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BEFORE THE ARIZONA CORPORATION COMMISSION

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2009 JUL 13 P 3: 51

AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

JUL 13 2009

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IN THE MATTER OF THE APPLICATION OF)
EXTENET SYSTEMS, INC. FOR APPROVAL OF)
A CERTIFICATE OF CONVENIENCE AND)
NECESSITY TO PROVIDE PRIVATE LINE)
POINT-TO-POINT FIBER TRANSPORT SERVICE))
FOR WIRELESS SERVICE PROVIDERS.)
)
)

DOCKET NO. T-20597A-08-0320

**Motion for
Procedural Conference**

ExteNet Systems, Inc. ("ExteNet") respectfully requests that the Administrative Law Judge schedule a procedural conference to discuss the status of this matter, so that any concerns or issues may be addressed and ExteNet may receive its Certificate of Convenience and Necessity ("CC&N") expeditiously.

ExteNet seeks a CC&N to offer wholesale private line transport services to wireless service providers. On December 24, 2008, Commission Staff filed a Staff Report recommending approval. On January 14, 2008, ExteNet filed a motion to expedite the hearing, noting that it has customers who are waiting for service. On January 16, the Administrative Law Judge granted the motion and rescheduled the hearing for February 14, 2009. The hearing was held on February 14. No persons, entities or cities have objected, sought to intervene, or provided public comment against the application.

It has been nearly 5 months since the hearing. Typically, and even under the Commission's difficult budget and staffing situation, in an uncontested telecommunications certificate case, a Recommended Opinion and Order ("ROO") would be issued by this point. Given the expedited treatment previously granted, and the unexpected delay in issuing the ROO, ExteNet surmises that some factor has arisen to delay issuance of the ROO.

1 Possibly, the delay is related to controversy in another case involving a carrier using similar
2 technology, NewPath Networks (Docket No. T-20567A-07-0662). In that case, Scottsdale notified
3 the Commission of a dispute it had regarding New Path's operations, which allegedly, began prior
4 to New Path receiving a CC&N. Scottsdale has since withdrawn its opposition to NewPath's
5 CC&N application. Two cities nearby Scottsdale have adopted Scottsdale's concerns by reference.

6 The concerns raised in the NewPath case do not apply to this case. ExteNet does not have
7 hostile relations with the cities it seeks to serve. No person, entity or city has opposed ExteNet's
8 application. Staff has recommended approval. Moreover, the Commission has recently approved
9 similar certificate applications. *See NextG Networks of California, Inc.*, Decision No. 68915 (Aug.
10 29, 2006) (granting certificate to "provide private line and intrastate access services in order to
11 supply transport and backhaul telecommunications services to other carriers"); *Tower Cloud, Inc.*,
12 Decision No. 70385 (June 13, 2008) (granting certificate for "competitive special access
13 telecommunications services" to provide "facilities-based telecommunications services to wireless
14 communications carriers"). In addition, ExteNet is authorized to provide service in 22 states and
15 the District of Columbia, including seven states where it provides services similar to those
16 requested in this case.¹

17 ExteNet has customers who are waiting for service. Thus, if the delay relates to the
18 NewPath case, or to other factual or legal issues, it is appropriate to have a procedural conference
19 to discuss the status of this docket. Of course, if the delay is simply due to the current budget and
20 staffing situation, ExteNet is sympathetic and no procedural conference is needed.

21 In order to ensure that ExteNet can comprehensively address any issue related to its CC&N
22 application, it will have in attendance all legal representatives who have been involved with the
23 application, including ExteNet's local counsel. ExteNet requests that the conference be scheduled
24 as soon as possible. In order to permit its out-of-state representatives to attend the conference,
25 ExteNet requests that the conference be scheduled on July 15, 17, 20, or 21. If those dates are not
26

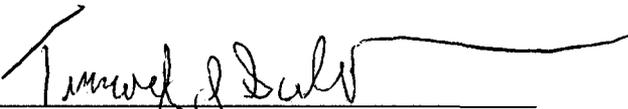
27 _____
¹ Staff Report dated December 24, 2008 at 2.

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1 possible, then ExteNet requests that the conference be scheduled the following week between July
2 27 and 29.

3 RESPECTFULLY SUBMITTED this 13th day of July 2009.

4 ROSKA DEWULF & PATTEN, PLC

5
6 By 

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8 Timothy J. Sabo
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10 Attorneys for ExteNet Systems, Inc.

11 Original and 13 copies of the foregoing
12 filed this 13th day of July 2009 with:

13 Docket Control
14 Arizona Corporation Commission
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15 Copy of the foregoing hand-delivered/mailed
16 this 13th day of July 2009 to:

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