

JIM IRVIN
COMMISSIONER-CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER



STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: January 7, 1999
DOCKET NO.: T-03154A-96-0218
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:

CABLE PLUS COMPANY, L.P.
(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:

JANUARY 19, 1999

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:

JANUARY 27, 1999 AND JANUARY 28, 1999

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


STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 JIM IRVIN
COMMISSIONER - CHAIRMAN
3 TONY WEST
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER
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7 IN THE MATTER OF THE APPLICATION OF
CABLE PLUS COMPANY, L.P. FOR A
8 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE LOCAL EXCHANGE
9 SERVICES AS A RESELLER IN THE STATE OF
ARIZONA.

DOCKET NO. T-03154A-96-0218

DECISION NO. _____

ORDER

10 Open Meeting
11 January 27 and 28, 1999
Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On April 5, 1996, Cable Plus Company, L.P., dba Telephone Plus ("Applicant") filed
17 with the Commission an application for a Certificate of Convenience and Necessity ("Certificate")
18 to provide local exchange and interexchange telecommunications services as a reseller in the State
19 of Arizona.

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

23 3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101
24 through R14-2-1115 to regulate resellers.

25 4. Applicant is a limited partnership. The general partner is CP Holdings L.L.C., a
26 Washington Limited Liability Company.

27 5. In Decision No. 60847 (April 30, 1998) the Commission approved a resell agreement
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between Applicant and US WEST Communications, Inc. ("US WEST").

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6. On September 16, 1998, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.

7. In the Staff Report, Staff reports that Applicant is a large privately held telecommunications and cable television company that provided audited financial statements for the period ended December 31, 1997. The financial statements indicate that Applicant had a loss of \$5.3 million and a net worth greater than \$60 million following a \$4 million capital infusion from Cable Plus Holding Company. Staff believed that Applicant possessed adequate financial resources.

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

9. Staff recommended that :

(a) Applicant's application for a Certificate should be approved without a hearing subject to A.A.C. R14-2-1106.B;

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

(c) Applicant's competitive services should be priced at the effective rates set forth in Applicant's tariffs and the maximum rates for these services should be the maximum rates proposed by Applicant in its tariffs. The minimum rates for applicant's competitive 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; and

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

10. Applicant's resold local exchange and interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108.

11. By Procedural Orders dated September 28, 1998 and November 10, 1998, the Commission set a deadline of December 15, 1998, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting intervention as interested parties.

12. The Commission granted intervention to US WEST on March 17, 1998.

13. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set.

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.

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

4. As conditioned below, the provision of competitive local exchange and interexchange reseller services by Applicant is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive local exchange and interexchange services as a reseller in Arizona.

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

ORDER

IT IS THEREFORE ORDERED that the Application of Cable Plus Company, L.P. dba Telephone Plus for a Certificate of Convenience and Necessity for authority to provide competitive resold local exchange and interexchange services shall be, and the same is hereby granted.

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IT IS FURTHER ORDERED that Cable Plus Company, L.P. dba Telephone Plus shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER-CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, STUART R BRACKNEY, Acting Executive Secretary of the Arizona 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 ____ day of ____, 1999.

STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

DISSENT _____
JR:bbs

1 SERVICE LIST FOR:

CABLE PLUS COMPANY, L.P.

2 DOCKET NO.

T-03154A-96-0218

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