

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



JACK ROSE  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: SEPTEMBER 1, 1998

DOCKET NO.: T-03196A-96-0321

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:

ANCHOR COMMUNICATIONS CORPORATION  
(DENIED 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:

SEPTEMBER 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:

SEPTEMBER 15, 1998 and SEPTEMBER 16, 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 ANCHOR COMMUNICATIONS CORPORATION )  
10 FOR A CERTIFICATE OF CONVENIENCE AND )  
11 NECESSITY TO PROVIDE COMPETITIVE )  
12 INTERLATA/INTRALATA RESOLD )  
13 TELECOMMUNICATIONS SERVICES EXCEPT )  
14 LOCAL EXCHANGE SERVICES. )

DOCKET NO. T-03196A-96-0321

DECISION NO. \_\_\_\_\_

**ORDER**

15 Open Meeting  
16 September 15 and 16, 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 June 4, 1996, Anchor Communications Corporation ("Applicant") filed with the  
23 Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and  
24 Necessity ("Certificate") to provide resold telecommunications services within 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. Applicant is a foreign corporation. The record does not reflect that Applicant is authorized  
to do business in Arizona.

5. Applicant is a switchless reseller which purchases telecommunications services from  
Wiltel.

6. On December 18, 1997, the Commission's Utilities Division Staff ("Staff") filed a Staff

1 Report.

2 7. The Staff Report stated that Applicant provided compiled financial statements for the year  
3 ended 1996 which showed it had a net loss of \$14,168. Applicant did not provide information about its  
4 retained earnings. Staff had concerns about Applicant's ability to incur operating losses in the future and  
5 its ability to repay customer prepayments, advances and deposits. Accordingly, Staff recommended that  
6 pursuant to A.A.C. R14-2-1105.D, Applicant maintain for a minimum of one year, an escrow account  
7 equal to the total amount of any prepayments, advances and deposits that Applicant may collect from its  
8 customers as a condition of certification. In the alternative, Applicant could file a letter stating that it  
9 does not currently charge customers any prepayments, advances or deposits, and does not intend to do  
10 so in the future. If at some future date Applicant desired to charge customers any prepayments, advances  
11 or deposits, it must file information with Staff that demonstrates Applicant's financial viability. Staff  
12 would review the information and provide Applicant its decision concerning financial viability within  
13 30 days of receipt of the information. Staff believes that if Applicant experiences financial difficulty,  
14 there should be minimal impact to its customers. Customers are able to dial another reseller or facilities-  
15 based provider, and may permanently switch to another company without forfeiting any prepayment,  
16 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  
pursuant to A.A.C. R14-2-1108;

23 (c) Applicant's competitive services should be priced at the effective rates set forth  
24 in Applicant's tariffs and the maximum rates for these services should be the maximum  
25 rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive  
26 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;

27 (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  
28 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 February 5, 1998, the Commission set a deadline of March 20,  
3 1998, for filing exceptions to the Staff Report; providing notice to interested parties; requesting that a  
4 hearing be set; or requesting intervention as interested parties.

5 11. By July 1998, the record did not show that Applicant had provided the required notice.  
6 No exceptions were filed to the Staff Report, nor did any party request that a hearing be set, nor were any  
7 requests for intervention filed with Docket Control.

8 12. On July 28, 1998, the Commission notified Applicant that its application could be denied  
9 unless by August 28, 1998, it provided the notice required in the February 5, 1998 Procedural Order;  
10 evidence that it was authorized to do business in Arizona; and proof that its has established an escrow  
11 account or a statement concerning prepayments, advances and deposits.

12 13. No proof that notice was sent or that Applicant is authorized to do business in Arizona has  
13 been filed with the Commission, nor has Applicant responded to Staff's recommendation concerning the  
14 establishment of an escrow account.

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 not given in accordance with the law.

20 4. As Applicant has not provided notice as ordered, it is not a fit and proper entity to receive  
21 a Certificate for providing competitive interLATA/intraLATA reseller services in Arizona.

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**ORDER**

IT IS THEREFORE ORDERED that the application of Anchor Communications Corporation for a Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA resold telecommunications services except local exchange services shall be, and the same is, hereby denied, and the Docket closed.

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, JACK ROSE, 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 \_\_\_\_\_, 1998.

\_\_\_\_\_  
JACK ROSE  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
JR:bbs

1 SERVICE LIST FOR: ANCHOR COMMUNICATIONS CORPORATION

2 DOCKET NO.: T-03196A-96-0321

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15 Director, Utilities Division  
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17 1200 West Washington Street  
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