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BEFORE THE ARIZONA CORPORATION COMMISSION

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CARL J. KUNASEK

CHAIRMAN

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COMMISSIONER

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COMMISSIONER

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AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF  
EZTEL NETWORK SERVICES, LLC FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTRASTATE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE SERVICE

DOCKET NO. T-03833A-00-0062

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On February 1, 2000, ezTel Network Services, LLC ("Company") filed with Docket Control of the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive intrastate telecommunications services, except local exchange service, as a reseller within the State of Arizona. The Company is required to publish notice of its filing in newspapers in all counties where service is to be provided. The record shows that the Company has not published notice.

On August 29, 2000, the Arizona Court of Appeals, Division One, ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all public service corporations in Arizona prior to setting their rates and charges." Although that Opinion will more than likely be appealed to the Arizona Supreme Court, we are going to request FVRB information at this time to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are concerned that the cost and complexity of FVRB determinations must not offend the Telecommunications Act of 1996.

On October 31, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter.

The time frame for processing the Company's application shall be extended to March 30,

1 2001.

2 Pursuant to A.R.S. § 40-282, the Commission may act on an application for a Certificate to  
3 provide resold telecommunications services without a hearing, or with a hearing if one is requested  
4 by any party.

5 The Commission now issues this Procedural Order to govern the preparation and conduct of  
6 this proceeding.

7 IT IS THEREFORE ORDERED that the deadline for processing this application shall be  
8 March 30, 2001.

9 IT IS FURTHER ORDERED that the Company shall publish notice, as stated below, in  
10 newspapers in every county in Arizona in which Applicant desires to provide service by January 5,  
11 2001, and shall file Affidavits of Publication no later than January 26, 2001.

12  
13 **NOTICE OF APPLICATION FOR A CERTIFICATE**  
14 **OF CONVENIENCE AND NECESSITY TO PROVIDE**  
15 **COMPETITIVE RESOLD LOCAL EXCHANGE**  
16 **TELECOMMUNICATIONS SERVICES BY**  
17 **EZTEL NETWORK SERVICES, LLC**

18 EzTel Network Services, LLC ("Applicant") has filed with the Arizona  
19 Corporation Commission ("Commission") an application for a Certificate of Convenience  
20 and Necessity ("Certificate") to provide resold intrastate telecommunications services in  
21 the State of Arizona. Applicant will be required by the Commission to provide this  
22 service under the rates and charges and terms and conditions established by the  
23 Commission.

24 A.R.S. § 40-282 provides that the Commission may act on an application for a  
25 Certificate to provide resold telecommunications services without a hearing, or with a  
26 hearing, if one is requested by any party. Applicant or any other party must request a  
27 hearing by January 26, 2001, or the Commission will rule on the application without a  
28 hearing.

29 The application, report of the Commission's Utilities Division Staff, and any  
30 written exceptions to the Staff Report prepared by the Applicant are available for  
31 inspection during regular business hours at the offices of the Commission located at 1200  
32 West Washington Street, Phoenix, Arizona 85007, and at Applicant [address].

33 Under appropriate circumstances, interested parties may intervene in the  
34 proceedings and participate as a party. Intervention shall be in accordance with A.A.C.

1 R14-3-105, except that all motions to intervene must be filed on or before January 26,  
2 2001. You may have the right to intervene in the proceeding, or you may make a  
statement for the record. If you have any comments, mail them to:

3 The Arizona Corporation Commission  
4 Attention Docket Control  
5 Re: ezTel Network Services, LLC  
6 T-03833A-00-0062  
1200 West Washington Street  
7 Phoenix, AZ 85007

8 All comments should be received by January 26, 2001.

9 If you have any questions about this application or have any objections to its  
10 approval, you may contact the Consumer Services Section of the Commission at 1200  
11 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

12 The Commission does not discriminate on the basis of disability in admission to  
13 its public meetings. Persons with a disability may request reasonable accommodations  
14 such as a sign language interpreter, as well as request this document in an alternative  
15 format, by contacting Shelly Hood, ADA Coordinator, voice phone number 602/542-  
16 3931, E-Mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us). Requests should be made as early as possible to  
17 allow time to arrange the accommodations.

18 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105  
19 except that all motions to intervene must be filed on or before January 26, 2001.

20 IT IS FURTHER ORDERED that Company shall file its proposed FVRB within 30 days of  
21 the date of this Order (pursuant to A.A.C. R14-2-103(B), this may be the same as original cost rate  
22 base). The FVRB shall include a description and value of all plant and equipment (including the cost  
23 and location) currently held by Company and intended to be used to provide competitive  
24 telecommunications services to Arizona customers. In doing so, Company may use any reasonable  
25 means of asset allocation, direct assignment or combination. In the alternative, upon request made  
26 within 30 days of the date of this Order, Company may file its FVRB information at least 90 days  
27 prior to providing service.

28 IT IS FURTHER ORDERED that Company shall file information demonstrating how the  
value of its plant and equipment (both current and projected) is related to its minimum and maximum  
rates within 30 days of the date of this Order, if the alternative is chosen, or at least 90 days prior to  
providing service (such demonstration must include the amount of depreciation expense and capital

1 carrying costs related to the FVRB). In the alternative, Company must demonstrate that such rates  
2 and charges are not unreasonable and constitute a fair rate of return on rate base.

3 IT IS FURTHER ORDERED that Staff shall review the FVRB information filed and ascertain  
4 that Company is utilizing the appropriate amount of depreciation and capital carrying costs in  
5 determining its minimum and maximum rates.

6 IT IS FURTHER ORDERED that Staff shall file disagreements, if any, with the proposed  
7 FVRB and/or rates and charges, within 30 days of Company filing its FVRB information.

8 IT IS FURTHER ORDERED that if there are any disagreements with any FVRB information,  
9 then the Certificate shall be stayed pending resolution of the matter.

10 IT IS FURTHER ORDERED that failure to comply with this Order shall result in denial of  
11 the Company's application.

12 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
13 pursuant to Rule 6(a) or (e) of the Arizona Rules of Civil Procedure.

14 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive  
15 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

16 DATED this 16<sup>th</sup> day of December, 2000.

17  
18  
19   
20 ALICIA GRANTHAM  
ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed/delivered  
22 this 16<sup>th</sup> day of December, 2000 to:

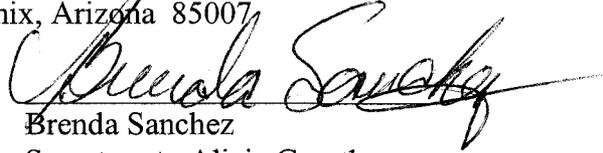
23 Patric Boggs  
EZTEL NETWORK SERVICES, LLC  
667-D Highway 51 North  
24 Ridgeland, MS 39157

25 Lance J.M. Steinhart  
6455 East Johns Crossing, Suite 285  
26 Duluth, Georgia 30097  
27 Attorney for Applicant

28 ...  
...

1 Lyn Farmer, Chief Counsel  
2 Legal Division  
3 ARIZONA CORPORATION COMMISSION  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6 Deborah Scott, Director  
7 Utilities Division  
8 ARIZONA CORPORATION COMMISSION  
9 1200 West Washington Street  
10 Phoenix, Arizona 85007

11 By:   
12 Brenda Sanchez  
13 Secretary to Alicia Grantham  
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