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BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

JUN 09 2000

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
NETLOJIX TELECOM, INC., FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
INTRALATA/ INTERLATA
TELECOMMUNICATIONS SERVICES AS A
RESELLER EXCEPT LOCAL EXCHANGE
SERVICES

DOCKET NO. T-03807A-99-0673

DECISION NO. 62629

ORDER

Open Meeting
June 6 and 7, 2000
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. On November 23, 1999, Netlojix Telecom, Inc. ("Netlojix" or "Applicant") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive intraLATA and interLATA telecommunications services, except local exchange services, as a reseller within the State of Arizona.

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

3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101 through R14-2-1115 to regulate resellers.

4. Applicant is a Delaware corporation, authorized to do business in Arizona since 1999.

5. Applicant is a switchless reseller, which purchases telecommunications services from

1 Sprint, and/or IXC, and/or DCA.

2 6. On February 18, 2000, the Commissions Utilities Division Staff ("Staff") filed its Staff
3 Report.

4 7. In the Staff Report, Staff stated that the Applicant provided financial statements of its
5 parent company, Avtel Communications, Inc. for the year ended December 31, 1998. These financial
6 statements indicated assets of \$14.6 million, shareholders' equity of \$3.1 million, and negative
7 retained earnings of (\$16.5 million). Based on the foregoing, Staff believes that Applicant does not
8 have sufficient financial resources. Applicant stated in its application that it does not currently, and
9 will not in the future, charge its customers for any prepayments, advances, or deposits. If at some
10 future date, the applicant wants to charge customers any prepayments, advances, or deposits, it must
11 file information with the Commission that demonstrates the Applicant's financial viability. Staff
12 believes that if the Applicant experiences financial difficulty, there should be minimal impact to its
13 customers. Customers are able to dial another reseller or facilities-based provider to switch to
14 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 that:

18 (a) Applicant's application for a Certificate should be approved without a hearing
19 pursuant to A.A.C. R14-2-1106B;

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

22 (c) Applicant's competitive services should be priced at rates proposed by
23 Applicant in its most recently filed tariffs. The maximum rates for these services
24 should be the maximum rates proposed by Applicant in its tariffs. The minimum rates
for applicant's competitive services should be Applicant's long run incremental costs
of providing those services as set forth in A.A.C. R14-2-1109;

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

27 (e) Applicant should be required to comply with the Commission's rules and
28 modify its tariffs to conform with the rules if it is determined there is a conflict

between Applicant's tariffs and the Commission's rules.

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2 10. By Procedural Order dated March 29, 2000, the Commission set a deadline of April
3 28, 2000, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting
4 intervention as interested parties.

5 11. On February 18, 2000 and March 24, 2000, the Applicant filed affidavits indicating
6 that it published notice of its filing in all counties where service is to be provided pursuant to A.A.C.
7 R14-2-1104.

8 12. No exceptions were filed to the Staff Report, nor did any party request that a hearing
9 be set.

10 **CONCLUSIONS OF LAW**

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

13 2. The Commission has jurisdiction over Applicant and the subject matter of the
14 application.

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

16 4. Applicant's provision of resold intraLATA and interLATA telecommunications
17 services is in the public interest.

18 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
19 intraLATA and interLATA telecommunications services, except local exchange services, as a reseller
20 in Arizona.

21 6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be
22 adopted.

23 **ORDER**

24 IT IS THEREFORE ORDERED that the Application of Netlojix Telecom, Inc. for a
25 Certificate of Convenience and Necessity for authority to provide competitive intraLATA and
26 interLATA telecommunications services, except local exchange services, as a reseller shall be and the
27 same is hereby granted, except that Netlojix Telecom, Inc., shall not be authorized to charge
28 customers any prepayments, advances, or deposits. In the future if Netlojix Telecom, Inc., desires to

1 initiate such charges, it must file information with the Commission that demonstrates the Company's
2 financial viability or establish an escrow account equal to the amount of any prepayments, advances,
3 or deposits. Staff shall review the information provided and file its recommendation concerning
4 financial viability within thirty days of receipt of the financial information, for Commission approval.

5 IT IS FURTHER ORDERED that Netlojix Telecom, Inc. shall comply with the Staff
6 recommendations set forth in Findings of Fact No. 9.

7 IT IS FURTHER ORDERED that Netlojix Telecom, Inc. shall file a complete set of tariffs
8 within 30 days from the effective date of this Decision.

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

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

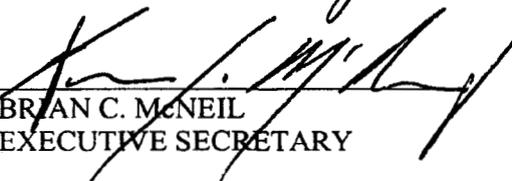
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12 CHAIRMAN

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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 9th day of June, 2000.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT 
AG:bbs

1 SERVICE LIST FOR:

NETLOJIX TELECOM, INC.

2 DOCKET NO.:

T-03807A-99-0673

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