

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

22 OPEN MEETING ITE




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2001 SEP 17 P 1:36

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: September 17, 2001

DOCKET NO: T-03600A-98-0411

TO ALL PARTIES:

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

ALLCOM USA, INC. DBA ALLCOM OR ALLCOM INTERNATIONAL
(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 12:00 p.m. on or before:

SEPTEMBER 26, 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:

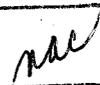
OCTOBER 2 AND 3, 2001

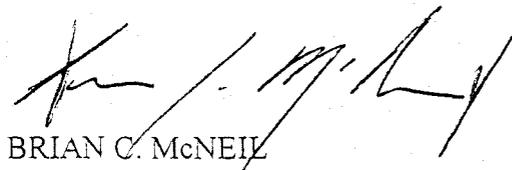
For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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

6 IN THE MATTER OF THE APPLICATION OF
ALLCOM USA INC. D/B/A ALLCOM OR
7 ALLCOM INTERNATIONAL FOR A
CERTIFICATE OF CONVENIENCE AND
8 NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTRASTATE
9 TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICE

DOCKET NO. T-03600A-98-0411

DECISION NO. _____

ORDER

10 Open Meeting
11 October 2 and 3, 2001
12 Phoenix, Arizona

BY THE COMMISSION:

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

15 **FINDINGS OF FACT**

16 1. On July 22, 1998, AllCom USA Inc. d/b/a AllCom or AllCom International
17 ("AllCom" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an
18 application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive
19 resold interexchange telecommunications services, except local exchange services, within the State of
20 Arizona.

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

24 3. Applicant is a corporation domiciled in Nevada, authorized to do business in Arizona
25 since August 2, 2001.

26 4. Applicant is a switchless reseller, which purchases telecommunications services from
27 a variety of carriers.
28

1 5. On July 5, September 1, and October 3, 2000 and June 26, 2001, Applicant filed
2 Affidavits of Publication indicating compliance with the Commission's notice requirements.

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

5 7. In its Staff Report, Staff stated that AllCom provided financial statements for the
6 period ended June 1, 2001. These financial statements list assets of \$73,428, retained earnings of
7 \$17,372, sales of \$289,492 and a net income of \$55,655. Based on the foregoing, Staff believes that
8 Applicant has inadequate financial resources to be allowed to charge customers any prepayments,
9 advances, or deposits without either establishing an escrow account or posting a surety bond to cover
10 such prepayments, advances, or deposits.

11 8. The Staff Report indicates that AllCom filed a letter stating that it does not currently,
12 and will not in the future, charge its customers any prepayments, advances or deposits. If at some
13 future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must
14 file information with the Commission that demonstrates the Applicant's financial viability. *Upon
15 receipt of such filing, Staff will review the information and forward its recommendation to the
16 Commission. Additionally, Staff believes that if the Applicant experiences financial difficulty, there
17 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-
18 based provider to switch to another company.

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

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
3 between the Applicant's tariffs and the Commission's rules;

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

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

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

10 (i) If at some future date, the Applicant wants to charge customers any
11 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
13 review the information and forward its recommendation to the Commission;

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

16 (k) The Applicant's competitive services should be priced at the rates proposed by
17 the Applicant in its most recently filed tariffs and should be approved on an interim
18 basis. The maximum rates for these services should be the maximum rates proposed
19 by the Applicant in its proposed tariffs. The minimum rates for the Applicant's
20 competitive services should be the Applicant's total service long run incremental costs
21 of providing those services; and

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

25 10. Staff further recommended approval of Applicant's application subject to the
26 following conditions:

27 (a) That the Applicant file conforming tariffs within 30 days of an Order in this
28 matter, and in accordance with the Decision;

(b) That the Applicant file in this Docket, within 18 months of the 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
recommendation for permanent tariff approval. This information must include, at a
minimum, the following:

1. A dollar amount representing the total revenue for the first twelve
months of telecommunications service provided to Arizona customers by
United following certification, adjusted to reflect the maximum rates that the

1 Applicant has requested in its tariff. This adjusted total revenue figure could
2 be calculated as the number of units sold for all services offered times the
maximum charge per unit;

3 2. The total actual operating expenses for the first twelve months of
4 telecommunications service provided to Arizona customers by the Applicant
following certification;

5 3. The value of all assets, listed by major category, including a description
6 of the assets, used for the first twelve months of telecommunications services
7 provided to Arizona customers by the Applicant following certification.
8 Assets are not limited to plant and equipment. Items such as office equipment
and office supplies should be included in this list; and

9 (c) Applicant's failure to meet the condition to timely file sufficient information
10 for a fair value finding and analysis and recommendation of permanent tariffs shall
11 result in the expiration of the Certificate of Convenience and Necessity and of the
tariffs.

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

14 12. No exceptions were filed to the Staff Report, nor did any party request that a hearing
15 be set.

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

19 14. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
20 Court.

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

22 CONCLUSIONS OF LAW

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

25 2. The Commission has jurisdiction over Applicant and the subject matter of the
26 application.

27 3. Notice of the application was given in accordance with the law.
28

1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
2 AllCom USA Inc. d/b/a AllCom or AllCom International shall notify the Compliance Section of the
3 Arizona Corporation Commission of the date that it will begin or has begun providing service to
4 Arizona customers.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7
8
9 CHAIRMAN

COMMISSIONER

COMMISSIONER

10
11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
12 Secretary of the Arizona Corporation Commission, have
13 hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this ____ day of _____, 2001.

16 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

17 DISSENT _____
18 PD:mlj

1 SERVICE LIST FOR: ALLCOM USA INC. D/B/A ALLCOM OR ALLCOM INTERNATIONAL

2 DOCKET NO.: T-03600A-98-0411

3 Mike Petrillo
4 President

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