

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



0000000145

ARIZONA CORPORATION COMMISSION

DATE: August 22, 2000
DOCKET NO.: T-03589A-00-0280
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Opinion and Order on:

Z-TEL COMMUNICATIONS, INC.
(CC&N/RESELLER)

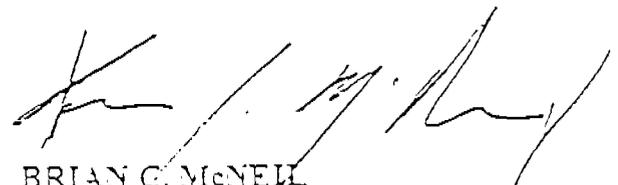
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 31, 2000

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:

SEPTEMBER 12, 2000 and SEPTEMBER 13, 2000

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


BRIAN G. McNEILL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF Z-
TEL COMMUNICATIONS, INC. FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 LOCAL EXCHANGE RESOLD
TELECOMMUNICATIONS SERVICES

DOCKET NO. T-03589A-00-0280

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: July 31, 2000
10 PLACE OF HEARING: Phoenix, Arizona
11 PRESIDING OFFICER: Alicia Grantham
12 APPEARANCES: Mr. Timothy Seat on behalf of Z-Tel Communications,
13 Inc.;
14 Mr. Christopher C. Kempley, Assistant Chief Counsel,
15 Legal Division, on behalf of the Utilities Division of the
Arizona Corporation Commission

16 **BY THE COMMISSION:**

17 Having considered the entire record herein and being fully advised in the premises, the
18 Commission finds, concludes, and orders that:

19 **FINDINGS OF FACT**

- 20 1. Z-Tel Communications, Inc. ("Z-Tel" or "Applicant") is a Delaware corporation,
21 authorized to do business in Arizona since 1998.
22 2. On April 27, 2000, Applicant filed with the Commission an application for a Certificate of
23 Convenience and Necessity ("Certificate") to provide competitive intrastate telecommunications
24 services as a facilities-based provider and reseller in Arizona.
25 3. On May 23, 2000, Applicant filed Affidavits of Publication indicating that public notice of
26 the application was published on May 15, 2000.
27 4. On July 5, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report,
28 which recommended approval of the application and included a number of additional

1 recommendations.

2 5. On July 18, 2000, Qwest Corporation ("Qwest"), formerly U S WEST Communications,
3 Inc., filed a Motion for Leave to Intervene, and was granted intervention on July 21, 2000.

4 6. On July 31, 2000, Counsel for Qwest stated they would be withdrawing from this matter.

5 7. Pursuant to the July 12, 2000 Procedural Order, a hearing was held on July 31, 2000, and
6 Applicant and Staff presented evidence.

7 8. Applicant stated in its testimony that Z-Tel will only be providing local exchange
8 residential services as a reseller in the State of Arizona.

9 9. Applicant has not procured an Interconnection Agreement with Qwest.

10 10. Staff has determined that the Applicant has the technical and management qualifications
11 in the telecommunications industry sufficient to provide quality service to Arizona customers.

12 11. It is appropriate to classify all of Applicant's authorized services as competitive.

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

15 13. According to Staff, Applicant submitted audited financial statements of its parent
16 company, Z-Tel Technologies, Inc. for the nine months ending September 30, 1999. These financials
17 list assets of \$24.96 million, negative stockholders' equity of \$23.05 million, negative retained
18 earnings of \$36.77 million, and a net loss of \$23.65 million on revenues of \$2.17 million. Based on
19 the financial information provided, Staff believes that Applicant lacks sufficient financial strength to
20 offer telecommunications services in Arizona absent the procurement of a performance bond.

21 14. Staff recommended that Z-Tel's application for a Certificate to provide competitive
22 intrastate telecommunications services be granted subject to the following conditions:

23 (a) That Applicant procure a performance bond equal to a minimum of 120 days
24 intrastate revenue as well as the amount of any prepayments and deposits collected
from the Applicant's customers;

25 (b) That Applicant be required to file its proposed tariffs within 30 days of an Order in
26 this matter, and in accordance with the Decision;

27 (c) That unless it provides services solely through the use of its own facilities,
28 Applicant procure an Interconnection Agreement before being allowed to offer local
exchange service;

1 (d) That Applicant file with the Commission its plan to have its customers' telephone
2 numbers included in the incumbent's Directories and Directory Assistance databases
3 within 30 days of an Order in this matter;

4 (e) That Applicant pursue permanent number portability arrangements with other
5 LECs pursuant to Commission rules, federal laws, and federal rules;

6 (f) That Applicant agree to abide by and participate in the AUSF mechanism
7 instituted in Decision No. 59623, dated April 24, 1996 (Docket No. R-0000-95-0498);

8 (g) That Applicant abide by the quality of service standards that were approved by the
9 Commission for USWC in Docket No. T-01051B-93-0183;

10 (h) That in areas where Applicant is the sole provider of local exchange service
11 facilities, Applicant will provide customers with access to alternative providers of
12 service pursuant to the provisions of Commission rules, federal laws, and federal
13 rules;

14 (i) That Applicant be required to certify, through the 911 service provider in the area
15 in which it intends to provide service, that all issues associated with the provision of
16 911 service have been resolved with the emergency service providers within 30 days
17 of an Order in this matter;

18 (j) That Applicant be required to abide by all the Commission decisions and policies
19 regarding CLASS services;

20 (k) That Applicant be required to provide 2-PIC equal access;

21 (l) That Applicant be required to inform the Commission immediately upon changes
22 to Applicant's address or telephone number; and,

23 (m) That Applicant be required to abide by all Commission rules and regulations.

24 14. At the hearing, Applicant agreed to abide by all of Staff's recommendation.

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. A.R.S. § 40-282 allows a telecommunications company to file an application for a
Certificate to provide competitive telecommunications services.

5. Pursuant to Article XV of the Arizona Constitution as well as the Arizona Revised
Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth
in its application.

6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide

1 competitive resold intrastate telecommunications services in Arizona.

2 7. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules, it is
3 just and reasonable and in the public interest for Applicant to establish rates and charges which are
4 not less than the Applicant's total service long-run incremental costs of providing the competitive
5 services approved herein.

6 8. Staff's recommendations in Findings of Fact No. 13 are reasonable and should be adopted.

7 **ORDER**

8 IT IS THEREFORE ORDERED that the Application of Z-Tel Communications, Inc. for a
9 Certificate of Convenience and Necessity for authority to provide competitive resold intrastate
10 telecommunications services in Arizona shall be, and is hereby, granted, as conditioned below.

11 IT IS FURTHER ORDERED that prior to providing local exchange service, Z-Tel
12 Communications Inc. shall comply with all of the Staff recommendations set forth in Findings of Fact
13 No. 13.

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

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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18 CHAIRMAN

COMMISSIONER

COMMISSIONER

19
20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
21 Secretary of the Arizona Corporation Commission, have
22 hereunto set my hand and caused the official seal of the
23 Commission to be affixed at the Capitol, in the City of Phoenix,
24 this ____ day of _____, 2000.

25 BRIAN C. McNEIL
EXECUTIVE SECRETARY

26 DISSENT _____
27 AG:dp

1 SERVICE LIST FOR:

Z-TEL COMMUNICATIONS, INC.

2 DOCKET NO.

T-03589A-00-0280

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