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BEFORE THE ARIZONA CORPORATION COMMISSION

1
2 JIM IRVIN
3 COMMISSIONER-CHAIRMAN
4 TONY WEST
5 COMMISSIONER
6 CARL J. KUNASEK
7 COMMISSIONER

Arizona Corporation Commission

DOCKETED

JAN 29 1999

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DOCKET NO. T-03601A-98-0417

8 IN THE MATTER OF THE APPLICATION OF
9 NEXTLINK ARIZONA, INC. FOR A
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE INTRASTATE
12 COMPETITIVE TELECOMMUNICATIONS
13 SERVICES AND PETITION FOR COMPETITIVE
14 CLASSIFICATION OF PROPOSED SERVICES.

DECISION NO. 61373

OPINION AND ORDER

15 DATE OF HEARING: January 12, 1999

16 PLACE OF HEARING: Phoenix, Arizona

17 PRESIDING OFFICER: Barbara M. Behun

18 APPEARANCES: Ms. Joan S. Burke, OSBORN MALEDON, P.A., on behalf of
19 NEXTLINK, Arizona, Inc.;

20 Ms. Theresa Dwyer, FENNEMORE CRAIG, P.C., on behalf of
21 U S WEST Communications, Inc., Intervenor, and

22 Mr. Paul Bullis, Chief Counsel, Legal Division, on behalf of the
23 Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

24 Having considered the entire record herein and being fully advised in the premises, the
25 Commission finds, concludes, and orders that:

FINDINGS OF FACT

- 26 1. NEXTLINK Arizona, Inc. ("NEXTLINK" or "Applicant") is a Washington
27 corporation authorized to do business in the State of Arizona since 1997.
- 28 2. On July 23, 1998, NEXTLINK filed an application with Docket Control of the
Arizona Corporation Commission ("Commission") to provide facilities-based and resale local
exchange telecommunications services, facilities-based and resale intrastate telecommunications
("toll") services, and dedicated and switched access services throughout Arizona, and a petition to
have its services be classified as competitive.
3. On October 26, 1998, NEXTLINK filed affidavits of publication.

1 4. U S WEST Communications, Inc. ("U S WEST") filed a request to intervene, whi
2 was approved by the Commission on August 21, 1998.

3 5. On August 31, 1998, NEXTLINK filed a Response to the Motion and Request for
4 Reconsideration.

5 6. On September 14, 1998, the Commission denied NEXTLINK's request for
6 reconsideration, indicating that U S WEST would not be permitted to unduly broaden the issues in
7 this proceeding.

8 7. On November 19, 1998, the Commission's Utilities Division Staff ("Staff") filed its
9 Staff Report, which recommended approval of the application and included a number of additional
10 recommendations.

11 8. On November 20, 1998, the Commission set the application for hearing commencing
12 on January 12, 1999.

13 9. On December 22, 1998, NEXTLINK filed a certificate of providing notice of the
14 application to all parties listed on the service list for the Competitive Telecommunications Servi
15 Rulemaking proceeding.

16 10. The hearing was held as scheduled on January 12, 1999, and Applicant and Staff
17 presented evidence. U S WEST cross-examined witnesses, but did not present any evidence.

18 11. NEXTLINK stated its intention to provide services through its own switch and
19 planned fiber optic ring, and through purchase of unbundled network elements and resale services.
20 NEXTLINK anticipated focussing on the provision of facilities-based services, with initial service to
21 be in the Phoenix metropolitan area. NEXTLINK forecasted offering services beginning in the third
22 quarter of 1999.

23 12. NEXTLINK and U S WEST negotiated an interconnection agreement, which was
24 approved by the Commission in Decision No. 61261 (November 25, 1998).

25 13. NEXTLINK stated that it currently provides facilities-based and resold services in
26 fourteen states.

27 14. The management of NEXTLINK has several years of experience in
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1 telecommunications industry.

2 15. Applicant has the technical capability to provide the services it proposed in its
3 application.

4 16. Currently there are several incumbent providers of local exchange, toll, and exchange
5 access services in the service territory requested by Applicant, and at least twelve other entities have
6 been authorized to provide competitive local exchange services in all or portions of that territory.

7 17. Applicant filed illustrative tariffs with its application.

8 18. Staff recommended NEXTLINK's application for a Certificate to provide intrastate
9 telecommunications services, be granted.

