

OPEN MEETING ITEM



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



RECEIVED Executive Secretary

ARIZONA CORPORATION COMMISSION

SEP 12 A 9:34

DATE: September 12, 2003

DOCKET NO: T-02612A-91-0175

TO ALL PARTIES:

ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

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:

**OPERATOR SERVICES COMPANY
(CC&N/AOS)**

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:

SEPTEMBER 22, 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:

SEPTEMBER 30 and OCTOBER 1, 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.

Arizona Corporation Commission

DOCKETED

SEP 12 2003

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DOCKETED BY

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 MARC SPITZER, Chairman
5 JIM IRVIN
6 WILLIAM A. MUNDELL
7 JEFF HATCH-MILLER
8 MIKE GLEASON

9 IN THE MATTER OF THE APPLICATION OF
10 OPERATOR SERVICE, COMPANY FOR A
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY TO PROVIDE ALTERNATIVE
13 OPERATOR SERVICES.

DOCKET NO. T-02612A-91-0175

DECISION NO. _____

14 ORDER

15 Open Meeting
16 September 30 and October 1, 2003
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

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

21 FINDINGS OF FACT

22 1. On March 24, 1991, Operator Service Company ("Applicant" or "OSC") filed with the
23 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
24 alternative operator services ("AOS") within the State of Arizona.

25 2. In Decision No. 57339 (April 5, 1991), the Commission found that AOS providers
26 were public service corporations subject to the jurisdiction of the Commission.

27 3. In Decision No. 58421 (October 1, 1993), the Commission adopted A.A.C. R14-2-
28 1001 through R14-2-1014 to regulate AOS providers.

4. OSC is a Texas corporation, with authority to transact business in the State of Arizona.

5. On July 17, 2003, OSC filed an Affidavit of Publication indicating compliance with
the Commission's notice requirements.

6. On August 1, 2003, the Commission's Utilities Division Staff ("Staff") filed a Staff

1 Report in which Staff recommends approval of the application subject to certain conditions.

2 7. In the Staff Report, Staff stated that OSC provided unaudited financial statements for
3 the month ending December 31, 2002, which list assets of \$5.5 million, equity of \$3.6 million, and
4 net income of \$829,834.

5 8. According to the Staff Report, OSC is currently offering AOS services in forty-six
6 states. Staff states that in the event that Applicant encounters financial or technical difficulty, there
7 should be minimal impact on AOS customers because of numerous competitors willing to replace
8 any provider.

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

15 10. The Commission adopted maximum rates for AOS service in Decision No. 61274
16 (December 14, 1998), and these rates are reflected in Schedules 1 and 2 attached to the Staff Report.
17 These maximum rates when coupled with discounting authority provide AOS providers with the
18 ability to compete on price and service quality.

19 11. Staff recommended approval of OSC's application subject to the following:

20 (a) that 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) that Applicant should be ordered to maintain its accounts and records as
24 required by the Commission;

25 (c) that 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) that 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) that 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) that Applicant should be ordered to cooperate with Commission investigations
 4 including, but not limited to customer complaints;

5 (g) that Applicant should be ordered to notify the Commission immediately upon
 6 changes to the Applicant's address or telephone number;

7 (h) that the maximum rates for these services should be the maximum rates
 8 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 as set forth in A.A.C. R14-2-1109;

9 (i) that Applicant is authorized to discount its rates and service charges to the
 10 marginal cost of providing the services;

11 (j) that Applicant's interLATA rates and service charges for AOS services should
 12 be based on the maximum rates and service charges as set forth in Schedule 1 attached
 to the Staff Report;

13 (k) that Applicant's intraLATA rates and service charges for AOS services should
 14 be based on the maximum rates and service charges as set forth in Schedule 2 attached
 to the Staff Report; and

15 (l) that Applicant's property surcharge for AOS services be limited to \$1.00 per
 16 call.

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

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

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

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

25 16. OSC's fair value rate base is zero.

26 **CONCLUSIONS OF LAW**

27 1. Applicant is a public service corporation within the meaning of Article XV of the
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SERVICE LIST FOR:

OPERATOR SERVICE COMPANY

DOCKET NO.:

T-02612A-91-0175

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