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BEFORE THE ARIZONA CORPORATION COMMISSION **DOCKETED**

SEP 16 1998

JIM IRVIN
CHAIRMAN - COMMISSIONER
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

DOCKETED BY *CW*

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

DOCKET NO. T-03541A-98-0166

DECISION NO. 61127

ORDER

Open Meeting
September 15 and 16, 1998
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 April 1, 1998, NTS Communications, Inc. ("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 telecommunication 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. Applicant is a Texas corporation, qualified to conduct business in Arizona since 1998.
5. Applicant is a switchless reseller which purchases telecommunication services.
6. On May 15, 1998, Staff filed a Staff Report, recommending approval of the application without a hearing.
7. The Staff Report indicated that Applicant provided audited financial statements for the

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1 years ended July 31, 1996 and July 31, 1997. The financial statements indicate Applicant had net income
 2 of \$5,034,609 in 1996 and \$9,938,581 in 1997. Applicant reported retained earnings of \$8,286,932 as
 3 of July 31, 1996 and \$18,225,513 as of July 31, 1997. Staff believed that Applicant has sufficient
 4 financial resources to provide its proposed resold telecommunications services.

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

7 9. Staff recommended that:

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

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

12 (c) Applicant's competitive services should be priced at the effective rates set forth
 13 in Applicant's tariffs and the maximum rates for these services should be the maximum
 14 rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive
 15 services should be Applicant's long run incremental costs of providing those services as
 16 set forth in A.A.C. R14-2-1109; and

17 (d) Applicant should be required to comply with the Commission's rules and modify
 18 its tariffs to conform with these rules, if it is determined that there is a conflict between
 19 Applicant's tariffs and the Commission's rules.

20 10. By Procedural Order dated June 26, 1998, the Commission set a deadline of August 7,
 21 1998, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting intervention
 22 as interested parties.

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

25 CONCLUSIONS OF LAW

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

28 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. The provision of competitive interLATA/intraLATA reseller services in Arizona by
 Applicant is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive

1 interLATA/intraLATA reseller services in Arizona.

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

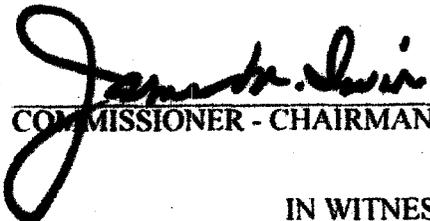
3 **ORDER**

4 IT IS THEREFORE ORDERED that the application of NTS Communications, Inc. for a
5 Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA
6 resold telecommunications services except local exchange services shall be, and the same is, hereby
7 granted.

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

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

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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14 COMMISSIONER - CHAIRMAN

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14 COMMISSIONER

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14 COMMISSIONER

15 IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona
16 Corporation Commission, have hereunto set my hand and caused the official seal
17 of the Commission to be affixed at the Capitol, in the City of Phoenix, this
18 16 day of Sept, 1998.

18 
19 JACK ROSE
20 EXECUTIVE SECRETARY

21 DISSENT _____
22 JR:dap

CONFIDENTIAL

5500-MOO-010

1 SERVICE LIST FOR: NTS COMMUNICATIONS, INC.

2 DOCKET NO.: T-03541A-98-0166

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