10 19. Staff further recommended that:

11 (a) NEXTLINK be required to file in this docket, at least thirty days in advance of
12 providing service, initial rates and tariffs for its services, as well as the
13 maximum rates and charges for its services, both of which are not less than
14 NEXTLINK's total service long-run incremental cost of providing the
15 services;

16 (b) consistent with the Commission's previous Decisions granting Certificates to
17 new entrant local exchange companies, unless Staff files comments indicating
18 that the rates and charges are unjust or unreasonable pursuant to A.A.C. R14-2-
19 1105(C) and R14-2-1104(D), the rates and charges submitted will be effective
20 thirty days after filing with the Commission;

21 (c) NEXTLINK pursue permanent number portability arrangements with other
22 local exchange companies pursuant to Commission Rule, Federal Law and
23 Federal Rule;

24 (d) NEXTLINK agree to abide by and participate in the AUSF mechanism
25 covered by Decision No. 59623 (April 24, 1996);

26 (e) NEXTLINK abide by the quality of service standards that were approved by
27 the Commission for U S WEST in Docket No. T-01051B-93-0183;

28 (f) in areas where NEXTLINK is the sole provider of local exchange service
facilities, NEXTLINK will provide customers with access to alternative
providers of service pursuant to the provisions of Commission Rule, Federal
Law and Federal Rule;

(g) NEXTLINK be required to abide by all the Commission Decisions and policies
regarding CLASS services;

(h) NETLINK be required to certify that all notification requirements have been
completed prior to a final determination in this proceeding;

(i) in order to provide Staff with current information on the degree that facilities-

1 based competition exists in any geographic area within the State of Arizona
2 and to allow Staff to respond to consumer inquiries regarding the availability
3 of alternative service providers, NEXTLINK provide maps with sufficient
4 detail to identify those areas where NEXTLINK provides local exchange
5 service. In the metropolitan areas, the boundaries would generally follow
6 street locations. The maps should identify those areas where the company
7 intends to provide facilities-based services and those areas where the company
8 plans to resell services of an incumbent local exchange company. Also,
9 NEXTLINK should indicate in the maps provided, areas where service
10 incremental charges (e.g. rural zone increment charges, etc.) will apply; and

11 (j) NEXTLINK be required to abide by all Commission rules and regulations.

12 20. Staff stated that NEXTLINK should be required to work cooperatively with local
13 governments, public safety agencies, telephone companies, the National Emergency Number
14 Association and all other concerned parties to establish a systematic process in the development of a
15 universal emergency telephone number system.

16 21. According to Staff, NEXTLINK submitted the Security and Exchange Commission
17 10-Q report for the year ending December 31, 1997 of its parent company, NEXTLINK
18 Communications, Inc., which indicated that consolidated operating revenue was \$25.7 million in
19 1996 and \$57.6 million in 1997; consolidated operating income was (\$71.1 million) in 1996 ;
20 (\$168.3 million) in 1997; and consolidated total assets totaled \$1.2 billion, consolidated total
21 liabilities were \$830 million and consolidated stockholders equity totaled \$331 million in 1997.

22 22. Staff stated that NEXTLINK Communications, Inc. has committed to provide
23 appropriate levels of financial support to ensure that NEXTLINK meets its financial and customer
24 service obligations in Arizona, and that NEXTLINK Communications, Inc. has sufficient financial
25 strength to offer telecommunications services in Arizona.

26 23. NEXTLINK stated that it would not interfere with its business to require a
27 performance bond or escrow account prior to it receiving prepayments, advances or deposits.
28 NEXTLINK also indicated that certain other states had required that type of bond or account as part
of their certification process.

24 24. NEXTLINK agreed to comply with Staff's recommendations.

25 25. NEXTLINK stated that it has become aware that long-term number portability is now
26 available in Phoenix, and indicated that its interconnection agreement with U S WEST inclu

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recommendations contained within Findings of Fact Nos. 19 and 20.

IT IS FURTHER ORDERED that prior to providing local exchange service, NEXTLINK Arizona, Inc. shall certify that any issues associated with the provision of 911 service have been resolved with the emergency service providers and that its 911 system (including routing and database updates) is operating and meets the requirements of emergency service providers.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
COMMISSIONER-CHAIRMAN	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting 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 29 day of Jan, 1999.


STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

DISSENT _____
BMB:bbs

1 SERVICE LIST FOR: NEXTLINK ARIZONA, INC.

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