

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



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JACK ROSE
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: JUNE 1, 1998
DOCKET NO.: T-03174A-96-0270
TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

UNIDIAL INCORPORATED
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer 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:

JUNE 10, 1998

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JUNE 17, 1998 and JUNE 18, 1998

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


JACK ROSE
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 JIM IRVIN
3 COMMISSIONER - CHAIRMAN
4 RENZ D. JENNINGS
5 COMMISSIONER
6 CARL J. KUNASEK
7 COMMISSIONER

8 IN THE MATTER OF THE APPLICATION OF)
9 UNIDIAL INCORPORATED FOR A)
10 CERTIFICATE OF CONVENIENCE AND)
11 NECESSITY TO PROVIDE COMPETITIVE)
12 INTERLATA/INTRALATA RESOLD)
13 TELECOMMUNICATIONS SERVICES EXCEPT)
14 LOCAL EXCHANGE SERVICES.)

DOCKET NO. T-03174A-96-0270

DECISION NO. _____

ORDER

15 Open Meeting
16 June 17 and 18, 1998
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

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

21 **FINDINGS OF FACT**

22 1. On May 6, 1996, UniDial Incorporated ("UniDial" or "Applicant") filed with the
23 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
24 resold telecommunications service in the State of Arizona.

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

28 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. UniDial is a Kentucky corporation which has been qualified to conduct business in
Arizona since 1993.

5. UniDial is a switchless reseller which purchases telecommunications services.

6. On December 16, 1997, the Commission's Utilities Division Staff ("Staff") filed a Staff
Report.

1 7. The Staff Report stated that UniDial provided audited financial statements which indicated
2 that it had a net loss of \$2.9 million for the year ended 1995 and negative retained earnings of \$4.1
3 million at the end of 1995. Staff stated that since these financial statements indicate that Applicant did
4 not generate enough revenue to cover its expenses, Staff has concerns about Applicant's ability to incur
5 operating losses in the future and to repay customer prepayments, advances, and deposits. Accordingly,
6 Staff recommended that pursuant to A.A.C. R14-2-1105.D, Applicant maintain for a minimum of one
7 year, an escrow account equal to the total amount of any prepayments, advances and deposits that
8 Applicant may collect from its customers as a condition of certification. In the alternative, Applicant
9 could file a letter stating that it does not currently charge customers any prepayments, advances or
10 deposits, and does not intend to do so in the future. If at some future date Applicant desired to charge
11 customers any prepayments, advances or deposits, it must file information with Staff that demonstrates
12 Applicant's financial viability. Staff would review the information and provide Applicant its decision
13 concerning financial viability within 30 days of receipt of the information. Staff believes that if
14 Applicant experiences financial difficulty, there should be minimal impact to its customers. Customers
15 are able to dial another reseller or facilities-based provider, and may permanently switch to another
16 company without forfeiting any prepayment, advance or deposit.

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

19 9. Staff recommended that:

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

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

24 (c) Applicant's competitive services should be priced at the effective rates set forth
25 in Applicant's tariffs and the maximum rates for these services should be the maximum
26 rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive
27 services should be Applicant's long run incremental costs of providing those services as
28 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
Applicant's tariffs and the Commission's rules; and

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

2 10. By Procedural Order dated January 2, 1998, the Commission set a deadline of February
3 20, 1998 for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting
4 intervention as interested parties.

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

7 12. On January 20, 1998, Applicant filed a letter which indicated that Applicant has not and
8 does not intend to charge customers any prepayments, advances or deposits.

9 **CONCLUSIONS OF LAW**

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

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

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

14 4. As conditioned below, the provision of competitive interLATA/intraLATA reseller
15 services in Arizona by Applicant is in the public interest.

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

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

19 **ORDER**

20 IT IS THEREFORE ORDERED that the application of UniDial Incorporated for a Certificate of
21 Convenience and Necessity for authority to provide competitive interLATA/intraLATA resold
22 telecommunications services except local exchange services shall be, and the same is, hereby granted,
23 as limited below.

24 IT IS FURTHER ORDERED that UniDial Incorporated shall comply with the Staff
25 recommendations set forth in Findings of Fact No. 9.

26 IT IS FURTHER ORDERED that UniDial Incorporated shall not be authorized to charge
27 customers any prepayments, advances or deposits. If in the future UniDial Incorporated desires to initiate
28 such charges, it must file information with the Commission that demonstrates the company's financial

1 viability. Staff shall review the information and file its recommendation concerning financial viability
2 within thirty days of receipt of the financial information, for Commission approval.

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 COMMISSIONER - CHAIRMAN COMMISSIONER COMMISSIONER

8 IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona
9 Corporation Commission, have hereunto set my hand and caused the official seal
10 of the Commission to be affixed at the Capitol, in the City of Phoenix, this
11 _____ day of _____, 1997.

12 _____
13 JACK ROSE
14 EXECUTIVE SECRETARY

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DISSENT _____
JR:dap

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SERVICE LIST FOR:

UNIDIAL INCORPORATED

DOCKET NO.:

T-03174A-96-0270

Bruce Widener
UniDial Incorporated
12910 Shelbyville Road, Suite 211
Louisville, KY 40243

Tom Campbell
Lewis & Roca
40 North Central Avenue
Phoenix, AZ 85004-5723
Attorneys for UniDial Incorporated

Paul Bullis, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007