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ORIGINAL

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

OPEN MEETING ITEM



BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

2001 AUG 13 P 2:32

DATE: AUGUST 13, 2001

DOCKET NO: T-03984A-01-0070

AZ CORP COMMISSION
DOCUMENT CONTROL

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Philip Dion. The recommendation has been filed in the form of an Order on:

SNIP LINK, L.L.C.
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 22, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

AUGUST 28, 2001 AND AUGUST 29, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
3 CHAIRMAN
4 JIM IRVIN
5 COMMISSIONER
6 MARC SPITZER
7 COMMISSIONER

8 IN THE MATTER OF THE APPLICATION OF
9 SNIP LINK, LLC FOR A CERTIFICATE OF
10 CONVENIENCE AND NECESSITY TO PROVIDE
11 COMPETITIVE RESOLD INTRASTATE
12 TELECOMMUNICATIONS SERVICES, EXCEPT
13 LOCAL EXCHANGE SERVICE

DOCKET NO. T-03984A-01-0070

DECISION NO. _____

ORDER

9 Open Meeting
10 August 28 and 29, 2001
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

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

15 **FINDINGS OF FACT**

16 1. On January 22, 2001, SNiP Link, LLC ("SNiP Link" or "Applicant") filed with the
17 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
18 competitive resold interexchange telecommunications services, except local exchange services,
19 within the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
21 telecommunications providers ("resellers") were public service corporations subject to the
22 jurisdiction of the Commission.

23 3. Applicant is a limited liability corporation domiciled in New Jersey, authorized to do
24 business in Arizona since June of 2000.

25 4. Applicant is a switchless reseller, which purchases telecommunications services from
26 a variety of carriers.

27 5. On February 9, 2001, Applicant filed Affidavits of Publication indicating compliance
28 with the Commission's notice requirements.

1 6. On February 16, 2001, the Commission's Utilities Division Staff ("Staff") filed its
2 Staff Report recommending approval of the application with some conditions.

3 7. In its Staff Report, Staff stated that SNIIP Link provided financial statements for the
4 period ended February 29, 2000. These financial statements list assets of \$1.7 million, negative total
5 equity of (\$429,967), and a net loss of (\$49,097). Based on the foregoing, Staff believes that
6 Applicant lacks adequate financial resources to be allowed to charge customers any prepayments,
7 advances, or deposits without either establishing an escrow account or posting a surety bond to cover
8 such prepayments, advances, or deposits.

9 8. The Staff Report indicates that SNIIP Link does not charge its customers for any
10 prepayments, advances or deposits. If at some future date, the Applicant wants to charge customers
11 any prepayments, advances or deposits, it must file information with the Commission that
12 demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the
13 information and the Commission will make a determination concerning the Applicant's financial
14 viability and whether customer prepayments, advances or deposits should be allowed. Additionally,
15 Staff believes that if the Applicant experiences financial difficulty, there should be minimal impact to
16 its customers. Customers are able to dial another reseller or facilities-based provider to switch to
17 another company.

18 9. Staff recommended approval of the application subject to the following conditions,
19 that:

20 (a) The Applicant should be ordered to comply with all Commission rules, orders,
21 and other requirements relevant to the provision of intrastate telecommunications
22 service;

23 (b) The Applicant should be ordered to maintain its accounts and records as
24 required by the Commission;

25 (c) The Applicant should be ordered to file with the Commission all financial and
26 other reports that the Commission may require, and in a form and at such times as the
27 Commission may designate;

28 (d) The Applicant should be ordered to maintain on file with the Commission all
current tariffs and rates, and any service standards that the Commission may require;

1 (e) The Applicant should be ordered to comply with the Commission's rules and
2 modify its tariffs to conform to these rules if it is determined that there is a conflict
between the Applicant's tariffs and the Commission's rules;

3 (f) The Applicant should be ordered to cooperate with Commission investigations
4 of customers complaints;

5 (g) The Applicant should be ordered to participate in and contribute to a universal
6 service fund, as required by the Commission;

