



OPEN MEETING ITEM

ORIGINAL

22



BRIAN C. MCNEIL
Executive Secretary

WILLIAM A. MCNEIL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

RECEIVED

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

2003 OCT 21 P 2: 16

DATE: October 21, 2003

DOCKETED

DOCKET NO: T-03583A-98-0349

OCT 21 2003

AZ CORP COMMISSION
DOCUMENT CONTROL

TO ALL PARTIES:

DOCKETED BY *AK*

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:

PREFERRED CARRIER SERVICES, INC. dba
PHONES FOR ALL/TELEFONOS PARA TODOS
(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:

OCTOBER 30, 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:

NOVEMBER 4 and 5, 2003

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

BRIAN C. MCNEIL
EXECUTIVE SECRETARY

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 MARC SPITZER, Chairman
5 WILLIAM A. MUNDELL
6 JEFF HATCH-MILLER
7 MIKE GLEASON
8 KRISTIN K. MAYES

DOCKET NO. T-03583A-98-0349

DECISION NO. _____

9 IN THE MATTER OF THE APPLICATION OF
10 PREFERRED CARRIER SERVICES, INC. dba
11 PHONES FOR ALL/TELEFONOS PARA TODOS
12 FOR A CERTIFICATE OF CONVENIENCE AND
13 NECESSITY TO PROVIDE LOCAL EXCHANGE
14 SERVICES AS A RESELLER.

ORDER

11 Open Meeting
12 November 4 and 5, 2003
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

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

17 FINDINGS OF FACT

18 1. On June 29, 1998, Preferred Carrier Services, Inc. dba Phones for All/Telefonos Para
19 Todos ("Preferred Carrier" or "Applicant") filed with the Commission an application for a Certificate
20 to provide competitive resold local exchange telecommunication services within the State of Arizona.

21 2. Applicant is a switchless reseller that purchases telecommunications services from a
22 variety of carriers for resale to its customers.

23 3. In Decision No. 58926 (December 22, 1994), the Commission found that resold
24 telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
25 of the Commission.

26 4. Preferred Carrier has authority to transact business in the State of Arizona.

27 5. On July 20, 1998 and September 16, 2003, Preferred Carrier filed Affidavits of
28 Publication indicating Compliance with the Commission's notice requirements.

1 6. On September 29, 2003, the Commission's Utilities Division Staff ("Staff") filed its
2 Staff Report in this matter. Staff recommended approval of Preferred Carrier's application subject to
3 certain conditions.

4 7. In its Staff Report, Staff stated that Preferred Carrier provided unaudited financial
5 statements for the year ending December 31, 2002, which list assets of \$1.07 million, negative equity
6 of \$4.71 million, and a net loss of \$1.56 million.

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

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

17 10. Staff recommended approval of Preferred Carrier's application subject to the
18 following:

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

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

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

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

 (e) 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

1 between the Applicant's tariffs and the Commission's rules;

2 (f) The Applicant should be ordered to cooperate with Commission investigations
3 including, but not limited to, customer complaints;

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

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

8 (i) The Applicant's local exchange service and intrastate interexchange offerings
9 should be classified as competitive pursuant to A.A.C. R14-2-1108;

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

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

17 11. Staff further recommended that Applicant's resold local exchange Certificate should
18 be conditioned upon:

19 (a) Applicant filing conforming tariffs to its resold local exchange Certificate in
20 accordance with this Decision within 365 days from the date of an Order in this
21 matter, or 30 days prior to providing service, whichever comes first, and in accordance
22 with the Decision;

23 (b) Applicant shall reference this Docket Number and the Decision Number on the
24 Docket Control cover sheet; and

25 (c) Applicant shall mail the Docket Control cover sheet with an original and
26 thirteen (13) copies of the tariffs to Docket Control, Arizona Corporation Commission,
27 1200 West Washington Street, Phoenix, Arizona 85007-2927.

28 12. Since monthly service charges will be paid in advance by Preferred Carrier local
exchange service customers, Staff recommended that Applicant procure a performance bond in order
to protect the customers of Applicant.

13. Staff recommended that Preferred Carrier's resold local exchange Certificate should
be conditioned upon the Applicant procuring a performance bond as described in Findings of Fact

1 No. 14 below, and filing proof of that performance bond within 365 days from the date of an Order in
2 this matter, or 30 days prior to providing service, whichever comes first, and in accordance with the
3 Decision, and the performance bond should remain in effect until further Order of the Commission.

4 14. Staff recommended that Preferred Carrier be required to procure a performance bond
5 in the initial amount \$25,000, with the minimum bond amount of \$25,000 to be increased if at any
6 time it would be insufficient to cover all advances, deposits, or prepayments collected from its
7 customers, in the following manner: The bond amount should be increased in increments of \$12,500,
8 with such increases to occur whenever the total amount of the advances, deposits, and prepayments
9 reaches a level within \$2,500 under the actual bond amount.

10 15. Staff further recommended that Preferred Carrier's resold local exchange Certificate
11 should be conditioned upon the following requirements: that if Preferred Carrier wishes to
12 discontinue service, it must file an application with the Commission pursuant to A.A.C. R14-2-1107;
13 that it must notify each of its customers and the Commission 60 days prior to filing such an
14 application to discontinue service; and that if Preferred Carrier fails to make such notification 60 days
15 prior to filing an application under A.A.C. R14-2-1107, then it will forfeit its performance bond.

16 16. Staff recommended that if the Applicant fails to meet the timeframes outlined in
17 Findings of Fact. Nos. 11, 13 and 14 above, that Applicant's resold local exchange Certificate should
18 become null and void without further Order of the Commission, and that no time extensions for
19 compliance should be granted.

20 17. The rates proposed by these filings are for competitive services.

21 18. Staff's recommendations as set forth herein are reasonable.

22 19. Preferred Carrier's fair value rate base is zero.

23 CONCLUSIONS OF LAW

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

26 2. The Commission has jurisdiction over Applicant and the subject matter of the
27 application.

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

1 SERVICE LIST FOR: PREFERRED CARRIER SERVICES, INC. DBA PHONES FOR
2 ALL/TELEFONOS PARA TODOS

3 DOCKET NO. T-03583A-98-0349

4 Alex Valencia
5 Regulatory Counsel
6 Preferred Carrier Services, Inc.
7 14681 Midway Road, Ste. 105
8 Addison, TX 75001

9 Christopher K. Kempley
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 W. Washington Street
13 Phoenix, Arizona 85007

14 Ernest G. Johnson
15 Utilities Division
16 ARIZONA CORPORATION COMMISSION
17 1200 W. Washington Street
18 Phoenix, Arizona 85007

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