

OPEN MEETING ITEM



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

ORIGINAL



ARIZONA CORPORATION COMMISSION

DATE: July 18, 2005

DOCKET NO: T-04202A-03-0612

TO ALL PARTIES:

Enclosed please find the recommendation of Assistant Chief Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Order on:

TSI TELECOMMUNICATION NETWORK SERVICES, INC.
(AMEND DECISION NO. 66638)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

July 27, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Open Meeting to be held on:

August 9 and 10, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931

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BRIAN C. McNEIL
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF TSI
TELECOMMUNICATION NETWORK
SERVICES, INC. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
RESOLD LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES IN THE
STATE OF ARIZONA.

DOCKET NO. T-04202A-03-0612

DECISION NO. _____

**ORDER AMENDING
DECISION NO. 66638**

Open Meeting
August 9 and 10, 2005
Phoenix, Arizona

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. In Decision No. 66638 (December 18, 2003), the Commission granted the application of TSI Telecommunication Network Services, Inc. ("TSI") to provide resold local exchange telecommunications services as a switchless reseller, subject to certain conditions. Among other things, TSI was ordered to procure and docket proof of a performance bond equal to \$25,000 the earlier of 365 days from the effective date of the Order (*i.e.*, by December 18, 2004) or 30 days prior to the commencement of service. Decision No. 66638 stated that if TSI failed to meet the timeframes outlined in the Order, "the Certificate of Convenience and Necessity conditionally granted herein shall become null and void without further Order of the Commission" (Decision No. 66638, at 5).

2. On May 12, 2004, in Docket No. T-04202A-04-0362 ("Name Change Docket"), TSI filed a Notice of Corporate Name Change, to Syniverse Networks, Inc. ("Syniverse") and stated that "no other aspect of our business has changed."

1 3. On July 12, 2004, Staff filed a letter in the Name Change Docket indicating that the
2 tariffs reflecting the change of TSI's name to Syniverse became effective by operation of law on June
3 9, 2004, and directed Docket Control to administratively close the docket. On July 20, 2004, the
4 Commission's Docket Control Division administratively closed Docket No. T-04202A-04-0362 in
5 accordance with Staff's request.

6 4. Although it is not clear whether TSI or Syniverse ever obtained the \$25,000
7 performance bond, it does not appear from the documents in the record that the bond was secured
8 within 365 days of TSI being granted a conditional CC&N, as required by Decision No. 66638.

9 5. On May 10, 2005, Syniverse filed a request to waive the performance bond
10 requirement set forth in Decision No. 66638 based upon its claim that it operates exclusively as a
11 "reseller of private line services" for which contracts are entered into on an individual case basis, and
12 because it does not collect deposits from its customers.

13 6. By Procedural Order dated May 11, 2005, Syniverse was ordered to provide
14 information clarifying its relationship to TSI.

15 7. By Procedural Order issued May 25, 2005, Staff was directed to file a response to
16 Syniverse's request for a waiver of the bond requirement.

17 8. On June 28, 2005, Staff filed a Memorandum recommending that the performance
18 bond requirement be eliminated because Syniverse provides only private line services¹ to its
19 customers. According to Staff, cancellation of the performance bond requirement is appropriate to
20 private line service providers because: they do not use the public telephone switched network
21 ("PSTN"); private line customers are sophisticated commercial customers; private line providers do
22 not collect advance payments or deposits; and private line rates are determined on an individual case
23 basis.

24 9. We will consider Syniverse's May 10, 2005 letter to be a request for amendment of
25 Decision No. 66638, to eliminate the requirement that a \$25,000 performance bond be obtained as a
26 condition of operation. As described in the May 10, 2005 letter and in Staff's June 28, 2005

27 _____
28 ¹ Staff described "private line service" as a "direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multisite enterprise."

1 Memorandum, Syniverse provides exclusively private line services to commercial customers outside
2 of the PSTN, and does not collect any advances or deposits from those customers.

3 10. Based on the information submitted in this docket, we believe it is appropriate to
4 waive the \$25,000 performance bond requirement for Syniverse. Our decision to amend the prior
5 Order, and waive the bond requirement, is consistent with Decision No. 67123 (July 14, 2004)
6 wherein we granted Computer Network Technology Corporation a Certificate to provide private line
7 services without requiring the company to obtain a performance bond.

8 **CONCLUSIONS OF LAW**

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

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

13 3. Syniverse's request to amend Decision No. 66638 to waive the \$25,000 performance
14 bond requirement is reasonable under the specific facts and circumstances presented herein.

15 4. In all other respects, Decision No. 66638 shall remain in full force and effect.

16 **ORDER**

17 IT IS THEREFORE ORDERED that Decision No. 66638 shall be amended to eliminate the
18 requirement that Syniverse Networks, Inc. (formerly TSI Telecommunication Network Services, Inc.)
19 obtain a \$25,000 performance bond as a condition of being granted a Certificate of Convenience and
20 Necessity to provide private line services in Arizona. In all other respects, Decision No. 66638 shall
21 remain in full force and effect.

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1 IT IS FURTHER ORDERED that in the event Syniverse Networks, Inc. plans to provide any
2 services other than private line services, or if it wishes to collect advances, prepayments or deposits
3 from any of its customers, Syniverse must file a new application and obtain Commission approval.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION
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8 CHAIRMAN

COMMISSIONER

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12 COMMISSIONER

COMMISSIONER

COMMISSIONER

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14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Secretary of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this ____ day of _____, 2005.

19 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

20 DISSENT _____

21
22 DISSENT _____

1 SERVICE LIST FOR: TSI TELECOMMUNICATION NETWORK
2 SERVICES, INC.

3 DOCKET NO. T-04202A-03-0612

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