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OPEN MEETING ITEM

ORIGINAL

MARK SPITZER
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES



BRIAN C. MCNEIL
Executive Secretary
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ARIZONA CORPORATION COMMISSION

2003 OCT -6 A 11:06

DATE: OCTOBER 6, 2003 Arizona Corporation Commission

DOCKET NO: T-04160A-03-0028

TO ALL PARTIES:

DOCKETED

OCT 06 2003

DOCKETED BY	
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AZ CORP COMMISSION
DOCUMENT CONTROL

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

BEE LINE LONG DISTANCE, LLC dba
HELLO TELECOM
(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 **4:00 p.m.** on or before:

OCTOBER 15, 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 Commission's Working Session and Open Meeting to be held on:

OCTOBER 21, 2003 and OCTOBER 22, 2003

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
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

9 IN THE MATTER OF THE APPLICATION OF
10 BEE LINE LONG DISTANCE, LLC, DBA HELLO
11 TELECOM FOR A CERTIFICATE OF
12 CONVENIENCE AND NECESSITY TO PROVIDE
13 COMPETITIVE RESOLD INTEREXCHANGE
14 TELECOMMUNICATIONS SERVICES, EXCEPT
15 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04160A-03-0028

DECISION NO. _____

ORDER

16 Open Meeting
17 October 21 and 22, 2003
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

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

22 **FINDINGS OF FACT**

23 1. On January 15, 2003, Bee Line Long Distance, LLC dba Hello Telecom. ("Applicant"
24 or "BLLD") filed with the Commission an application for a Certificate of Convenience and Necessity
25 ("Certificate") to provide competitive resold interexchange telecommunications services, except local
26 exchange services, within the State of Arizona.

27 2. Applicant is a switchless reseller that purchases telecommunications services from a
28 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. BLLD has authority to transact business in the State of Arizona.

5. On February 12, 2003, BLLD filed an Affidavit of Publication indicating compliance

1 with the Commission's notice requirements.

2 6. On September 12, 2003, the Commission's Utilities Division Staff ("Staff") filed a
3 Staff 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 BLLD provided financial statements for the three
6 months ending December 31, 2002, which list assets of \$90,481, equity of \$69,478 and net income of
7 \$69,478.

8 8. In its Staff Report, Staff stated that based on information obtained from the Applicant,
9 it has determined that BLLD'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 BLLD based on the fair value of its rate base.

14 9. Staff believes that BLLD 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 BLLD'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
 between the Applicant's tariffs and the Commission's rules;

3 (f) The Applicant should be ordered to cooperate with Commission investigations
 4 of customer complaints;

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

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

9 (i) If at some future date, the Applicant wants to collect from its customers an
 10 advance, deposit and/or prepayment, it must file information with the Commission for
 11 Staff review. Such application must reference the decision in this docket and must
 explain the applicant's plans for procuring a performance bond. Upon receipt of such
 filing and after Staff review, Staff would forward its recommendation to the
 Commission;

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

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

17 (l) In the event that the Applicant states only one rate in its proposed tariff for a
 18 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.

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

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

25 13. BLLD's proposed tariff indicates that it does not intend to collect advances,
 26 prepayments or deposits from its customers.

27 14. The rates proposed by this filing are for competitive services.

28 15. Staff's recommendations as set forth herein are reasonable.

1 16. BLLD's fair value rate base is zero.

2 **CONCLUSIONS OF LAW**

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

5 2. The Commission has jurisdiction over Applicant and the subject matter of the
6 application.

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

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

10 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for
11 providing competitive resold interexchange telecommunications services in Arizona.

12 6. Staff's recommendations in Findings of Fact No. 8, 9, 10, 11, and 12 should be
13 adopted.

14 7. BLLD's fair value rate base is not useful in determining just and reasonable rates for
15 the competitive services it proposes to provide to Arizona customers.

16 8. BLLD's rates, as they appear in its proposed tariffs, are just and reasonable and should
17 be approved.

18 **ORDER**

19 IT IS THEREFORE ORDERED that the application of Bee Line Long Distance, LLC dba
20 Hello Telecom for a Certificate of Convenience and Necessity for authority to provide competitive
21 resold interexchange telecommunications services, except local exchange services, is hereby granted,
22 conditioned upon its compliance with the condition recommended by Staff as set forth in Findings of
23 Fact No. 11 above.

24 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
25 8, 9, 10, 11, and 12 above are hereby adopted.

26 IT IS FURTHER ORDERED that Bee Line Long Distance, LLC dba Hello Telecom shall
27 comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 10 and 11
28 above.

1 IT IS FURTHER ORDERED that if Bee Line Long Distance, LLC dba Hello Telecom fails to
2 meet the timeframes outlined in Findings of Fact. No. 11 above that the Certificate conditionally
3 granted herein shall become null and void without further Order of the Commission.

4 IT IS FURTHER ORDERED that Bee Line Long Distance, LLC dba Hello Telecom shall not
5 require its Arizona customers to pay advances, prepayments or deposits for any of its products or
6 services.

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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10
11 CHAIRMAN COMMISSIONER COMMISSIONER

12
13 COMMISSIONER COMMISSIONER

14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Secretary of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this ____ day of _____, 2003.

19 BRIAN C. McNEIL
EXECUTIVE SECRETARY

20 DISSENT _____

21 DISSENT _____

22 PJD:mlj

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1 SERVICE LIST FOR: BEE LINE LONG DISTANCE, LLC DBA HELLO
2 TELECOM

3 DOCKET NO.: T-04160A-03-0028

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