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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

Application for a Certificate of Convenience and Necessity to Provide Resold Interexchange Service and for Determination that Services of the Applicant are Competitive

Applicant: **Arizona Telephony Brokers, L.L.C.**
Docket No.: **T-04102A-02-0267**

On April 8, 2002, Arizona Telephony Brokers, L.L.C. ("Applicant") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold interexchange services within the State of Arizona.

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

REVIEW OF APPLICANT 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, and the Applicant has authority to transact business in the State of Arizona.**

[ ] **The Applicant has published legal notice of the application in all counties where service will be provided.**

REVIEW OF TECHNICAL INFORMATION

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

[ ] **The Applicant is currently providing service in Arizona.**

[ ] **The Applicant is currently providing service in other states.**

[X] **The Applicant is a switchless reseller.**

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[X] **In the event the Applicant's network fails, end users can access other interexchange service providers.**

At this time, the Applicant is neither approved to offer nor currently offers resold interexchange services in any state. The Applicant has two employees that have combined experience of seven and one half years in the telecommunications services industry. Also, Staff is not aware of any information that indicates the Applicant lacks technical capabilities to provide requested telecommunications services. Based on this information, Staff has determined that the Applicant has sufficient technical capabilities to provide resold interexchange telecommunications services.

REVIEW OF FINANCIAL INFORMATION

[ ] **The Applicant is required to have a performance bond to provide resold interexchange service in the State of Arizona.**

The Applicant did provide its unaudited financial statements for eleven (11) months ending November 30, 2001. These financial statements list assets of $714,645; equity of $569,645; and a net income of $598,245. The Applicant did not provide notes related to the financial statements.

The Applicant stated in its Tariff, Sections 2.8 and 2.9 on page 18, that it does not collect from its customers an advance, deposit, and/or prepayment. If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, Staff recommends that the Applicant be required to file such information with the Arizona Corporation Commission ("Commission") for Staff review. Upon receipt of such filing and after Staff review, Staff would forward its recommendation to the Commission.

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. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

[X] **The Applicant has filed a proposed tariff with the Commission.**

[X] **The Applicant has filed sufficient information with the Commission to make a fair value determination.**

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company

and has determined that its fair value rate base is de minimus. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, it did not accord that information substantial weight in its analysis.

COMPETITIVE SERVICES' RATES AND CHARGES

Competitive Services

The Applicant is a reseller of services 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 interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys 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 Arizona Administrative Code ("AAC") 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. 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 AAC R14-2-1109.

Minimum and Maximum Rates

AAC R14-2-1109 (A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with AAC R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate interexchange services as a reseller and its petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange services, Staff recommends approval of the application subject to the following:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;

2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;

3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;

4. 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;

5. The Applicant should be ordered 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 Applicant's tariffs and the Commission's rules;

6. The Applicant should be ordered to cooperate with Commission investigations of customer complaints;

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

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

9. If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, it must file information with the Commission for Staff review. Upon receipt of such filing and after Staff review, Staff would forward its recommendation to the Commission;

10. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to AAC R14-2-1108;

11. 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 as set forth in AAC R14-2-1109;

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

13. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is de minimus. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, Staff recommends that the fair value information provided not be given substantial weight in this analysis; and

14. The Applicant should be required to certify that all notification requirements have been completed prior to the issuance of a CC&N.

Staff recommends approval of the application subject to the following conditions:

1. The Applicant be ordered to file conforming tariffs within 365 days from the date of an Order in this matter or 30 days prior to providing service, which ever comes first, and in accordance with the Decision; and

2. If any of the above timeframes are not met, the Applicant's CC&N shall be null and void without further Order of the Commission and no time extensions for compliance shall be granted.

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

Date: 4-18-02

Ernest G. Johnson
Director
Utilities Division

Originator: John F. Bostwick

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