7 (h) The Applicant file its tariffs within 30 days of an Order in this matter, and in
8 accordance with the Decision;

9 (i) The Applicant should be ordered to notify the Commission immediately upon
10 changes to the Applicant's address or telephone number;

11 (j) The Applicant's intrastate interexchange service offerings should be classified
12 as competitive;

13 (k) Applicant should be required to file in this Docket, within 18 months of the
14 date it first provides service following certification, sufficient information for Staff
analysis and recommendation for a fair value finding, as well as for an analysis and
15 recommendation for permanent tariff approval. This information must include, at a
16 minimum, the following:

- 17 1. A dollar amount representing the total revenue for the first twelve
18 months of telecommunications service provided to Arizona customers
by the Applicant following certification, adjusted to reflect the
19 maximum rates that the Applicant has requested in its tariff. This
20 adjusted total revenue figure could be calculated as the number of units
sold for all services offered times the maximum charge per unit.
- 21 2. The total actual operating expenses for the first twelve months of
22 telecommunications service provided to Arizona customers by the
Applicant following certification.
- 23 3. The value of all assets, listed by major category, used for the first
24 twelve months of telecommunications service provided to Arizona
customers by the Applicant following certification. Assets are not
25 limited to plant and equipment. Items such as office equipment and
26 office supplies should be included in this list.

27 (l) The Applicant's competitive services should be priced at the rates proposed by
28 the Applicant in its most recently filed tariffs. The maximum rates for these services
should be the 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; and

1 (m) In the event that the Applicant states only one rate in its proposed tariff for a
2 competitive service, the rate stated should be the effective (actual) price to be charged
3 for the service as well as the service's maximum rate.

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

6 11. No exceptions were filed to the Staff Report, nor did any party request that a hearing
7 be set.

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

12 13. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
13 Court.

14 14. On February 16, 2001, the Commission's Petition was granted.

15 **CONCLUSIONS OF LAW**

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

18 2. The Commission has jurisdiction over Applicant and the subject matter of the
19 application.

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

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

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

25 6. Staff's recommendations in Findings of Fact No. 8 and 9 are reasonable and should be
26 adopted.

27 **ORDER**

28 IT IS THEREFORE ORDERED that the application of SNIp Link, LLC for a Certificate of

1 Convenience and Necessity for authority to provide competitive resold interexchange
2 telecommunications services, except local exchange services, is hereby granted, as conditioned
3 herein, except SNiP Link, LLC shall not be authorized to charge customers any prepayments,
4 advances, or deposits. In the future, if SNiP Link, LLC desires to initiate such charges, it must file
5 information with the Commission that demonstrates SNiP Link, LLC's financial viability. Staff shall
6 review the information provided and file its recommendation concerning the Applicant's financial
7 viability and/or the necessity of obtaining a surety bond within thirty (30) days of receipt of the
8 financial information, for Commission approval.

9 IT IS FURTHER ORDERED that SNiP Link, LLC shall comply with Staff's
10 recommendations as set forth in Findings of Fact No. 8 and 9.

11 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, SNiP
12 Link, LLC shall notify the Compliance Section of the Arizona Corporation Commission of the date
13 that it will begin or has begun providing service to Arizona customers.

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

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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18 CHAIRMAN COMMISSIONER COMMISSIONER

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20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
21 Secretary of the Arizona Corporation Commission, have
22 hereunto set my hand and caused the official seal of the
23 Commission to be affixed at the Capitol, in the City of Phoenix,
24 this ____ day of _____, 2001.

25 _____
26 BRIAN C. McNEIL
27 EXECUTIVE SECRETARY

28 DISSENT _____
PD:mlj

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SERVICE LIST FOR: SNIP LINK, LLC
DOCKET NO.: T-03948A-01-0070

Joseph Polito, Jr.
SNIP LINK, LLC
100-A Twinbridge Drive
Pennsauken, New Jersey 08110

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Deborah Scott, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007