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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF
NEWPATH NETWORKS, LLC, FOR APPROVAL
OF A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE TRANSPORT AND
BACKHAUL TELECOMMUNICATIONS
SERVICES.

DOCKET NO. T-20567A-07-0662

PROCEDURAL ORDER

BY THE COMMISSION:

On November 26, 2007, Newpath Networks, LLC ("Newpath" or "Company") submitted to the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide transport and backhaul telecommunications services in Arizona ("Application").

On August 7, 2008, the Commission's Utilities Division ("Staff") filed a Letter of Insufficiency and First Set of Data Requests ("Data Requests") in this matter.

On August 15, 2008, Newpath filed its response to the Data Requests.

On October 31, 2008, Staff filed its Staff Report recommending approval of the Application.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the **hearing** on the above application shall commence on **March 25, 2009, at 10:00 a.m.** or as soon thereafter as is practical, at the Commission's offices, Hearing Room 100, 1200 West Washington Street, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that Company shall publish notice of the hearing as stated below, in a newspaper(s) of general circulation in every county in Arizona in which Company desires to provide service **as soon as possible, but no later than February 18, 2009**, and shall file Affidavits of Publication with the Commission no later than **March 2, 2009**.

1 **IN THE MATTER OF THE APPLICATION OF NEWPATH NETWORKS,**
2 **LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND**
3 **NECESSITY TO PROVIDE TRANSPORT AND BACKHAUL**
4 **TELECOMMUNICATIONS SERVICES.**
5 **Docket No. T-20567A-07-0662**

6 On November 26, 2007, Newpath Networks, LLC ("Company") submitted to the
7 Arizona Corporation Commission ("Commission") an application for a Certificate of
8 Convenience and Necessity ("Certificate") to provide transport and backhaul
9 telecommunications services. The Commission's Utilities Division ("Staff") has
10 recommended approval of the Company's application. The Commission is not bound
11 by the proposals made by the Company, Staff, or any intervenors, and the Company
12 will be required to provide this service under the rates and charges and terms and
13 conditions established by the Commission. Copies of the application, report of Staff,
14 and any written exceptions to the report of Staff filed by the Company will be
15 available at the Company's offices [insert address] and on the internet via the
16 Commission website (www.azcc.gov) using the e-docket function.

17 The Commission will hold a hearing on this matter beginning **March 25, 2009, at**
18 **10:00 a.m.**, at the Commission's offices, Hearing Room 100, 1200 West Washington,
19 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.
20 Written public comments may be submitted via email (visit
21 <http://www.azcc.gov/utility/cons/index.htm> for instructions), or by mailing a letter
22 referencing Docket Number T-20567A-07-0662 to: Arizona Corporation Commission,
23 Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007.

24 The law provides for an open public hearing at which, under appropriate
25 circumstances, interested parties may intervene. Intervention shall be permitted to any
26 person entitled by law to intervene and having a direct and substantial interest in the
27 matter. Persons desiring to intervene must file a written motion to intervene with the
28 Commission up to the day of the hearing. The motion to intervene must be sent to the
Company or its counsel and to all parties of record, and must contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different from the intervenor;
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Company, a shareholder of the Company, etc.); and
3. A statement certifying that a copy of the motion to intervene has been mailed to the Company or its counsel and to all parties of record in the case.

29 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
30 that all motions to intervene must be filed on or before March 4, 2009. If
31 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
32 Court, intervention will be conditioned upon the intervenor obtaining counsel to
33 represent the intervenor. For information about requesting intervention, visit the
34 Arizona Corporation Commission's webpage at
35 <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among
36 other things, entitles a party to present sworn evidence at hearing and to cross-examine
37 other witnesses.

1 If you have any questions about this application, you may contact the Company at
2 **[insert telephone number]**. If you wish to file written comments on the application
3 or want further information on intervention you may contact the Consumer Services
4 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007,
5 or call 1-800-222-7000.

6 The Commission does not discriminate on the basis of disability in admission to its
7 public meetings. Persons with a disability may request a reasonable accommodation
8 such as a sign language interpreter, as well as request this document in an alternative
9 format, by contacting the ADA Coordinator, Linda Hogan, at LHogan@azcc.gov,
10 voice phone number 602-542-3931. Requests should be made as early as possible to
11 allow time to arrange the accommodation.

12 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
13 105, except that all motions to intervene shall be filed by **March 4, 2009**.

14 IT IS FURTHER ORDERED that any objections to interventions shall be filed by **March 13,**
15 **2009**.

16 IT IS FURTHER ORDERED that Newpath or any intervenors shall file specific
17 disagreements/comments, if any, regarding the Staff Report by **March 16, 2009**.

18 **IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the**
19 **Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law in**
20 **Arizona and before the Commission and admission *pro hac vice*.**

21 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
22 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
23 Rules of Arizona Supreme Court). Representation before the Commission includes appearance at all
24 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
25 for discussion, unless counsel has previously been granted permission to withdraw by the
26 Administrative Law Judge or the Commission.

27 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
28 Communications) applies to this proceeding and shall remain in effect until the Commission's
Decision in this matter is final and non-appealable.

...

...

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

3 Dated this 7th day of November, 2008.

4
5 
6 BELINDA A. MARTIN
7 ADMINISTRATIVE LAW JUDGE

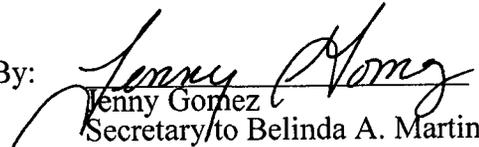
8 Copies of the foregoing mailed/delivered
9 this 6th day of November, 2008 to:

10 Jamie T. Hall, Esq.
11 Martha Hudak, Esq.
12 CHANNEL LAW GROUP, LLP
13 100 Oceangate, Suite 1400
14 Long Beach, California 90802

15 Janice Alward, Chief Counsel
16 Legal Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, AZ 85007

20 Ernest G. Johnson, Director
21 Utilities Division
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, AZ 85007

25 ARIZONA REPORTING SERVICE, INC.
26 2200 North Central Ave., Suite 502
27 Phoenix, Arizona 85004-1184

28
By: 
Jenny Gomez
Secretary to Belinda A. Martin