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OPEN MEETING ITEM

ORIGINAL

BRIAN C. McNEIL
EXECUTIVE SECRETARY

JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

ARIZONA CORPORATION COMMISSION

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2001 AUG 13 A 10:56

DATE: AUGUST 13, 2001

DOCKET NO: T-03797A-99-0591

AZ CORP COMMISSION
DOCUMENT CONTROL

TO ALL PARTIES:

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

CNG COMMUNICATIONS, 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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

AUGUST 22, 2001

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:

AUGUST 28, 2001 AND AUGUST 29, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

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

DOCKET NO. T-03797A-99-0591

DECISION NO. _____

ORDER

10 Open Meeting
August 28 and 29, 2001
Phoenix, Arizona

11 **BY THE COMMISSION:**

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

14 **FINDINGS OF FACT**

15 1. On October 18, 1999, CNG Communications, Inc., ("Applicant" or "CNG") filed with
16 the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
17 provide resold interexchange telecommunications services within the State of Arizona.

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

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

23 4. Applicant is a Delaware corporation authorized to do business in Arizona since 1998.

24 5. On December 14, 2000, the Commission's Utilities Division Staff ("Staff") filed a
25 Staff Report.

26 7. Staff sent Applicant data requests on April 28, June 22, and September 19, 2000. In
27 each data request, Staff requested certain information that was needed in order to process the
28

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.

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ORDER

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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.

CHAIRMAN

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 _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
PJD:dap

1 SERVICE LIST FOR: CNG COMMUNICATIONS, INC.

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

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