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JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON



MEETING ITEM

ORIGINAL²²

JAMES G. JAYNE
Interim Executive Secretary

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ARIZONA CORPORATION COMMISSION

2003 JUL 28 P 2:58

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: July 28, 2003
DOCKET NOS: T-04153A-02-0844
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:

PRIMO 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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 6, 2003

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 Open Meeting to be held on:

AUGUST 12 AND 13, 2003

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

Arizona Corporation Commission
DOCKETED

JUL 28 2003

DOCKETED BY

JAMES G. JAYNE
INTERIM EXECUTIVE SECRETARY

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

IN THE MATTER OF THE APPLICATION OF
PRIMO COMMUNICATIONS, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04153A-02-0844

DECISION NO. _____

ORDER

Open Meeting
August 12 and 13, 2003
Phoenix, Arizona

BY THE COMMISSION:

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

FINDINGS OF FACT

1. On November 13, 2002, Primo Communications, Inc. ("Applicant" or "Primo") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services, except local exchange services, within the State of Arizona.
2. Applicant is a switchless reseller that purchases telecommunications services from a variety of carriers for resale to its customers.
3. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") are public service corporations subject to the jurisdiction of the Commission.
4. Primo has authority to transact business in the State of Arizona.
5. On February 20, 2003 and July 7, 2003, Primo filed Affidavits of Publication

1 indicating compliance with the Commission's notice requirements.

2 6. On March 17, 2003, the Commission's Utilities Division Staff ("Staff") filed a Staff
3 Report which includes Staff's fair value rate base determination in this matter and recommends
4 approval of the application subject to certain conditions.

5 7. In the Staff Report, Staff stated that Primo provided financial statements for the eight
6 months ending August 31, 2002, which list assets of \$35,315, equity of \$35,315 and net income of
7 \$205.

8 8. In its Staff Report, Staff stated that based on information obtained from the Applicant,
9 it has determined that Primo's fair value rate base ("FVRB") is zero. Staff has determined that
10 Applicant's FVRB is too small to be useful in a fair value analysis, and is not useful in setting rates.
11 Staff further stated that in general, rates for competitive services are not set according to rate of return
12 regulation, but are heavily influenced by the market. Staff recommended that the Commission not set
13 rates for primo based on the fair value of its rate base.

14 9. Staff believes that Primo has no market power and that the reasonableness of its rates
15 will be evaluated in a market with numerous competitors. In light of the competitive market in which
16 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed
17 tariffs for its competitive services will be just and reasonable, and recommends that the Commission
18 approve them.

19 10. Staff recommended approval of Primo's application subject to the following:

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 customer 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 collect from its customers an
11 advance, deposit and/or prepayment, it must file information with the Commission for
12 Staff review. Upon receipt of such filing and after Staff review, Staff would forward
13 its recommendation to the Commission;

14 (j) The Applicant's interexchange service offerings should be classified as
15 competitive pursuant to A.A.C. R14-2-1108;

16 (k) The Applicant's maximum rates should be the maximum rates proposed by the
17 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive
18 services should be the Applicant's total service long run incremental costs of
19 providing those services as set forth in A.A.C. R14-2-1109; and

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

23 11. Staff further recommended that Primo's Certificate should be conditioned upon the
24 Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of
25 an Order in this matter, or 30 days prior to providing service, whichever comes first.

26 12. Staff recommended that if the Applicant fails to meet the timeframes outlined in
27 Findings of Fact No. 11, that Primo's Certificate should become null and void without further Order
28 of the Commission, and that no time extensions for compliance should be granted.

13. The rates proposed by this filing are for competitive services.

14. Staff's recommendations as set forth herein are reasonable.

15. Primo's fair value rate base is zero.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the

1 IT IS FURTHER ORDERED that Primo Communications, Inc. shall not require its Arizona
2 customers to pay advances, prepayments or deposits for any of its products or services.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5
6
7 CHAIRMAN

COMMISSIONER

COMMISSIONER

8
9 COMMISSIONER

COMMISSIONER

10 IN WITNESS WHEREOF, I, JAMES G. JAYNE, Interim
11 Executive Secretary of the Arizona Corporation Commission,
12 have hereunto set my hand and caused the official seal of the
13 Commission to be affixed at the Capitol, in the City of Phoenix,
14 this ____ day of _____, 2003.

15 _____
16 JAMES G. JAYNE
17 INTERIM EXECUTIVE SECRETARY

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2 DOCKET NO.: T-04153A-02-0844

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