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Arizona Corporation Commission

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STAFF REPORT
UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

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Application For a Certificate of Convenience and Necessity and For
Determination That Services of The Company are Competitive

Company: Tel-Save, Inc. d/b/a The Phone Company d/b/a Network Services of New Hope
Docket No.: T-03342A-97-0129

On March 13, 1997, the Applicant filed an application for a Certificate of Convenience and Necessity (CC&N) to resell telecommunications services within the State of Arizona.

Article XV of the Arizona Constitution and the Arizona statutes governing public service corporations give the Commission full power to regulate the State's public service corporations. Inherent in those powers is the authority to certificate public service corporations to provide competitive telecommunications services and establish just and reasonable rates for these services. The Commission has adopted rules, Title 14, Chapter 2, Article 11 of the Arizona Administrative Code, (Competitive Telecommunications Services rules), as a framework for processing applications to provide competitive telecommunications services.

Staff's review of this application addresses the overall fitness of the Applicant to receive a Certificate to provide competitive resold intrastate toll telecommunications services. Staff's review considers the Applicant's integrity, technical and financial capabilities, and whether the Applicant's proposed rates will be competitive, just and reasonable.

REVIEW OF COMPANY AND TELECOMMUNICATION SERVICE INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

X The necessary information has been filed to process this application.

— The information listed below was omitted and must be filed with the Commission. Staff will not recommend that this application be granted until the information is filed. Failure to file the omitted information within 30 days from the date of this Staff Report will result in Staff recommending dismissal of this application without prejudice to filing a new application. If the application is dismissed, the Applicant may not provide service until such time as a new application is filed and approved by the Commission.

Originator: Kevin Mosier

Date: August 16, 1999

REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- X Applicant is currently providing service in Arizona.
- X Applicant is currently providing service in other states
- X Applicant is a switchless reseller.
- X The Applicant has provided a system diagram that depicts its network that is used for completing calls within Arizona. Local exchange carrier facilities are used to originate and terminate calls carried on the Applicant's long distance network. The Applicant does not currently own any long distance facilities, the facilities that are used to complete calls are obtained from a facilities-based carrier operating in the state.
- X In the event the Applicant's network fails, end users can access other long distance service providers.

Originator: Kevin Mosier

Date: August 16, 1999

REVIEW OF FINANCIAL INFORMATION

The Applicant has provided financial statements as of December 31, 1998. These financial statements indicate the Applicant had assets of \$277 million, liabilities totaling nearly \$414 million, negative retained earnings of \$218 million and negative stockholders equity of a nearly \$137 million. Based upon this information, Staff believes the Applicant does not have adequate financial resources to make necessary plant additions or incur operating losses.

Since this Applicant does not appear to have sufficient financial resources, it has filed a letter stating that it does not currently, and will not in the future, charge its customers for any prepayments, advances or deposits. If at some future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many other companies that provide resold telecommunications service or the customers may choose a facilities-based provider (AT&T, MCI, Sprint, etc.). If the customer wants service from a different provider immediately, that customer is

able to a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

Originator: Kevin Mosier

Date: August 16, 1999

COMPETITIVE SERVICES RATES AND CHARGES

Competitive Services

The Applicant is a reseller that sells services that it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate toll market by restricting output or raising market prices. In addition, those companies from whom the Applicant buys its bulk services are technically and financially capable of providing alternative services at comparable rates, terms and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Because Staff believes that the market in which these services will be offered is competitive, Staff recommends that the Applicant's competitive services be priced at the rates proposed by the Applicant in its most recently filed tariffs. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

Minimum and Maximum Rates

A.A.C. R14-2-1109.A. provides that minimum rates for the Applicant's competitive services are the Company's total service long run incremental costs of providing the services. The Company's maximum rates should be the maximum rates proposed by the Company in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Company's tariffs must comply with A.A.C. R14-2-1110.

STAFF RECOMMENDATION

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate toll services as a reseller and its Petition to classify its intrastate toll services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to resell intrastate toll services, Staff makes the following recommendations:

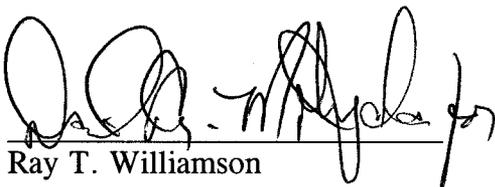
The Applicant's application for a CC&N should be approved subject to any conditions listed above and A.A.C. R14-2-1106.B. Additionally, Staff recommends pursuant to R14-2-1105.D., that the Applicant maintain for a minimum of one year, an escrow account equal to the total amount of any prepayments, advances, and deposits that the Applicant may collect from its customers as a condition of certification.

The Applicant's intrastate toll service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108.

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

The Applicant should be required to comply with the Commission's rules and modify its tariffs to conform to these rules, if it is determined that there is a conflict between the Company's tariffs and the Commission's rules.

This application may be approved without a hearing pursuant to A.R.S. § 40-282.



Ray T. Williamson
Acting Director
Utilities Division

Date: 8-27-99

Originator: Kevin Mosier

Date: August 16, 1999