

WILLIAM A. MCNEIL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DATE: APRIL 18, 2001
DOCKET NOS: T-03887A-00-0386
TO ALL PARTIES:

RECEIVED
DOCKETED

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

ALLTEL COMMUNICATIONS, INC.
(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 noon** on or before:

APRIL 27, 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:

MAY 1, 2001 AND MAY 2, 2001

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

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
ALLTEL COMMUNICATIONS, INC. FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
9 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03887A-00-0386

DECISION NO. _____

ORDER

10 Open Meeting
May 1 and 2, 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 June 2, 2000, ALLTEL Communications, Inc. ("Applicant" or "ALLTEL") filed
17 with Docket Control of the Arizona Corporation Commission ("Commission") an application for a
18 Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange
19 telecommunications services, except local exchange services, 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 Delaware corporation, authorized to do business in Arizona since 2000.

24 4. Applicant is a switchless reseller, which purchases telecommunications services from
25 Frontier Communications of the West, Inc.

26 5. On June 12, 2000, ALLTEL filed an Affidavit of Publication indicating compliance
27 with the Commission's notice requirements.

28 6. On August 23, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff

1 Report in this matter. In its Report, Staff stated that ALLTEL has provided financial statements for
2 the year ended December 31, 1999. These financial statements list assets of \$19.9 billion, total
3 equity of \$4.2 billion, and retained earnings of \$781,000. Based on the foregoing, Staff believes that
4 Applicant has adequate financial resources to be allowed to charge customers' prepayments,
5 advances, or deposits without either establishing an escrow account or posting a surety bond to cover
6 such prepayments, advances, or deposits.

7 7. Staff recommended approval of the application subject to the following:

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

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

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

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

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

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

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

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

27 (i) The Applicant's intrastate toll service offerings should be classified as
28 competitive pursuant to Commission rules;

(j) The rates proposed by the Applicant in its most recently filed tariffs should be
approved on an interim basis. 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;

1 (k) 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; and,

4 (l) The Applicant should be ordered to file conforming tariffs within 30 days of an
5 Order in this matter, and in accordance with the Decision.

6 8. By Procedural Order dated October 23, 2000, in response to Applicant's request, the
7 Commission extended the deadline for processing this application by 120 days.

8 9. In comments filed January 29, 2001, Staff further recommended approval of
9 ALLTEL's application subject to the following conditions:

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

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

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

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

11. On August 29, 2000, the Arizona Court of Appeals, Division One ("Court") issued its

1 Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV,
2 Section 14 of the Arizona Constitution requires the Commission to "determine fair value rate base for
3 all public service corporations in Arizona prior to setting their rates and charges."

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

6 13. On February 13, 2001, the Commission's Petition was granted.

7 **CONCLUSIONS OF LAW**

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

10 2. The Commission has jurisdiction over Applicant and the subject matter of the
11 application.

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

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

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

17 6. Staff's recommendations in Findings of Fact Nos. 7 and 9 are reasonable and should
18 be adopted.

19 **ORDER**

20 IT IS THEREFORE ORDERED that the application of ALLTEL Communications, Inc. for a
21 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange
22 telecommunications services, except local exchange services, shall be and the same is hereby granted.

23 IT IS FURTHER ORDERED that ALLTEL Communications, Inc. shall comply with the
24 Staff recommendations set forth in Findings of Fact Nos. 7 and 9.

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IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, ALLTEL Communications, Inc. shall notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, 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 ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
JR:mlj

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SERVICE LIST FOR: ALLTEL COMMUNICATIONS, INC.

DOCKET NO.: T-03887A-00-0386

Stephen B. Rowell
Senior Vice President, State Government Affairs
ALLTEL Communications, Inc.
One Allied Drive
Little Rock, AR 72202

Randall H. Warner
Roshka Heyman & DeWulf
Two Arizona Center
400 North 5th Street
Suite 1000
Phoenix, Arizona 85004-3906

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