



0000031701

Arizona Corporation Commission  
BEFORE THE ARIZONA CORPORATION COMMISSION  
**DOCKETED**

1  
2 CARL J. KUNASEK  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 WILLIAM A. MUNDELL  
COMMISSIONER

JUN 09 2000

DOCKETED BY RT

5  
6 IN THE MATTER OF THE APPLICATION OF  
TON SERVICES, INC. FOR A CERTIFICATE OF  
7 CONVENIENCE AND NECESSITY TO PROVIDE  
COMPETITIVE INTRASTATE  
8 TELECOMMUNICATIONS SERVICES AS A  
RESELLER EXCEPT LOCAL EXCHANGE  
9 SERVICES.

DOCKET NO. T-03776A-99-0495

DECISION NO. 62637

**ORDER**

10 Open Meeting  
June 6 and 7, 2000  
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the  
14 Arizona Corporation Commission ("Commission") finds, concludes and orders that:

15 **FINDINGS OF FACT**

16 1. On September 3, 1999, Ton Services, Inc. ("TON" or "Applicant") filed with Docket  
17 Control of the Commission an application for a Certificate of Convenience and Necessity  
18 ("Certificate") to provide competitive intrastate telecommunications services, except local exchange  
19 services, as a reseller and a petition to have the services classified as competitive.

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

23 3. Applicant is a Utah corporation that has been qualified to conduct business in Arizona  
24 since 1994.

25 4. Applicant is a switchless reseller, which purchases telecommunications services from  
26 Speer Virtual Media Limited.

27 5. The Commission's Utilities Division Staff ("Staff") filed a Staff Report on April 13,  
28 2000.

1           6.     Staff stated that Applicant's tariff filed with its application fulfills Commiss'  
2 requirements.

3           7.     Staff's Report states that Applicant provided financial statements for the year ended  
4 December 31, 1998. These financial statements list assets of \$7.1 million, negative shareholders'  
5 equity of \$3.5 million and an accumulated deficit of \$9.14 million. In addition, the Applicant had a  
6 net income of \$1.5 million on revenues of \$17.8 million. Based on the foregoing, Staff indicated that  
7 Applicant lacks adequate financial resources. As a result, on March 6, 2000, Applicant docketed  
8 proof of an establishment of a surety bond in the amount of \$5,000. The surety bond, which shall be  
9 in effect for a minimum of one year, approximates the total amount of any prepayments, advances,  
10 and deposits that the Applicant will collect from its customers. If after one year, the Applicant  
11 desires to close the escrow account, it must file information with the Commission that demonstrates  
12 the applicant's financial viability. Staff believes that if the Applicant experiences financial difficulty,  
13 there should be minimal impact to its customers. Customers are able to dial another reseller or  
14 facilities-based provider to switch to another company.

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

17           9.     Staff recommended:

18               (a)    Approval of the \$5,000 surety bond filed by Applicant to cover the  
19 approximate total amount of any prepayments, advances, and deposits that Applicant  
20 will collect from its customers;

21               (b)    Applicant should be allowed to file a request for cancellation of the surety  
22 bond after one year of operation under the CC&N granted by the Commission;

23               (c)    Applicant's request for cancellation of the surety bond should be accompanied  
24 by information demonstrating Applicant's financial viability; and

25               (d)    The Commission should grant Applicant's request only upon a Commission  
26 determination that the requested cancellation is in the public interest.

27           10.    Staff further recommended that:

28               (a)    Applicant's application for a Certificate should be approved subject to A.A  
R14-2-1106.B;

1 (b) Applicant's intrastate toll service offering should be classified as competitive  
2 pursuant to A.A.C. R14-2-1108;

3 (c) Applicant's competitive services should be priced at the rates proposed by the  
4 Applicant in its most recently filed tariffs, and the maximum rates for these services  
5 should be the maximum rates proposed by Applicant in its tariffs. The minimum rates  
6 for Applicant's competitive services should be Applicant's long run incremental costs  
7 of providing those services set forth in A.A.C. R14-2-1109;

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

11 (e) Applicant should be required to comply with the Commission's Rules and  
12 modify its tariffs to conform with these Rules, if it is determined that there is a conflict  
13 between the applicant's tariffs and the Commission's Rules; and

14 (f) Applicant should file its tariffs within thirty days of an Order in this matter,  
15 and in accordance with the Decision.

16 11. By Procedural Order dated April 25, 2000, the Commission set a deadline of May 15,  
17 2000 for filing exceptions to the Staff Report, requesting that a hearing be set, or requesting  
18 intervention as interested parties.

19 12. Applicant has published notice of its application in newspapers in all counties where  
20 service is to be provided pursuant to A.R.S. Sections 40-281 and 40-282, and affidavits of publication  
21 were filed March 22, 2000.

22 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
23 be set.

24 **CONCLUSIONS OF LAW**

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

27 2. The Commission has jurisdiction over Applicant and the subject matter of the  
28 application.

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

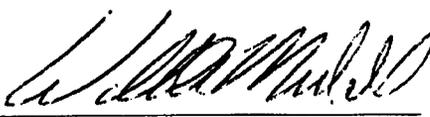
4. Applicant's provision of resold intrastate telecommunications services is in the public  
interest.



1 IT IS FURTHER ORDERED that TON Services, Inc. shall file a complete set of tariffs within  
2 30 days from the effective date of this Decision.

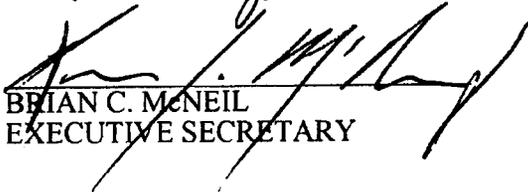
3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

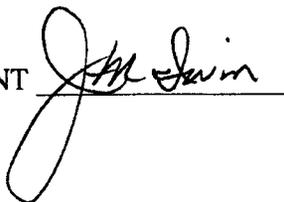
4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

|   |   |   |
|---|---|---|
| 5 |  |  |
| 6 | <hr/>   | <hr/>   |
| 7 | CHAIRMAN  | COMMISSIONER  |

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 9<sup>TH</sup> day of June, 2000.

  
 BRIAN C. McNEIL  
 EXECUTIVE SECRETARY

DISSENT   
 AG:bbs

1 SERVICE LIST FOR: TON SERVICES, INC.  
2 DOCKET NO. T-03776A-99-0495  
3  
4 Neil Vos  
5 TON SERVICES, INC.  
6 4185 Harrison Blvd., Suite 301  
7 Ogden, UT 84403  
8  
9 Robin Norton  
10 TECHNOLOGIES MANAGEMENT, INC.  
11 210 N. Park Ave.  
12 Winter Park, FL 32789  
13  
14 Lyn Farmer, Chief Counsel  
15 Legal Division  
16 ARIZONA CORPORATION COMMISSION  
17 1200 West Washington Street  
18 Phoenix, AZ 85007  
19  
20 Deborah Scott, Director  
21 Utilities Division  
22 ARIZONA CORPORATION COMMISSION  
23 1200 West Washington Street  
24 Phoenix, AZ 85007  
25  
26  
27  
28