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MARC STITZLER
COMMISSIONER

OPEN MEETING ITEM ORIGINAL

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCUMENT CONTROL Arizona Corporation Commission

DOCKETED

DEC 03 2002

DATE: December 3, 2002

DOCKET NOS: T-04042A-01-0651

TO ALL PARTIES:

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

PRONET 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:

DECEMBER 12, 2002

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 Open Meeting to be held on:

DECEMBER 17 AND 18, 2002

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

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
PRONET COMMUNICATIONS, INC. FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 RESOLD INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, EXCEPT
9 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04042A-01-0651

DECISION NO. _____

ORDER

10 Open Meeting
December 17 and 18, 2002
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

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

15 **FINDINGS OF FACT**

16 1. On August 13, 2001, ProNet Communications, Inc. ("Applicant" or "ProNet") filed
17 with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
18 provide competitive resold interexchange telecommunications services, except local exchange
19 services, within the State of Arizona.

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

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

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

26 5. On October 12, 2001, ProNet filed an Affidavit of Publication indicating compliance
27 with the Commission's notice requirements.

28 6. On February 27, 2002, the Commission's Utilities Division Staff ("Staff") filed a Staff

1 Report in this matter recommending approval of the application subject to certain conditions, and
2 making other recommendations.

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

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

13 9. Staff recommended approval of Applicant's application subject to the following:

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

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

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

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

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

27 (f) The Applicant should be ordered to cooperate with Commission investigations
28 of customer complaints;

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

(h) The Applicant should be ordered to notify the Commission immediately upon

changes to the Applicant's address or telephone number;

(i) If at some future date, the Applicant wants to collect from its customers an advance, deposit or prepayment, it must file information with the Commission for Staff review. Upon receipt of such filing, Staff will review the information and forward its recommendation to the Commission;

(j) The Applicant's interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(k) The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive 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

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

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

11. ProNet's proposed tariff indicates that it does not intend to collect advances, prepayments or deposits from its customers.

12. ProNet provided its unaudited financial statements for the period ending June 30, 2002. The financial statements list assets of \$150,616, equity of \$114,210 and a net profit of \$115,644.

13. Staff recommended that if the Applicant fails to meet the timeframes outlined in Findings of Fact. No. 10, then Applicant's Certificate should become null and void without further Order of the Commission, and that no time extensions for compliance should be granted.

14. The rates proposed by this filing are for competitive services.

15. Staff's recommendations as set forth herein are reasonable.

16. ProNet's fair value rate base is zero.

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.

1 IT IS FURTHER ORDERED that ProNet Communications, Inc. shall not require its Arizona
2 customers to pay advances, prepayments or deposits for any of its products or services.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5
6
7 CHAIRMAN

COMMISSIONER

COMMISSIONER

8 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
9 Secretary of the Arizona Corporation Commission, have
10 hereunto set my hand and caused the official seal of the
11 Commission to be affixed at the Capitol, in the City of Phoenix,
12 this ____ day of _____, 2002.

13 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

14 DISSENT _____
15 PD:mlj

1 SERVICE LIST FOR: PRONET COMMUNICATIONS, INC.

2 DOCKET NO.: T-04024A-01-0651

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