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BEFORE THE ARIZONA CORPORATION COMMISSION  
**DOCKETED**

1 WILLIAM A. MUNDELL  
2 CHAIRMAN  
3 JIM IRVIN  
4 COMMISSIONER  
5 MARC SPITZER  
6 COMMISSIONER

JUN 26 2002

DOCKETED BY 

6 IN THE MATTER OF THE APPLICATION OF ECI  
7 COMMUNICATIONS, INC. DBA ITS NETWORK  
8 SERVICES FOR A CERTIFICATE OF  
9 CONVENIENCE AND NECESSITY TO PROVIDE  
10 COMPETITIVE RESOLD INTEREXCHANGE  
11 TELECOMMUNICATIONS SERVICES, EXCEPT  
12 LOCAL EXCHANGE SERVICES

DOCKET NO. T-04078A-02-0028

DECISION NO. 64978

**ORDER**

10 Open Meeting  
11 June 25 and 26, 2002  
12 Phoenix, Arizona

**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:

**FINDINGS OF FACT**

16 1. On January 11, 2002, ECI Communications, Inc. dba ITS Network Services  
17 ("Applicant" or "ECI") filed with the Arizona Corporation Commission ("Commission") an  
18 application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive  
19 resold interexchange telecommunications services, except local exchange services, within the State of  
20 Arizona.

21 2. Applicant is a switchless reseller that purchases telecommunications services from a  
22 variety of carriers for resale to its customers.

23 3. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
24 telecommunications providers ("resellers") are public service corporations subject to the jurisdiction  
25 of the Commission.

26 4. ECI has authority to transact business in the State of Arizona.

27 5. On February 19, 2002, ECI filed an Affidavit of Publication indicating compliance  
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1 with the Commission's notice requirements.

2 6. On April 9, 2002, Staff filed in this docket a letter to the Applicant requesting  
3 information necessary in order to make a fair value rate base finding.

4 7. On April 29, 2002, the Commission's Utilities Division Staff ("Staff") filed a Staff  
5 Report in this matter recommending approval of the application subject to certain conditions, and  
6 making other recommendations.

7 8. In the Staff Report, Staff stated that ECI provided financial statements for the three  
8 months ending December 31, 2001, which list assets of \$1.1 million, total equity of \$743,279, and a  
9 net income of \$37,140.

10 9. In its Staff Report, Staff stated that based on information obtained from the Applicant,  
11 it has determined that ECI's fair value rate base is zero, and is too small to be useful in setting rates.  
12 Staff further stated that in general, rates for competitive services are not set according to rate of return  
13 regulation, but are heavily influenced by the market. Staff recommended that the Commission not set  
14 rates for ECI based on the fair value of its rate base.

15 10. Staff believes that ECI has no market power and that the reasonableness of its rates  
16 will be evaluated in a market with numerous competitors. In light of the competitive market in which  
17 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed  
18 tariffs for its competitive services will be just and reasonable, and recommends that the Commission  
19 approve them.

20 11. Staff recommended approval of ECI's application subject to the following:

21 (a) The Applicant should be ordered to comply with all Commission rules, orders,  
22 and other requirements relevant to the provision of intrastate telecommunications  
23 service;

24 (b) The Applicant should be ordered to maintain its accounts and records as  
25 required by the Commission;

26 (c) The Applicant should be ordered to file with the Commission all financial and  
27 other reports that the Commission may require, and in a form and at such times as the  
28 Commission may designate;

(d) The Applicant should be ordered to maintain on file with the Commission all

1 current tariffs and rates, and any service standards that the Commission may require;

2 (e) The Applicant should be ordered to comply with the Commission's rules and  
3 modify its tariffs to conform to these rules if it is determined that there is a conflict  
4 between the Applicant's tariffs and the Commission's rules;

5 (f) The Applicant should be ordered to cooperate with Commission investigations  
6 of customer complaints;

7 (g) The Applicant should be ordered to participate in and contribute to a universal  
8 service fund, as required by the Commission;

9 (h) The Applicant should be ordered to notify the Commission immediately upon  
10 changes to the Applicant's address or telephone number;

11 (i) If at some future date, the Applicant wants to collect from its customers an  
12 advance, deposit and/or prepayment, it must file information with the Commission for  
13 Staff review. Upon receipt of such filing and after Staff review, Staff would forward  
14 its recommendation to the Commission;

15 (j) The Applicant's interexchange service offerings should be classified as  
16 competitive pursuant to A.A.C. R14-2-1108;

17 (k) The Applicant's maximum rates should be the maximum rates proposed by the  
18 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive  
19 services should be the Applicant's total service long run incremental costs of  
20 providing those services as set forth in A.A.C. R14-2-1109; and

21 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
22 competitive service, the rate stated should be the effective (actual) price to be charged  
23 for the service as well as the service's maximum rate.

24 12. Staff further recommended that ECI's Certificate should be conditioned upon the  
25 Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of  
26 an Order in this matter, or 30 days prior to providing service, whichever comes first.

27 13. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
28 Findings of Fact No. 12 above, that ECI's Certificate should become null and void without further  
Order of the Commission, and that no time extensions for compliance should be granted.

14. The rates proposed by this filing are for competitive services.

15. Staff's recommendations as set forth herein are reasonable.

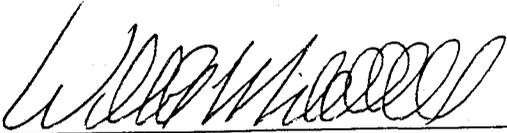
16. ECI's fair value rate base is zero.



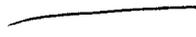
1 IT IS FURTHER ORDERED that if ECI Communications, Inc. dba ITS Network Services  
2 fails to meet the timeframes outlined in Findings of Fact. No. 12 above that the Certificate  
3 conditionally granted herein shall become null and void without further Order of the Commission.

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

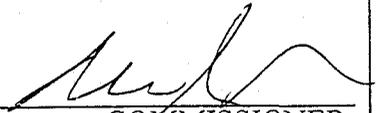
5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 CHAIRMAN

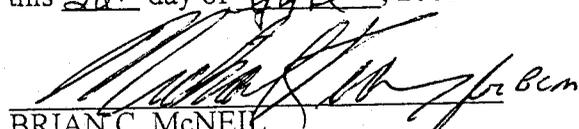
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9 COMMISSIONER

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11 COMMISSIONER

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Secretary of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 26<sup>th</sup> day of June, 2002.

17 

18 BRIAN C. McNEIL  
19 EXECUTIVE SECRETARY

20 DISSENT  
21 MES:dap

1 SERVICE LIST FOR: ECI COMMUNICATIONS, INC. DBA ITS NETWORK SERVICES

2 DOCKET NO.: T-04078A-02-0028

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4 Todd H. Lowe  
5 VISILOGY, INC.  
6 16061 Carmel Bay Drive  
7 Northport, Alabama 34575  
8 Consultants for ECI Communications, Inc. dba ITS Network Services

9 Christopher Kempley, Chief Counsel  
10 Legal Division  
11 ARIZONA CORPORATION COMMISSION  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007

14 Ernest G. Johnson, Director  
15 Utilities Division  
16 ARIZONA CORPORATION COMMISSION  
17 1200 West Washington Street  
18 Phoenix, Arizona 85007

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