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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

APR 21 1999

1
2 **JIM IRVIN**
3 **COMMISSIONER-CHAIRMAN**
4 **TONY WEST**
5 **COMMISSIONER**
6 **CARL J. KUNASEK**
7 **COMMISSIONER**

DOCKETED BY

8 **IN THE MATTER OF THE APPLICATION OF**
9 **TOUCH 1 COMMUNICATIONS, INC. FOR A**
10 **CERTIFICATE OF CONVENIENCE AND**
11 **NECESSITY TO PROVIDE COMPETITIVE**
12 **INTERLATA/INTRALATA RESOLD**
13 **TELECOMMUNICATIONS SERVICES EXCEPT**
14 **LOCAL EXCHANGE SERVICES.**

DOCKET NO. T-03088A-96-0098

DECISION NO. 61659

ORDER

15 **Open Meeting**
16 **April 19 and 20, 1999**
17 **Phoenix, Arizona**

18 **BY THE COMMISSION:**

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

FINDINGS OF FACT

- 21 1. **On February 23, 1996, Touch 1 Communications, Inc. ("Touch 1" or "Applicant")**
22 **filed with the Commission an application for a Certificate of Convenience and Necessity**
23 **("Certificate") to provide resold telecommunications service in the State of Arizona.¹**
- 24 2. **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 3. **In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101**
28 **through R14-2-1115 to regulate resellers.**
- 29 4. **Touch 1 is an Alabama corporation, which has been qualified to conduct business in**
30 **Arizona since 1994.**
- 31 5. **Touch 1 is a switchless reseller, which purchases telecommunications services from**

¹ The application originally was filed in Docket No. T-02695A-96-0098. On May 1, 1996, Touch 1 filed an amendment to its application, advising of the pro forma transfer of control to Touch 1, Inc. Docket Control assigned the application a new number. T-02695A-96-0098 was vacated, and the contents merged with Docket No. T-03088A-96-0098.

1 underlying facilities-based carriers.

2 6. On January 4, 1999, the Commission's Utilities Division Staff ("Staff") filed a Staff
3 Report.

4 7. The Staff Report stated that Touch 1 provided unaudited financial statements for the
5 year ended 1997, which indicated that Applicant had assets of \$93.6 million, equity of \$7.8 million,
6 and a net loss of \$30,349 on revenues of \$63.2 million. Staff stated that Applicant has adequate
7 financial resources to make necessary plant additions or incur operating losses.

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

10 9. Staff recommended that:

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

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

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

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

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

26 10. By Procedural Order dated January 29, 1999, the Commission set a deadline of
27 February 26, 1999 for filing exceptions to the Staff Report; requesting that a hearing be set; or
28 requesting intervention as interested parties.

11. 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.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the

1 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

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

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

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

7 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
8 interLATA/intraLATA reseller services in Arizona.

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

11 **ORDER**

12 IT IS THEREFORE ORDERED that the application of Touch 1 Communications, Inc. for a
13 Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA
14 resold telecommunications services except local exchange services shall be, and the same is, hereby
15 granted.

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IT IS FURTHER ORDERED that Touch 1 Communications, Inc. shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER-CHAIRMAN

Tom West
COMMISSIONER

Carl K... ..
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:

TOUCH 1 COMMUNICATIONS, INC.

2 DOCKET NO.

T-03088A-96-0098

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