application of Calls for Less, Inc. dba CfL for a  
5 Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA  
6 resold telecommunications services except local exchange services shall be, and the same is, hereby  
7 granted.

8 IT IS FURTHER ORDERED that Calls for Less, Inc. dba CfL shall comply with the Staff  
9 recommendations set forth in Findings of Fact No. 9.

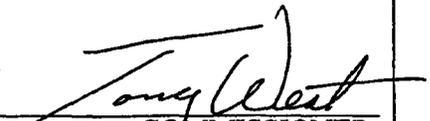
10 IT IS FURTHER ORDERED that within thirty days from the date of this Decision, Calls for  
11 Less dba CfL shall file a copy of the written guarantee by ILD Telecommunications, Inc. of its  
12 prepayments, advances or deposits.

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

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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18 COMMISSIONER

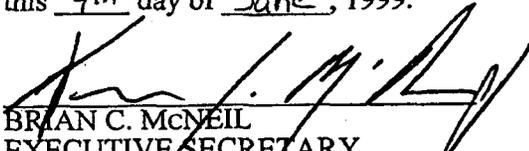
COMMISSIONER

  
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COMMISSIONER

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21 *Dissenting*  
22 *Opinion?*  
23 *No Jact*

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 4<sup>th</sup> day of June, 1999.

  
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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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26 *J. B. BMB*  
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28 DISSENT  
BMB:

1 SERVICE LIST FOR:

CALLS FOR LESS, INC. dba CfL

2 DOCKET NO.

T-03429A-97-0506

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