

ORIGINAL OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG



ARIZONA CORPORATION COMMISSION

22

Arizona Corporation Commission
DOCKETED

AUG 25 2006

DATE: August 25, 2006

DOCKET NO.: T-20425A-05-0785

TO ALL PARTIES:

DOCKETED BY	<i>nr</i>
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Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Order on:

AMERIVON LLC

(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:

SEPTEMBER 5, 2006

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 Open Meeting to be held on:

SEPTEMBER 19 AND 20, 2006

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 Director's Office at (602) 542-3931.

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AZ CORP COMMISSION
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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

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

9 IN THE MATTER OF THE APPLICATION OF
10 AMERIVON LLC FOR A CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO PROVIDE
12 COMPETITIVE RESOLD LONG DISTANCE
13 SERVICES.

DOCKET NO. T-20425A-05-0785

DECISION NO. _____

14 ORDER

15 Open Meeting
16 September 19 and 20, 2006
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 October 26, 2005, AmeriVon LLC ("Applicant" or "AmeriVon") filed with the
23 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
24 resold interexchange telecommunications services within the State of Arizona.

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

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

4. Applicant has authority to transact business in the State of Arizona.

5. On March 31, 2006, Applicant filed an Affidavit of Publication indicating compliance
with the Commission's notice requirements.

1 6. On August 8, 2006, the Commission's Utilities Division Staff ("Staff") filed a Staff
2 Report which includes Staff's fair value rate base determination in this matter and recommends
3 approval of the application subject to certain conditions. The Staff Report addressed the overall
4 fitness of Applicant to receive a Certificate and also addressed whether its services should be
5 classified as competitive and whether its initial rates are just and reasonable.

6 7. In its Staff Report, Staff stated that Applicant is a start-up company, funded entirely
7 through the investments of AmeriVon's President and CEO and other private investors. AmeriVon's
8 initial funding exceeds \$6 million in start-up capital. The Applicant provided projected income
9 statement, balance sheet and cash flow statement that anticipates total assets of \$9 million, equity of
10 \$7.5 million and net income of \$1 million by December 31, 2007.

11 8. Applicant's tariff indicates that it does not require deposits from its customers for
12 services. If at some future date, Applicant wants to collect advances, deposits and/or prepayments
13 from its resold interexchange customers, Staff recommended that the Applicant be required to file an
14 application with the Commission for approval. The application must reference the decision in this
15 docket and explain the Applicant's plans for procuring a performance bond.

16 9. In the event that the Applicant experiences financial difficulties, there will be minimal
17 impact to its customers because end users can access other interexchange providers via dial around
18 service or, in the longer term, the customer may desire to permanently switch to another provider.

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

25 11. Staff believes that Applicant has no market power and that the reasonableness of its
26 rates will be evaluated in a market with numerous competitors. In light of the competitive market in
27 which the Applicant will be providing its services, Staff believes that the rates in Applicant's
28 proposed tariffs for its competitive services will be just and reasonable, and recommends that the

1 Commission approve them.

2 12. Commission rules provide pricing flexibility by allowing competitive
3 telecommunication service companies to price their services at or below the maximum rates
4 contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109.
5 This requires the Applicant to file a tariff for each competitive service that states the maximum rate
6 as well as the effective (actual) price that will be charged for the service. Any changes to the
7 Applicant's effective (actual) price for a service must comply with A.A.C. R14-2-1109, which
8 provides that the minimum rates for the applicant's competitive services must not be below the
9 Applicant's total service long run incremental costs of providing the services. The Applicant's
10 maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on
11 file with the Commission. Future changes to the maximum rates must comply with A.A.C. R14-2-
12 1110.

13 13. Staff recommended approval of Applicant's application subject to the following:

- 14 (a) The Applicant should be ordered to comply with all Commission rules, orders,
15 and other requirements relevant to the provision of intrastate telecommunications
16 service;
- 17 (b) The Applicant should be ordered to maintain its accounts and records as
18 required by the Commission;
- 19 (c) The Applicant should be ordered to file with the Commission all financial and
20 other reports that the Commission may require, and in a form and at such times as the
21 Commission may designate;
- 22 (d) The Applicant should be ordered to maintain on file with the Commission all
23 current tariffs and rates, and any service standards that the Commission may require;
- 24 (e) The Applicant should be ordered to comply with the Commission's rules and
25 modify its tariffs to conform to these rules if it is determined that there is a conflict
26 between the Applicant's tariffs and the Commission's rules;
- 27 (f) The Applicant should be ordered to cooperate with Commission investigations,
28 including, but not limited to, customer complaints;
- (g) The Applicant should be ordered to participate in and contribute to the Arizona
Universal Service Fund, as required by the Commission;
- (h) The Applicant should be ordered to notify the Commission immediately upon

changes to the Applicant's name, address or telephone number;

(i) If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, Staff recommends that the Applicant be required to file such information with the Commission for Commission approval. Such application must reference the Decision Number in this docket and must explain the Applicant's plans for procuring a performance bond;

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

(k) The maximum rates for these services should be the maximum rates 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;

(l) 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 price to be charged for the service as well as the service's maximum rate; and

(m) In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers in accordance with A.A.C. R14-2-1107.

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

15. Staff recommended that if the Applicant fails to meet the timeframes outlined in Finding of Fact No. 14, that Applicant's Certificate should become null and void after due process.

16. Applicant will not collect advances, prepayments or deposits from customers.

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

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

19. Applicant'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 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

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

1 IT IS FURTHER ORDERED that AmeriVon LLC shall not require its Arizona customers to
2 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.
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6

7 CHAIRMAN

COMMISSIONER

9 COMMISSIONER

COMMISSIONER

COMMISSIONER

10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
11 Director of the Arizona Corporation Commission, have
12 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 _____, 2006.

15 _____
16 BRIAN C. McNEIL
17 EXECUTIVE DIRECTOR

18 DISSENT _____
19

20
21 DISSENT _____

22 AB:mj
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28

1 SERVICE LIST FOR: AMERIVON LLC

2 DOCKET NO.: T-20425A-05-0785

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