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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

MAY 13 1999

JIM IRVIN
COMMISSIONER-CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

DOCKETED BY *ad*

IN THE MATTER OF THE APPLICATION OF
UNITED STATES TELECOMMUNICATIONS,
INC. FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE LOCAL
EXCHANGE SERVICES AS A RESELLER, AND
PETITION TO BE CLASSIFIED AS
COMPETITIVE.

DOCKET NO. T-03558A-98-0234

DECISION NO. 61716

ORDER

Open Meeting
May 11 and 12, 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 May 7, 1998, United States Telecommunications, Inc. ("UST" or "Applicant") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide local exchange services as a reseller, and a petition to have the services classified as competitive pursuant to A.A.C. R14-2-1108.
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 competitive telecommunications services providers.
4. UST is a Florida corporation, which has been qualified to conduct business in Arizona since 1998.
5. Applicant has interconnection agreements with U S WEST Communications, Inc. ("U S WEST") and GTE California, Inc., which were approved by the Commission in Decision Nos.

1 61015 (July 16, 1998) and 61286 (December 14, 1998), respectively.

2 6. On June 4, 1998, U S WEST requested intervention, which was granted by Procedural
3 Order on August 7, 1998.

4 7. The Commission's Utilities Division Staff ("Staff") filed a Staff Report on November
5 5, 1998, and an Amended Staff Report on January 27, 1999. All subsequent references to a Staff
6 Report are to the Amended Staff Report.

7 8. Applicant filed a tariff with its application.

8 9. Staff stated that Applicant's tariff fulfills Commission requirements.

9 10. Staff reported that Applicant provided unaudited financial statements dated March 2,
10 1998, which indicated that Applicant had a net income of \$5,916 on revenues of \$42,450 for the
11 month of February 1998. Applicant had a cash balance of \$3.5 million, total assets of \$3.74 million,
12 liabilities totaling \$191,400, and stockholders' equity of \$3.55 million.

13 11. Staff indicated that Applicant lacks the financial resources necessary to offer
14 competitive telecommunications services in Arizona.

15 12. Staff recommended that:

16 (a) Applicant procure a performance bond equal to the expenses needed to cover
17 sixty days service to its customers;

18 (b) the amount of the performance bond must be increased if at any time it would
19 be insufficient to cover sixty days service to its customers;

20 (c) if Applicant desires to discontinue service it must file an application with the
21 Commission pursuant to A.A.C. R14-2-1107;

22 (d) Applicant must notify each of its customers and the Commission sixty days
23 prior to filing A.A.C. R14-2-1107;

24 (e) failure to meet this requirement will result in forfeiture of Applicant's
25 performance bond;

26 (f) if after one year, Applicant desires to discontinue the performance bond, it
27 must file information with Staff that demonstrates Applicant's financial viability; and

28 (g) Staff will review the information and provide Applicant its decision
concerning financial viability within thirty days of receipt of the information.

13. Staff recommended that proof of the performance bond should be docketed with
sixty days of the filing of the Staff Report. Staff stated that failure to file proof within the time

1 provided will result in Staff recommending the denial of the application without further Commission
2 proceedings, unless Applicant or another party requests a hearing.

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

5 15. Staff recommended that:

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

8 (b) Applicant's local exchange service offering should be classified as competitive
9 pursuant to A.A.C. R14-2-1108;

10 (c) Applicant's competitive services should be priced at the effective rates set
11 forth in Applicant's tariffs, and the maximum rates for these services should be
12 the maximum rates proposed by Applicant in its tariffs. The minimum rates
13 for Applicant's competitive services should be Applicant's long run
14 incremental costs of providing those services set forth in A.A.C. R14-2-1109;

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

18 (e) the application may be approved without a hearing pursuant to A.R.S. § 40-
19 282.

20 16. By Procedural Order dated February 2, 1999, the Commission set a deadline of March
21 29, 1999 for filing exceptions to the Staff Report, requesting that a hearing be set; or requesting
22 intervention as interested parties.

