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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
COMMISSIONER-CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

Arizona Corporation Commission
DOCKETED

APR 21 1999

IN THE MATTER OF THE APPLICATION OF
GST NET, INC. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETITIVE INTERLATA/INTRALATA
RESOLD TELECOMMUNICATIONS SERVICES
EXCEPT LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03393A-97-0318

DECISION NO. 61639

ORDER

Open Meeting
April 19 and 20, 1999
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 June 26, 1997, GST Net, Inc. ("GST" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold telecommunications service in 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. GST is a Delaware corporation, which has been qualified to conduct business in Arizona since 1997.

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

6. On January 4, 1999, the Commission's Utilities Division Staff ("Staff") filed a Staff Report, which was amended for clarification on January 25, 1999.

1 7. The Staff Report stated that GST provided unaudited financial statements for the
2 months ended June 30, 1998, which indicated a net loss of \$1.9 million on revenues of \$11.9 million,
3 assets of \$25.3 million, liabilities totaling \$31.5 million, stockholders equity of negative \$6.2 million,
4 and retained earnings of negative \$16.9 million. Staff stated that Applicant has shown the ability to
5 raise the necessary capital to sustain financial viability and has adequate financial resources to make
6 necessary plant additions or incur operating losses.

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

9 9. Staff recommended that:

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

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

14 (c) Applicant's competitive services should be priced at the effective rates set
15 forth in Applicant's tariffs and the maximum rates for these services should be
16 the maximum rates proposed by Applicant in its tariffs. The minimum rates
17 for Applicant's competitive services should be Applicant's long run
18 incremental costs of providing those services as set forth in A.A.C. R14-2-
19 1109. Any future changes to the maximum rates in Applicant's tariffs must
20 comply with A.A.C. R14-2-1110;

21 (d) Applicant should be required to comply with the Commission's Rules and
22 modify its tariffs to conform with these Rules, if it is determined that there is a
23 conflict between Applicant's tariffs and the Commission's Rules; and

24 (e) The application may be approved without a hearing.

25 10. By Procedural Order dated February 23, 1999, the Commission set a deadline of
26 March 29, 1999 for filing exceptions to the Staff Report; requesting that a hearing be set; or
27 requesting intervention as interested parties. The Procedural Order also directed Applicant to file
28 affidavits of publication notice of the application by March 29, 1999.

 11. Affidavits of publication were filed on March 29, 1999.

 12. No exceptions were filed to the Staff Report, nor did any party request that a hearing
be set, nor were any requests for intervention filed with Docket Control.

 13. In order to protect the public interest, it is appropriate to require that if Applica

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desires to receive prepayments, advances or deposits from its customers, it should establish an escrow account or post a bond, as described below.

CONCLUSIONS OF LAW

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

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

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

4. As conditioned below, the provision of competitive interLATA/intraLATA reseller services in Arizona by Applicant is in the public interest.

5. With the conditions contained herein, Applicant is a fit and proper entity to receive a Certificate for providing competitive interLATA/intraLATA reseller services in Arizona.

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

ORDER

IT IS THEREFORE ORDERED that the application of GST Net, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA resold telecommunications services except local exchange services shall be, and the same is, hereby granted, as limited below.

IT IS FURTHER ORDERED that GST Net, Inc. shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

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IT IS FURTHER ORDERED that GST Net, Inc. shall not be authorized to charge custom any prepayments, advances or deposits, unless within thirty days of this Decision it establishes an escrow account or posts a bond equivalent to one year of prepayments, advances or deposits to be received from Arizona customers, in advance of receipt of the prepayments, advances or deposits. If in the future GST Net, Inc. desires to initiate such charges, or to terminate its escrow account or bond, it must file information with the Commission that demonstrates the company's financial viability. Staff shall review the information and file its recommendation concerning financial viability within thirty days of receipt of the financial information, for Commission approval.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER-CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting 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 21 day of April, 1999.

Stuart R. Brackney
STUART R. BRACKNEY
ACTING EXECUTIVE SECRETARY

DISSENT _____
BMB:bbs

1 SERVICE LIST FOR: GST NET, INC.

2 DOCKET NO. T-03393A-97-0318

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