BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

JUL 20 2005

IN THE MATTER OF THE APPLICATION OF UCN, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD AND FACILITIES-BASED LOCAL EXCHANGE SERVICES IN THE STATE OF ARIZONA AND PETITION FOR COMPETITIVE CLASSIFICATION OF PROPOSED SERVICES.	DOCKET NO. T-03538A-04-0939 DECISION NO. 67979 **OPINION AND ORDER**

DATE OF HEARING: June 8, 2005

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Amanda Pope

APPEARANCES: Kimm Partridge, on behalf of UCN, Inc.; and

Diane Targovnik, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

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 December 29, 2004, UCN, Inc. ("UCN" or "Applicant") submitted to the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold and facilities-based local exchange telecommunications services within the State of Arizona. The application petitioned the Commission for determination that its proposed services should be classified as competitive.

2. On April 7, 2005, the Commission's Utilities Division Staff ("Staff") filed a Staff Report recommending approval of UCN's application subject to certain conditions.

3. On April 11, 2005, a Procedural Order was issued setting this matter for hearing on

June 8, 2005 and setting various procedural deadlines.

4. On May 2, 2005, Applicant docketed an Affidavit of Publication that complies with Commission rules.

5. On June 8, 2005, a full public hearing in this matter was held as scheduled. Kimm Partridge appeared on behalf of UCN. Staff appeared and was represented by counsel. The hearing was conducted before a duly authorized Administrative Law Judge. Evidence was presented and testimony was taken.

6. At the conclusion of the hearing, the Administrative Law Judge took the matter under advisement.

7. UCN is organized under the laws of the State of Delaware and is authorized to do business in Arizona.

8. Applicant has the technical capability to provide the services that are proposed in its Application.

9. Currently there are several incumbent providers of local exchange services in the service territory requested by Applicant, and numerous other entities have been authorized to provide competitive local and exchange services in all or portions of that territory.

10. It is appropriate to classify all of Applicant's authorized services as competitive.

11. According to Staff, UCN submitted unaudited financial statements for the nine month period ending September 30, 2004. These financial statements list assets of $21,278,844, equity of $8,366,197, and a net loss of $285,522.

12. Staff recommended that UCN's Application for a Certificate to provide competitive resold and facilities-based local exchange telecommunications services be granted subject to the following conditions:

(a) that, unless it provides services solely through the use of its own facilities, UCN be ordered to procure an Interconnection Agreement before being allowed to offer local exchange service. The interconnection agreement should be procured within 365 days of the effective date of the Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission. If the Applicant provides services solely through the use of its own facilities, no other information shall be required once the Applicant informs the Commission of that fact by a letter with the Commission's Docket Control Center under the

same timeframe and provision of service criteria as above;

(b) that UCN file with the Commission, within 365 days of the effective date of the Order in this matter or 30 days prior to the provision of service, whichever comes first, its plan to have its customers' telephone numbers included in the incumbent's Directories and Directory Assistance databases, that must remain in effect until further Order of the Commission;

(c) that UCN be ordered to pursue permanent number portability arrangements with other LECs pursuant to Commission rules, federal laws and federal rules;

(c) that UCN be ordered to abide by and participate in the AUSF mechanism instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-00000E-95-0498);

(d) that UCN be ordered to abide by the quality of service standards that were approved by the Commission for Qwest in Docket No. T-0151B-93-0183;

(e) that in areas where it is the sole provider of local exchange service facilities, UCN be ordered to provide customers with access to alternative providers of service pursuant to the provisions of Commission rules, federal laws and federal rules;

(f) that UCN be ordered to abide by all the Commission decisions and policies regarding CLASS services;

(g) that UCN be ordered to provide 2-PIC equal access;

(h) that UCN be required to notify the Commission immediately upon changes to its name, address or telephone number;

(i) that UCN be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;

(j) that UCN be ordered to maintain its accounts and records as required by the Commission;

(k) that UCN be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;

(l) that UCN be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

(m) that UCN be ordered to cooperate with Commission investigations including, but not limited to, customer complaints;

(n) that UCN be subject to the Commission's rules and the 1996 Telecommunications Act to the extent that they apply to CLECs;

(o) that pursuant to A.A.C. R14-2-1107, UCN be ordered to file an application with the Commission should it desire to discontinue service. The Applicant should be required to notify each of its local exchange customers and the Commission 60 days prior to filing such application to discontinue service, and any failure to do so should result in forfeiture of UCN's performance bond;

and

(p) that UCN be required to certify, through the 911 service provider in the area in which it intends to provide service, that all issues associated with the provision of 911 service have been resolved with the emergency service providers, within 365 days of the effective date of the Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further Order of the Commission.

