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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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Arizona Corporation Commission

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DOCKETED BY [Signature]

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.

On November 12, 2008, a Procedural Order was issued setting a hearing in this matter for March 25, 2008, and establishing certain deadlines and procedural guidelines.

On November 19, 2008, NewPath filed correspondence requesting that the March 25, 2008, hearing in this matter be vacated and that an earlier hearing date be set. Staff did not object to the Company's request.

IT IS THEREFORE ORDERED that the hearing currently scheduled March 25, 2009, at 10:00 a.m. at the Commission's offices, Hearing Room 100, 1200 West Washington Street, Phoenix, Arizona 85007, is hereby vacated.

IT IS FURTHER ORDERED that the hearing in this matter shall commence on February 18, 2009, at 10:00 a.m. at the Commission's offices, Hearing Room 100, 1200 West Washington,

1 Phoenix, Arizona 85007.

2 **IT IS FURTHER ORDERED** that all parties must comply with Rules 31 and 38 of the
3 **Rules of the Arizona Supreme Court and A.R.S. § 40-243 (“Rules”)** with respect to practice of
4 **law in Arizona and before the Commission and admission *pro hac vice*.** Therefore, unless
5 **counsel for NewPath is admitted to practice in Arizona, counsel must file an Application for**
6 **Admission *Pro Hac Vice* no later than January 19, 2009, pursuant to the above-stated Rules, or,**
7 **alternatively, engage counsel admitted to practice in Arizona.**

8 **IT IS FURTHER ORDERED** that Company shall publish notice of the hearing as stated
9 below, in a newspaper(s) of general circulation in every county in Arizona in which Company desires
10 to provide service **as soon as possible, but no later than January 19, 2009,** and shall file Affidavits
11 of Publication with the Commission no later than **February 2, 2009.**

12 **IN THE MATTER OF THE APPLICATION OF NEWPATH NETWORKS,**
13 **LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND**
14 **NECESSITY TO PROVIDE TRANSPORT AND BACKHAUL**
15 **TELECOMMUNICATIONS SERVICES.**
16 **Docket No. T-20567A-07-0662**

17 On November 26, 2007, NewPath Networks, LLC (“Company”) submitted to the
18 Arizona Corporation Commission (“Commission”) an application for a Certificate of
19 Convenience and Necessity (“Certificate”) to provide transport and backhaul
20 telecommunications services. The Commission’s Utilities Division (“Staff”) has
21 recommended approval of the Company’s application. The Commission is not bound
22 by the proposals made by the Company, Staff, or any intervenors, and the Company
23 will be required to provide this service under the rates and charges and terms and
24 conditions established by the Commission. Copies of the application, report of Staff,
25 and any written exceptions to the report of Staff filed by the Company will be
26 available at the Company’s offices [insert address] and on the internet via the
27 Commission website (www.azcc.gov) using the e-docket function.

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

The law provides for an open public hearing at which, under appropriate
circumstances, interested parties may intervene. Intervention shall be permitted to any
person entitled by law to intervene and having a direct and substantial interest in the
matter. Persons desiring to intervene must file a written motion to intervene with the
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 1. The name, address, and telephone number of the proposed intervenor
2 and of any party upon whom service of documents is to be made if
 different from the intervenor;
- 3 2. A short statement of the proposed intervenor's interest in the
4 proceeding (e.g., a customer of the Company, a shareholder of the
 Company, etc.); and
- 5 3. A statement certifying that a copy of the motion to intervene has been
6 mailed to the Company or its counsel and to all parties of record in the
 case.

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

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

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

19 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
20 105, except that all motions to intervene shall be filed by **January 30, 2009**.

21 IT IS FURTHER ORDERED that any objections to interventions shall be filed by **February**
22 **9, 2009**.

23 IT IS FURTHER ORDERED that Newpath or any intervenors shall file specific
24 disagreements/comments, if any, regarding the Staff Report by **February 11, 2009**.

25 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
26 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
27 Rules of Arizona Supreme Court). Representation before the Commission includes appearance at all
28 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled

1 for discussion, unless counsel has previously been granted permission to withdraw by the
2 Administrative Law Judge or the Commission.

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

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

8 Dated this 8th day of December, 2008.

9
10 
11 BELINDA A. MARTIN
12 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered
14 this 8th day of December, 2008 to:

15 Jamie T. Hall, Esq.
16 Martha Hudak, Esq.
17 CHANNEL LAW GROUP, LLP
18 100 Oceangate, Suite 1400
19 Long Beach, California 90802

20 Janice Alward, Chief Counsel
21 Legal Division
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, AZ 85007

25 Ernest G. Johnson, Director
26 Utilities Division
27 ARIZONA CORPORATION COMMISSION
28 1200 West Washington Street
Phoenix, AZ 85007

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

29 By: 
30 Belinda A. Martin