23 17. No exceptions were filed to the Staff Report, nor did any party request that a hearing
24 be set.

25 18. On December 4, 1998, Applicant filed proof of a \$20,000 bond. On February 12,
26 1999, Applicant indicated that the bond is at least equal to the expenses needed to cover sixty days
27 service to its customers.

28 19. UST's financial statements indicate a company of adequate capital structure.
However, the statements were unaudited and reflected only one month of income in what appears to
be a start-up company. In order to protect the public interest, it is appropriate to require a
performance bond for continued operations and that if Applicant desires to receive prepayments,

1 advances or deposits from its customers, it should establish an escrow account or post a bond,
2 described below. Directions are provided for UST to apply to remove the bonding requirements.

3 **CONCLUSIONS OF LAW**

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

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

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

9 4. As conditioned below, the provision of competitive resold local exchange
10 telecommunications services by Applicant is in the public interest.

11 5. With the conditions contained herein, Applicant is a fit and proper entity to receive a
12 Certificate for providing competitive resold local exchange telecommunications services in Arizona.

13 6. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rule-
14 it is in the public interest for Applicant to establish rates and charges which are not less than
15 Applicant's total service long-run incremental costs of providing the competitive services.

16 7. Pursuant to A.A.C. R14-2-1108, the telecommunications services that Applicant
17 intends to provide are competitive within Arizona.

18 8. Staff's recommendations in Findings of Fact Nos. 12 and 13 will be approved as
19 modified below.

20 9. Staff's recommendations in Findings of Fact No. 15 are reasonable and should be
21 adopted.

22 **ORDER**

23 IT IS THEREFORE ORDERED that the application of United States Telecommunications,
24 Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold local
25 exchange telecommunications services shall be, and is hereby, granted.

26 IT IS FURTHER ORDERED that the petition of United States Telecommunications, Inc
27 determine that its telecommunications services are competitive is hereby approved.
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IT IS FURTHER ORDERED that United States Telecommunications, Inc. shall comply with the Staff recommendations set forth in Findings of Fact No. 15.

IT IS FURTHER ORDERED that if after one year, Applicant desires to discontinue the performance bond, it must file information with Staff that demonstrates Applicant's financial viability. Upon submittal of information regarding the financial viability of United States Telecommunications, Inc., Staff shall review the information and file its recommendation concerning financial viability within thirty days of receipt of the financial information, for Commission approval.

IT IS FURTHER ORDERED that United States Telecommunications, Inc. shall not be authorized to charge customers any prepayments, advances or deposits, unless within thirty days of this Decision it establishes an escrow account or posts a bond equivalent to one year of prepayments, advances or deposits to be received from Arizona customers, in advance of receipt of the prepayments, advances or deposits. If in the future United States Telecommunications, Inc. desires to initiate such charges, or to terminate its escrow account or bond, it must file information with the Commission that demonstrates the company's financial viability. Staff shall review the information and file its recommendation concerning financial viability within thirty days of receipt of the financial information, for Commission approval.

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IT IS FURTHER ORDERED that, as may be applicable with resold local exchange serv
providers, United States Telecommunications, Inc. shall:

- (a) pursue permanent number portability arrangements with other local exchange companies pursuant to Commission Rule, Federal Law and Federal Rule;
- (b) agree to abide by and participate in the AUSF mechanism covered by Decision No. 59623 (April 24, 1996);
- (c) abide by the quality of service standards that were approved by the Commission for U S WEST in Docket No. T-01051B-93-0183; and
- (d) abide by all the Commission Decisions and policies regarding CLASS services.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER-CHAIRMAN

Carl Hernandez
COMMISSIONER

Tony West
COMMISSIONER

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 13th day of May, 1999.

Brian C. McNeil
BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
BMB:dap

1 SERVICE LIST FOR: UNITED STATES TELECOMMUNICATIONS,
INC.

2 DOCKET NO.: T-03558A-98-0234

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