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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

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

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

DOCKET NO. T-03339A-97-0124

DECISION NO. 60998

ORDER

Open Meeting
July 14 and 15, 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 March 10, 1997, American Telecommunications Systems, Inc. ("ATS" or "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 telecommunications 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. ATS is an Ohio corporation which has been qualified to conduct business in Arizona since 1997.
5. ATS is a switchless reseller which purchases telecommunications services from AT&T.
6. On November 4, 1997, the Commission's Utilities Division Staff ("Staff") filed a Staff Report.

1 7. The Staff Report stated that ATS provided a compiled balance sheet for the period ended
2 February 10, 1997. Applicant was incorporated in February 1997. The balance sheet indicated that
3 Applicant had no retained earnings. Applicant did not submit an income statement. Staff stated that
4 Applicant has not provided adequate financial information for Staff to make a determination regarding
5 Applicant's financial viability and financial resources.

6 8. Staff has concerns about Applicant's ability to incur operating losses in the future and to
7 repay customer prepayments, advances, and deposits. Accordingly, Staff recommended that pursuant
8 to A.A.C. R14-2-1105.D, Applicant maintain for a minimum of one year, an escrow account equal to the
9 total amount of any prepayments, advances and deposits that Applicant may collect from its customers
10 as a condition of certification. In the alternative, Applicant could file a letter stating that it does not
11 currently charge customers any prepayments, advances or deposits, and does not intend to do so in the
12 future. If at some future date Applicant desired to charge customers any prepayments, advances or
13 deposits, it must file information with Staff that demonstrates Applicant's financial viability. Staff would
14 review the information and provide Applicant its decision concerning financial viability within 30 days
15 of receipt of the information. Staff believes that if Applicant experiences financial difficulty, there should
16 be minimal impact to its customers. Customers are able to dial another reseller or facilities-based
17 provider, and may permanently switch to another company without forfeiting any prepayment, advance
18 or deposit.

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

21 10. Staff recommended that:

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

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

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

1 (d) Applicant should be required to comply with the Commission's rules and modify
2 its tariffs to conform with these rules, if it is determined that there is a conflict between
3 Applicant's tariffs and the Commission's rules; and

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

5 11. By Procedural Order dated November 5, 1997, the Commission set a deadline of
6 December 5, 1997 for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting
7 intervention as interested parties.

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

10 13. On November 12, 1997, Applicant filed a letter which indicated that Applicant has not
11 and does not intend to charge customers any prepayments, advances or deposits.

12 14. Applicant's proposed tariff includes a section on the provision of prepaid telephone calling
13 cards.

14 15. On May 28, 1998, Applicant filed a statement indicating that it is not selling prepaid
15 telephone calling card service in the State of Arizona. Applicant stated that the prepaid calling card
16 language in the tariff is included for future use if Applicant begins to offer such service.

17 **CONCLUSIONS OF LAW**

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

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

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

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

24 5. With the conditions contained herein, Applicant is a fit and proper entity to receive a
25 Certificate for providing competitive interLATA/intraLATA reseller services in Arizona.

26 6. Staff's recommendations in Findings of Fact No. 10 are reasonable and should be adopted,
27 as modified below.
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ORDER

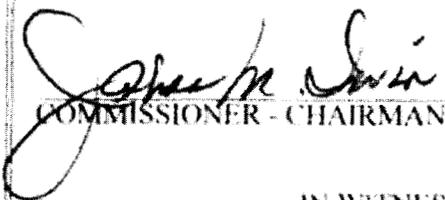
IT IS THEREFORE ORDERED that the application of American Telecommunications Systems, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive interLATA/intralATA resold telecommunications services except local exchange services shall be, and the same is, hereby granted, as limited below.

IT IS FURTHER ORDERED that American Telecommunications Systems, Inc. shall comply with the Staff recommendations set forth in Findings of Fact No. 10, which shall include the removal of the tariff section regarding prepaid telephone cards from its Arizona tariff until further ordered by the Commission.

IT IS FURTHER ORDERED that American Telecommunications Systems, Inc. shall not be authorized to charge customers any prepayments, advances or deposits. If in the future American Telecommunications Systems, Inc. desires to initiate such charges, it must file information with the Commission that demonstrates the company's financial viability. Staff shall review the information and file its recommendation concerning financial viability within thirty days of receipt of the financial information, for Commission approval.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


COMMISSIONER - CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, JACK ROSE, 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 16th day of July, 1998.


JACK ROSE
EXECUTIVE SECRETARY

DISSENT
BMB:dap

1 SERVICE LIST FOR: AMERICAN TELECOMMUNICATIONS SYSTEMS, INC.

2 DOCKET NO.: T-03339A-97-0124

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