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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

AUG 30 2001

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IN THE MATTER OF THE APPLICATION OF
TELMEX USA, L.L.C. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03985A-01-0086

DECISION NO. 63989

ORDER

Open Meeting
August 28 and 29, 2001
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 January 29, 2001, Telmex USA, L.L.C. ("Applicant" or "Telmex") 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 Delaware corporation, authorized to do business in Arizona since 1997.
4. Applicant is a switchless reseller, which purchases telecommunications services from a variety of carriers.
5. On April 5, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter. In its Staff Report, Staff stated that Telmex USA, L.L.C. provided financial statements for the year ended December 31, 2000. These financial statements list assets of \$16.5 million, total equity of \$5.2 million, and a net income of \$2.8 million. Based on the foregoing, Staff

1 believes that Telmex has sufficient financial resources to be allowed to charge customers any
2 prepayments, advances, or deposits without posting a performance bond to cover such customer
3 prepayments, advances, or deposits. Staff recommended approval of the application subject to the
4 following conditions, that:

5 (a) The Applicant shall comply with all Commission rules, orders, and other
6 requirements relevant to the provision of intrastate telecommunications service;

7 (b) The Applicant shall maintain its accounts and records as required by the
8 Commission;

9 (c) The Applicant shall file with the Commission all financial and other reports
10 that the Commission may require, and in a form and at such times as the Commission
may designate;

11 (d) The Applicant shall maintain on file with the Commission all current tariffs
12 and rates, and any service standards that the Commission may require;

13 (e) The Applicant shall comply with the Commission's rules and modify its tariffs
14 to conform to these rules if it is determined that there is a conflict between the
Applicant's tariffs and the Commission's rules;

15 (f) The Applicant shall cooperate with Commission investigations of customers
16 complaints;

17 (g) The Applicant shall participate in and contribute to a universal service fund, as
18 required by the Commission;

19 (h) The Applicant shall notify the Commission immediately upon changes to the
Applicant's address or telephone number;

20 (i) The Applicant's intrastate interexchange service offerings should be classified
21 as competitive pursuant to A.A.C. R14-2-1108;

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

25 (k) In the event that the Applicant states only one rate in its proposed tariff for a
26 competitive service, the rate stated should be the effective (actual) price to be charged
27 for the service as well as the service's maximum rate, and;

28 (l) The Applicant shall certify that all notification requirements have been

1 completed.

2 6. Staff also recommended approval of Telmex USA, L.L.C.'s application subject to the
3 following conditions:

- 4 (a) That the Applicant file conforming tariffs within 30 days of an Order in this
5 matter, and in accordance with the Decision;
- 6 (b) That the Applicant file in this Docket, within 18 months of the date it first
7 provides service following certification, sufficient information for Staff
8 analysis and recommendation for a fair value finding, as well as for an analysis
9 and recommendation for permanent tariff approval. This information must
10 include, at a minimum, the following:
- 11 1. A dollar amount representing the total revenue for the first twelve months
12 of telecommunications service provided to Arizona customers by Telmex
13 USA, L.L.C. following certification, adjusted to reflect the maximum rates
14 that the Applicant has requested in its tariff. This adjusted total revenue
15 figure could be calculated as the number of units sold for all services
16 offered times the maximum charge per unit.
 - 17 2. The total actual operating expenses for the first twelve months of
18 telecommunications service provided to Arizona customers by the
19 Applicant following certification.
 - 20 3. The value of all assets, listed by major category, including a description of
21 the assets, used for the first twelve months of telecommunications services
22 provided to Arizona customers by the Applicant following certification.
23 Assets are not limited to plant and equipment. Items such as office
24 equipment and office supplies should be included in this list.
- 25 (c) Telmex USA, L.L.C.'s failure to meet the condition to timely file sufficient
26 information for a fair value finding and analysis and recommendation of
27 permanent tariffs shall result in the expiration of the Certificate of
28 Convenience and Necessity and of the tariffs.

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

8. On April 23, 2001, a Procedural Order was issued requiring exceptions to the Staff
Report or a request that a hearing be set, to be filed by July 11, 2001. No exceptions were filed to the
Staff Report, nor did any party request that a hearing be set. This Procedural Order also granted
intervention to Qwest Corporation.

9. On May 18, 2001, Telmex filed Affidavits of Publication indicating compliance with

1 the Commission's notice requirements.

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

6 11. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
7 Court.

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

9 **CONCLUSIONS OF LAW**

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

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

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

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

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

19 6. Staff's recommendations in Findings of Fact No. 5 and 6 are reasonable and should be
20 adopted.

21 **ORDER**

22 IT IS THEREFORE ORDERED that the application of Telmex USA, L.L.C. for a Certificate
23 of Convenience and Necessity for authority to provide competitive resold interexchange
24 telecommunications services, except local exchange services, is hereby granted, as conditioned
25 herein.

26 IT IS FURTHER ORDERED that Telmex USA, L.L.C. shall comply with Staff's
27 recommendations as set forth in Findings of Fact Nos. 5 and 6.

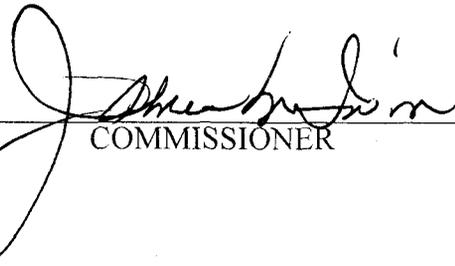
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IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, Telmex USA, L.L.C. shall notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	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 35th day of August, 2001.



BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
SG:dp

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SERVICE LIST FOR:

TELMEX USA, L.L.C.

DOCKET NO.:

T-03852A-00-1066

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