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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
COMMISSIONER - CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF)
AMERICATEL CORPORATION DBA 10 123)
AMERICATEL AND DBA 1010 123)
AMERICATEL FOR A CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO PROVIDE)
COMPETITIVE INTERLATA/INTRALATA)
RESOLD TELECOMMUNICATIONS SERVICES)
EXCEPT LOCAL EXCHANGE SERVICES.)

DOCKET NO. T-03517A-98-0089

DECISION NO. 61054

Arizona Corporation Commission
DOCKETED

ORDER

AUG 06 1998

Open Meeting
August 4 and 5, 1998
Phoenix, Arizona

DOCKETED BY [Signature]

BY THE COMMISSION:

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

FINDINGS OF FACT

1. On February 17, 1998, Americatel Corporation dba 10 123 Americatel and dba 1010 123 Americatel ("Americatel" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold telecommunications service in the State of Arizona.
2. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") were public service corporations subject to the jurisdiction of the Commission.
3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101 through R14-2-1115 to regulate resellers.
4. Americatel is a Delaware corporation which has been qualified to conduct business in Arizona since 1998.
5. Americatel is a switchless reseller which purchases telecommunications services from Frontier Communications of the West, Inc.

1 6 On May 29, 1998, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.

2 7 The Staff Report stated that Ameritech provided audited financial statements for the year
3 ended 1996, which indicated that it had a net loss of \$4.7 million and reported negative retained earnings
4 of \$14.9 million. Staff stated that since these financial statements indicate that Applicant did not generate
5 enough revenue to cover its expenses, Staff has concerns about Applicant's ability to incur operating
6 losses in the future and to repay customer prepayments, advances, and deposits. Accordingly, Staff
7 recommended that pursuant to A.A.C. R14-2-1105.D, Applicant maintain for a minimum of one year,
8 an escrow account equal to the total amount of any prepayments, advances and deposits that Applicant
9 may collect from its customers as a condition of certification. In the alternative, Applicant could file a
10 letter stating that it does not currently charge customers any prepayments, advances or deposits, and does
11 not intend to do so in the future. If at some future date Applicant desired to charge customers any
12 prepayments, advances or deposits, it must file information with Staff that demonstrates Applicant's
13 financial viability. Staff would review the information and provide Applicant its decision concerning
14 financial viability within 30 days of receipt of the information. Staff believes that if Applicant
15 experiences financial difficulty, there should be minimal impact to its customers. Customers are able to
16 dial another reseller or facilities based provider, and may permanently switch to another company
17 without forfeiting any prepayment, advance or deposit.

18 8 The Staff Report stated that Applicant has no market power and the reasonableness of its
19 rates would be evaluated in a market with numerous competitors.

20 9 Staff recommended that:

21 (a) Applicant's application for a Certificate should be approved subject to A.A.C.
22 R14-2-1106.B;

23 (b) Applicant's intrastate toll service offerings should be classified as competitive
24 pursuant to A.A.C. R14-2-1108;

25 (c) Applicant's competitive services should be priced at the effective rates set forth
26 in Applicant's tariffs and the maximum rates for these services should be the maximum
27 rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive
28 services should be Applicant's long run incremental costs of providing those services as
set forth in A.A.C. R14-2-1109. Any future changes to the maximum rates in Applicant's
tariffs must comply with A.A.C. R14-2-1110;

 (d) Applicant should be required to comply with the Commission's rules and modify
its tariffs to conform with these rules, if it is determined that there is a conflict between

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

2 (e) The application may be approved without a hearing.

3 10. By Procedural Order dated June 5, 1998, the Commission set a deadline of July 6, 1998
4 for filing exceptions to the Staff Report; requesting that a hearing be set, or requesting intervention as
5 interested parties.

6 11. On June 23, 1998, Staff filed an Addendum to the Staff Report. The Addendum indicated
7 that Applicant submitted its 1997 audited financial statements. Staff stated that Applicant raised \$30
8 million of new capital in 1997. Staff recommended that no customer prepayment measures would be
9 needed.

10 12. The 1997 financial statements indicate a net loss of \$7.3 million.

11 13. Applicant must maintain an escrow account or bond equivalent to one year's advances,
12 deposits, or prepayments, in order to receive advances, deposits or prepayments from Arizona customers.

13 14. No exceptions were filed to the Staff Report, nor did any party request that a hearing be
14 set, nor were any requests for intervention filed with Docket Control.

15 **CONCLUSIONS OF LAW**

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

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

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

20 4. As conditioned below, the provision of competitive interLATA/intralATA reseller
21 services in Arizona by Applicant is in the public interest.

22 5. With the conditions contained herein, Applicant is a fit and proper entity to receive a
23 Certificate for providing competitive interLATA/intralATA reseller services in Arizona.

24 6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be adopted.

25 **ORDER**

26 IT IS THEREFORE ORDERED that the application of Americatel Corporation dba 10 123
27 Americatel and dba 1010 123 Americatel for a Certificate of Convenience and Necessity for authority
28 to provide competitive interLATA/intralATA resold telecommunications services except local exchange

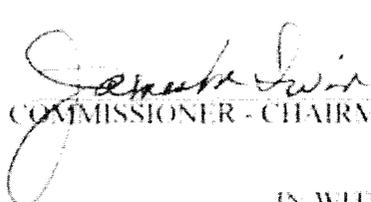
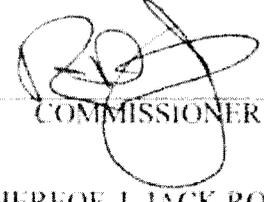
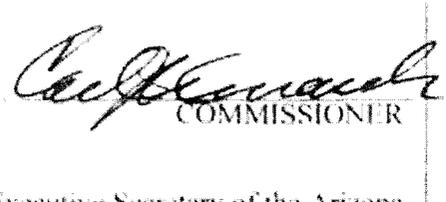
1 services shall be, and the same is, hereby granted, as limited below.

2 IT IS FURTHER ORDERED that Americatel Corporation dba 10 123 Americatel and dba 1010
3 123 Americatel shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

4 IT IS FURTHER ORDERED that Americatel Corporation dba 10 123 Americatel and dba 1010
5 123 Americatel shall not be authorized to charge customers any prepayments, advances or deposits,
6 unless it establishes an escrow account or posts a bond equivalent to one year of prepayments, advances
7 or deposits to be received from Arizona customers, in advance of receipt of the prepayments, advances
8 or deposits. If in the future Americatel Corporation dba 10 123 Americatel and dba 1010 123 Americatel
9 desires to initiate such charges, or to terminate its escrow account or bond, it must file information with
10 the Commission that demonstrates the company's financial viability. Staff shall review the information
11 and file its recommendation concerning financial viability within thirty days of receipt of the financial
12 information, for Commission approval.

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

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

15
16  COMMISSIONER - CHAIRMAN
17  COMMISSIONER
18  COMMISSIONER

19 IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona
20 Corporation Commission, have hereunto set my hand and caused the official seal
of the Commission to be affixed at the Capitol, in the City of Phoenix, this
6th day of August, 1998.

21 
22 JACK ROSE
EXECUTIVE SECRETARY

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24 DISSENT
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SERVICE LIST FOR:

AMERICATEL CORPORATION DBA 10 123
AMERICATEL AND DBA 1010 123 AMERICATEL

DOCKET NO.:

T-03517A-98-0089

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