

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

22 OPEN MEETING



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C. McNEIL  
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

2001 JUN 11 P 3:02

DATE: JUNE 11, 2001  
DOCKET NO: T-03950A-00-0855

AZ CORP COMMISSION  
DOCUMENT CONTROL

TO ALL PARTIES:

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

NORSTAR COMMUNICATIONS, INC. dba  
BUSINESS SAVINGS PLAN BY NORSTAR COMMUNICATIONS  
(CC&N/RESELLER)

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 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:

JUNE 20, 2001

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 Commission's Working Session and Open Meeting to be held on:

JUNE 26, 2001 AND JUNE 27, 2001

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

Arizona Corporation Commission

DOCKETED

JUN 11 2001

DOCKETED BY

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 MARC SPITZER  
COMMISSIONER

5  
6 IN THE MATTER OF THE APPLICATION OF  
7 NORSTAR COMMUNICATIONS, INC. D/B/A/  
8 BUSINESS SAVINGS PLAN BY NORSTAR  
9 COMMUNICATIONS FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
COMPETITIVE RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03950A-00-0855

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

**ORDER**

10 Open Meeting  
11 June 26 and 27, 2001  
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:

15 **FINDINGS OF FACT**

16 1. On October 25, 2000 Norstar Communications, Inc. d/b/a Business Savings Plan by  
17 Norstar Communications ("Applicant" or "Norstar") filed with the Arizona Corporation Commission  
18 ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to  
19 provide competitive resold interexchange telecommunications services, except local exchange  
20 services, within the State of Arizona.

21 2. Applicant is a California corporation, authorized to do business in Arizona.

22 3. Applicant is a switchless reseller, which purchases telecommunications services from  
23 a variety of carriers.

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

27 5. On January 11, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff  
28

1 Report in this matter. Staff stated that Norstar has provided the financial statements for the year  
2 ending September 30, 2000. These financial statements list assets of \$717,694, total equity of  
3 \$431,310, and a net profit of \$246,310. Based on the foregoing, Staff believes that the Applicant  
4 lacks sufficient financial resources to be allowed to charge customers any prepayments, advances, or  
5 deposits without either establishing an escrow account or posting a surety bond to cover such  
6 payments. However, Norstar has stated in its application that it does not currently, and will not in the  
7 future, charge its customers for any prepayments, advances, or deposits.

8 6. Staff recommended approval of the application subject to the following:

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

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

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

17 (d) The Applicant should be ordered to maintain on file with the  
18 Commission all current tariffs and rates, and any service standards that the  
19 Commission may require;

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

23 (f) The Applicant should be ordered to cooperate with Commission  
24 investigations of customers complaints;

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

27 (h) The Applicant should be ordered to file its tariffs within 30 days of an  
28 Order in this matter, and in accordance with the Decision;

(i) If at some future date, the Applicant wants to charge any prepayments,  
advances, or deposits, it must file information with the Commission that  
demonstrates the Applicant's financial viability. Upon receipt of such filing,  
Staff will review the information and the Commission will make a  
determination concerning the Applicant's financial viability and whether

customer prepayments, advances, or deposits should be allowed;

(j) The Applicant's interexchange service offerings should be classified as competitive pursuant to Commission rules;

(k) The rates proposed by the Applicant in its most recently filed tariffs should be approved on an interim basis. The maximum rates for these services should be the maximum rates proposed by the Applicant in its tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services;

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

(m) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number.

7. Staff further recommended approval of Norstar's application subject to the following conditions:

- (a) That the Applicant file conforming tariffs within 30 days of an Order in this matter, and in accordance with the Decision;
- (b) That the Applicant file in this Docket, within 18 months of the date it first provides service following certification, sufficient information for Staff analysis and recommendation for a fair value finding, as well as for an analysis and recommendation for permanent tariff approval. This information must include, at a minimum, the following:
1. A dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by Norstar following certification, adjusted to reflect the maximum rates that the Applicant has requested in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit.
  2. The total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by the Applicant following certification.
  3. The value of all assets, listed by major category, including a description of the assets, used for the first twelve months of telecommunications services provided to Arizona customers by the Applicant following certification. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list.

1 (c) Norstar's failure to meet the condition to timely file sufficient information for  
2 a fair value finding and analysis and recommendation of permanent tariffs shall  
3 result in the expiration of the Certificate of Convenience and Necessity and of  
4 the tariffs.

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

7 9. On January 25 and March 22, 2001, Norstar filed Affidavits of Publication indicating  
8 compliance with the Commission's notice requirements.

9 10. On August 29, 2000, the Arizona Court of Appeals, Division One ("Court") issued its  
10 Opinion in U S West Communications, Inc. vs. Arizona Corporation Commission, 1 CA-CV 98-  
11 0672, holding that "the Arizona Constitution requires the Commission to determine fair value rate  
12 bases for all public service corporations in Arizona prior to setting their rates and charges."

13 11. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
14 Supreme Court.

15 12. On February 13, 2001, the Commission's Petition was granted.

#### 16 CONCLUSIONS OF LAW

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

19 2. The Commission has jurisdiction over Applicant and the subject matter of the  
20 application.

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

22 4. Applicant's provision of resold interexchange telecommunications services is in the  
23 public interest.

24 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive  
25 resold interexchange telecommunications services in Arizona.

26 6. Staff's recommendations in Findings of Fact Nos. 6 and 7 are reasonable and should  
27 be adopted.

#### 28 ORDER

IT IS THEREFORE ORDERED that the application of Norstar Communications, Inc. d/b/a

1 Business Savings Plan by Norstar Communications for a Certificate of Convenience and Necessity  
2 for authority to provide competitive resold interexchange telecommunications services, except local  
3 exchange services, shall be and the same is hereby granted, except that Norstar shall not be  
4 authorized to charge customers any prepayments, advances, or deposits. In the future, if Norstar  
5 desires to initiate such charges, it must file information with the Commission that demonstrates the  
6 Applicant's financial viability. Staff shall review the information provided and file its  
7 recommendation concerning financial viability and/or the necessity of obtaining a surety bond within  
8 thirty (30) days of receipt of the financial information, for Commission approval.

9 IT IS FURTHER ORDERED that Norstar shall comply with the Staff recommendations set  
10 forth in Findings of Fact Nos. 6 and 7.

11 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,  
12 Norstar shall notify the Compliance Section of the Arizona Corporation Commission of the date that  
13 it will begin or has begun providing service to Arizona customers.

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

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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17  
18 CHAIRMAN

COMMISSIONER

COMMISSIONER

19 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
20 Secretary of the Arizona Corporation Commission, have  
21 hereunto set my hand and caused the official seal of the  
22 Commission to be affixed at the Capitol, in the City of Phoenix,  
23 this \_\_\_\_ day of \_\_\_\_\_, 2001.

24 BRIAN C. McNEIL  
EXECUTIVE SECRETARY

25 DISSENT \_\_\_\_\_  
26 DDN:mlj

1 SERVICE LIST FOR: NORSTAR NETWORK, LLC

2 DOCKET NO.: T-03950A-00-0855

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