



0000033390

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

AUG 30 2001

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

DOCKETED BY	JV
-------------	----

IN THE MATTER OF THE APPLICATION OF  
CNG COMMUNICATIONS, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE.

DOCKET NO. T-03797A-99-0591

DECISION NO. 63996

ORDER

Open Meeting  
August 28 and 29, 2001  
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

- On October 18, 1999, CNG Communications, Inc., ("Applicant" or "CNG") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold interexchange telecommunications services within the State of Arizona.
- 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.
- In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101 through R14-2-1115 to regulate resellers.
- Applicant is a Delaware corporation authorized to do business in Arizona since 1998.
- On December 14, 2000, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.
- Staff sent Applicant data requests on April 28, June 22, and September 19, 2000. In each data request, Staff requested certain information that was needed in order to process the

1 application.

2 8. To date, Applicant has not responded to Staff's requests.

3 9. In its Staff Report, Staff recommended denial of the application without a hearing for  
4 failing to provide Staff with the information necessary to process the application.

5 10. On June 4, 2001, the Commission issued a Procedural Order informing both the  
6 attorney for CNG and its president that Staff has recommended a denial in this matter. The  
7 Procedural Order set a June 29, 2001 deadline for filing exceptions to the Staff Report. No  
8 exceptions have been filed. Additionally, the Procedural Order that was sent to the president of CNG  
9 was returned to the Commission as address unknown.

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. For its failure to adhere to Commission rules and regulations that require Applicant to  
16 provide the Commission with sufficient information to process its application, Applicant is not a fit  
17 and proper entity to receive a Certificate for providing resold local exchange and interexchange  
18 telecommunication services in Arizona.

19 4. Staff's recommendation in Findings of Fact No. 9 is reasonable and should be  
20 adopted.

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

ORDER

IT IS THEREFORE ORDERED that the Application of CNG Communications, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunication services shall be, and the same is hereby denied, and the Docket closed.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

*[Handwritten signature]*

CHAIRMAN

*[Handwritten signature]*

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 30<sup>th</sup> day of August, 2001.

*[Handwritten signature]*  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
PJD:dap

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 SERVICE LIST FOR: CNG COMMUNICATIONS, INC.

2 DOCKET NO.: T-03797A-99-0591

3

4 John T. Sessions  
5 SESSIONS & CO  
6 411 University Street  
7 Suite 1200  
8 Seattle, Washington 98101-2515  
9 Attorneys for CNG Communications, Inc.

7 CNG COMMUNICATIONS, INC.  
8 4025 North 28<sup>th</sup> Avenue  
9 Phoenix, Arizona 85017

9 Christopher Kempley, Chief Counsel  
10 Legal Division  
11 ARIZONA CORPORATION COMMISSION  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007

12 Steve Olea, Director  
13 Utilities Division  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
16 Phoenix, Arizona 85007

15

16

17

18

19

20

21

22

23

24

25

26

27

28