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AMENDED STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

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

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2003 SEP 29 P 1:52

Applicant: Preferred Carrier Services, Inc. d/b/a Phones For All / Telefonos Para Todos
Docket No.: T-03583A-98-0349

ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

On June 29, 1998, Preferred Carrier Services, Inc. d/b/a Phones For All / Telefonos Todos ("Applicant") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold local exchange services in the State of Arizona.

Staff reviews such applications and makes a recommendation to the Arizona Corporation Commission ("Commission") that the application be approved or denied. In arriving at its recommendation, Staff assesses the following criteria: a) sufficiency of the application, b) technical and managerial capability of the Applicant, c) financial capability, d) proposed tariff, e) complaint history of the Applicant, and f) whether the Applicant's proposed rates will be competitive, just, and reasonable.

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REVIEW OF APPLICANT INFORMATION

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- 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 AND MANAGERIAL INFORMATION

- The Applicant has sufficient technical and managerial capabilities to provide resold local exchange service in the State of Arizona.

The Applicant currently offers resold local exchange services in twenty three (23) states, excluding Arizona. Based on this information, Staff has concluded that the Applicant has sufficient technical and managerial capabilities to provide resold local exchange service.

REVIEW OF FINANCIAL INFORMATION

- The Applicant is required to have a performance bond to provide resold local exchange service in the State of Arizona.

The Applicant did provide unaudited financial statements for the year ending December 31, 2002. These financial statements list assets of \$1.07 million; negative equity of \$4.71 million; and a net loss of \$1.56 million. The Applicant did not provide notes related to the financial statements.

Since monthly service charges for resold local exchange service are paid in advance, Staff believes that an advance, deposit, and/or prepayment received from the Applicant's customers should be protected by the procurement of a performance bond. Further, measures should be taken to ensure that the Applicant will not discontinue service to its customers without first complying with Arizona Administrative Code ("AAC") R14-2-1107.

To that end, Staff recommends that the Applicant procure a performance bond equal to \$25,000. The minimum bond amount of \$25,000 should be increased if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected from the Applicant's customers. The bond amount should be increased in increments of \$12,500. This increase should occur when the total amount of the advances, deposits, and prepayments is within \$2,500 of the bond amount. If the Applicant desires to discontinue service, it must file an application with the Commission pursuant to AAC R14-2-1107. Additionally, the Applicant must notify each of its customers and the Commission 60 days prior to filing an application to discontinue service. Failure to meet this requirement should result in forfeiture of the Applicant's performance bond. Staff further recommends that proof of the above mentioned performance bond be docketed within 365 days of the effective date of an Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission.

However, if at some time in the future, the Applicant does not collect from its customers an advance, deposit, or prepayment, Staff recommends that the Applicant be allowed to file a request for cancellation of its established performance bond. Such request should be filed with the Commission for Staff review. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission.

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

- The Applicant has filed a proposed tariff with the Commission.**
- 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 zero. 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.

REVIEW OF COMPLAINT INFORMATION

Complaints against the Applicant (if any) are not sufficient to deny the application to provide resold local exchange service in the State of Arizona.

The applicant indicated that none of its officers, directors, partners or managers have been involved in any civil or criminal investigations or formal or informal complaint proceedings before any regulatory or law enforcement agency. The applicant also indicated that none of its officers, directors or partners, or managers have been convicted of any criminal acts in the past ten (10) years.

COMPETITIVE SERVICES' RATES AND CHARGES

The Applicant's proposed rates will be competitive, just, and reasonable.

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 local exchange 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.

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 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. 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 AAC R14-2-1109.

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 resold local exchange services and its petition to classify its local exchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold local exchange 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. The Applicant's local exchange service offerings should be classified as competitive pursuant to AAC R14-2-1108;
10. 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's total service long run incremental costs of providing those services as set forth in AAC R14-2-1109;
11. 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; and
12. 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 zero.

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 should not be given substantial weight in this analysis.

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

1. The Applicant be ordered to file conforming tariffs to its resold local exchange CC&N within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever comes first, and in accordance with the Decision. Also, the Applicant shall reference this Docket Number and the Decision Number on the Docket Control cover sheet. The Applicant shall mail the Docket Control cover sheet with an Original and thirteen (13) copies of the tariffs to Docket Control, Arizona Corporation Commission, 1200 W. Washington Street, Phoenix, AZ 85007-2927;
2. In order to protect the Applicant's customers,
 - a. the Applicant should be ordered to procure a performance bond equal to \$25,000;
 - b. the minimum bond amount of \$25,000 should be increased if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected from the Applicant's customers. The bond amount should be increased in increments of \$12,500. This increase should occur when the total amount of the advances, deposits, and prepayments is within \$2,500 of the bond amount;
 - c. if the Applicant desires to discontinue service, it should file an application with the Commission pursuant to AAC R14-2-1107;
 - d. the Applicant should be required to notify each of its customers and the Commission 60 days prior to filing an application to discontinue service; and any failure to do so should result in forfeiture of the Applicant's performance bond;
 - e. proof of the performance bond should be docketed within 365 days of the effective date of an Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission; and
3. 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.



Ernest G. Johnson
Director
Utilities Division

Date: 9-29-03

Originator: John F. Bostwick