

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

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22
OPEN MEETING ITE



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BRIAN C. MCNEIL
Executive Secretary

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ARIZONA CORPORATION COMMISSION

2003 DEC -1 A 10: 22

DATE: December 1, 2003

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKET NO: T-04202A-03-0612

TO ALL PARTIES:

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

TSI TELECOMMUNICATIONS NETWORK SERVICES, INC.
(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 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:

DECEMBER 10, 2003

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:

DECEMBER 16 AND 17, 2003

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.

Arizona Corporation Commission

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BRIAN C. MCNEIL
EXECUTIVE SECRETARY

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
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

Open Meeting
December 16 and 17, 2003
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 August 27, 2003, TSI Telecommunication Network Services, Inc. ("Applicant" or "TSI") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold local exchange telecommunications services within the State of Arizona.

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

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

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

5. On November 4, 2003, TSI filed in this docket Affidavits of Publication verifying that it had published notice of its application in all counties where service will be provided.

1 6. On November 6, 2003, the Commission's Utilities Division Staff ("Staff") filed in this
2 docket a letter informing CM that its application was administratively complete.

3 7. On November 14, 2003, Staff filed a Staff Report in this matter recommending
4 approval of the application subject to certain conditions and making other recommendations.

5 8. In the Staff Report, Staff stated that TSI provided unaudited consolidated financial
6 statements for the twelve month period ending December 31, 2002, which list assets of \$457,045,000,
7 equity of \$200,525,000, and a net loss of \$23.1 million.

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

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

17 11. Based on its evaluation of the Applicant's technical, managerial, and financial
18 capabilities to provide resold interexchange and local exchange services, Staff recommended
19 approval of TSI's application and also recommended that:

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

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

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

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

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

3 (f) The Applicant should be ordered to cooperate with Commission investigations
4 including, but not limited to, customer complaints;

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

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

8 (i) The Applicant's local exchange service offerings should be classified as
9 competitive pursuant to A.A.C. R14-2-1108;

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

13 (k) In the event that the Applicant states only one rate in its proposed tariff for a
14 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.

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

18 13. In its application, TSI does not indicate that that it collects any advances, deposits
19 and/or prepayments from its customers. However, monthly service charges for resold local exchange
20 service are paid in advance.

21 14. Staff recommended that TSI's Certificate should be conditioned upon the Applicant
22 procuring a performance bond as described in Findings of Fact No. 15 below, and filing proof of that
23 performance bond within 365 days from the date of an Order in this matter, or 30 days prior to
24 providing service, whichever comes first.

25 15. Staff recommended that TSI be required to procure a performance bond in the initial
26 amount \$25,000, with the minimum bond amount of \$25,000 to be increased if at any time it would
27 be insufficient to cover all advances, deposits, or prepayments collected from its customers, in the
28

1 following manner: The bond amount should be increased in increments of \$12,500, with such
2 increases to occur whenever the total amount of the advances, deposits, and prepayments reaches a
3 level within \$2,500 under the actual bond amount.

4 16. Staff further recommended that the Applicant should be required to file an application
5 with the Commission pursuant to A.A.C. R14-2-1107 if it desires to discontinue service; to notify
6 each of its customers and the Commission 60 days prior to filing such an application to discontinue
7 service; and that failure to make such notification 60 days prior to filing an application under A.A.C.
8 R14-2-1107 should result in forfeiture of Applicant's performance bond.

9 17. Staff recommended that if the Applicant fails to meet the timeframes outlined in
10 Findings of Fact Nos. 12 and 14 above, that TSI's Certificate should become null and void without
11 further Order of the Commission and that no time extensions for compliance should be granted.

12 18. The rates proposed by this filing are for competitive services.

13 19. Staff's recommendations as set forth herein are reasonable.

14 20. TSI's fair value rate base is zero.

15 CONCLUSIONS OF LAW

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

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

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

21 4. Applicant's provision of resold local exchange telecommunications services is in the
22 public interest.

23 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for
24 providing competitive resold local exchange telecommunications services in Arizona.

25 6. Staff's recommendations herein should be adopted.

26 7. TSI's fair value rate base is not useful in determining just and reasonable rates for the
27 competitive services it proposes to provide to Arizona customers.

28 8. TSI's rates, as they appear in its proposed tariffs, are just and reasonable and should be

1 approved.

2 **ORDER**

3 IT IS THEREFORE ORDERED that the application of TSI Telecommunication Network
4 Services, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive
5 resold local exchange telecommunications services is hereby granted, conditioned upon its
6 compliance with the conditions recommended by Staff as set forth in Findings of Fact Nos. 12 and 14
7 above.

8 IT IS FURTHER ORDERED that Staff's recommendations set forth herein are hereby
9 adopted.

10 IT IS FURTHER ORDERED that if TSI Telecommunication Network Services, Inc. fails to
11 meet the timeframes outlined in Findings of Fact. Nos. 12 and 14 above, that the Certificate of
12 Convenience and Necessity conditionally granted herein shall become null and void without further
13 Order of the Commission.

14 IT IS FURTHER ORDERED that TSI Telecommunication Network Services, Inc. shall
15 comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 11 and 15
16 above.

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IT IS FURTHER ORDERED that if TSI Telecommunication Network Services, Inc. fails to notify each of its customers and the Commission at least 60 days prior to filing an application to discontinue service pursuant to A.A.C. R14-2-1107, TSI Telecommunication Network Services, Inc.'s performance bond shall be forfeited.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER
COMMISSIONER	COMMISSIONER	

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 ____ day of _____, 2003.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

AP:mj

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

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