27. Staff additionally recommended that UCN's application for a CC&N to provide intrastate telecommunications services should be granted subject to the following conditions:

(a) UCN be ordered to file conforming tariffs within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever occurs first, and in accordance with the Decision; and

(b) If the above timeframe is not met, that UCN's CC&N should become null and void without further Order of the Commission and no extensions for compliance should be granted;

30. In order to protect UCN's customers, Staff recommended:

(a) that UCN should be ordered to procure a performance bond equal to $125,000. The minimum bond amount of $125,000 should be increased if at any time it would be insufficient to cover prepayments or deposits collected from UCN's customers. The bond amount should be increased in increments of $62,500 whenever the total amount of the advances, deposits and prepayments is within $12,500 of the bond amount;

(b) that UCN should docket proof of the performance bond within 365 days of the effective date of this Order or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further Order of the Commission; and

(c) If the above timeframe is not met, that UCN's CC&N should become null and void without further Order of the Commission and no extensions for compliance should be granted.

31. In its Staff Report, Staff stated that based on information obtained from the Applicant, it has determined that UCN's fair value rate base is zero, and is too small to be useful in a fair value analysis.

32. Staff further stated that in general, rates for competitive services are not set according to rate of return regulation, and Staff reviewed the rates to be charged by the company and believes that they are just and reasonable as they are comparable to other competitive local carriers and local

incumbent carriers operating in Arizona and comparable to the rates the Applicant proposes to charge in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by UCN, the fair value rate base information provided should not be given substantial weight in this analysis.

33. Staff's recommendations, as set forth herein, are reasonable.

34. UCN's fair value rate base is determined to be zero for purposes of this proceeding.

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. A.R.S. § 40-282 allows a telecommunications company to file an application for a Certificate to provide competitive telecommunications services.

5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth in its Application.

6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide competitive resold and facilities-based local exchange telecommunications services in Arizona as conditioned by Staff's recommendations.

7. The telecommunications services that the Applicant intends to provide are competitive within Arizona.

8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules, it is just and reasonable and in the public interest for Applicant to establish rates and charges that are not less than the Applicant's total service long-run incremental costs of providing the competitive services approved herein.

9. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

10. Applicant's competitive rates, as set forth in its proposed tariffs, are just and reasonable and should be approved.

ORDER

IT IS THEREFORE ORDERED that the Application of UCN, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold and facilities-based local exchange telecommunications services in Arizona shall be, and is hereby, granted, conditioned upon UCN, Inc.'s timely compliance with the following three Ordering Paragraphs.

IT IS FURTHER ORDERED that UCN, Inc. shall file conforming tariffs in accordance with this Decision within 365 days of this Decision or 30 days prior to providing service, whichever comes first.

IT IS FURTHER ORDERED that UCN, Inc. shall procure and docket proof of a performance bond equal to $125,000 the earlier of 365 days from the effective date of this Order or 30 days prior to the commencement of service.

IT IS FURTHER ORDERED that UCN, Inc. shall comply with all of the Staff recommendations set forth in the above-stated Findings of Fact and Conclusions of Law.

IT IS FURTHER ORDERED that if UCN, Inc. fails to meet the timeframes outlined in the Ordering Paragraphs above, that the Certificate of Convenience and Necessity conditionally granted herein shall become null and void without further Order of the Commission.

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IT IS FURTHER ORDERED that if UCN, Inc. fails to notify each of its local exchange customers and the Commission at least 60 days prior to filing an application to discontinue service pursuant to A.A.C. R14-2-1107, that in addition to voidance of its Certificate of Convenience and Necessity, UCN, Inc.'s performance bond shall be forfeited.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, 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 18th day of July, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

AP:mlj

SERVICE LIST FOR: UCN, INC.

DOCKET NO.: T-03538A-04-0939

Jonathan S. Marashlian
The Helein Law Group, LLLP
8180 Greensboro Drive, Suite 700
McLean, Virginia 22102

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

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