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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

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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") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide transport and backhaul telecommunications services to wireless carriers in Arizona.

On October 31, 2008, the Commission's Utilities Division ("Staff") filed a Staff Report recommending approval of NewPath's application, subject to certain conditions.

On February 18, 2009, a hearing was held as scheduled before a duly authorized Administrative Law Judge of the Commission. NewPath and Staff appeared through counsel and presented testimony. During the hearing several members of the public appeared to give public comment, raised concerns that the hearing date had been expedited, and stated they desired to file for intervention in this matter. Subsequently, the matter was scheduled for a second day of hearing.

On April 10, 2009, the Town of Carefree ("Carefree"), the Town of Paradise Valley ("Paradise Valley"), and the City of Scottsdale ("Scottsdale") filed Motions to Intervene in this matter. On April 17, 2009, a Procedural Order was issued granting said Motions to Intervene. Subsequently, Scottsdale settled its issues with NewPath and requested and was granted withdrawal from this proceeding.

On August 24, 2009, by Procedural Order, NewPath and Staff were each directed to file, by September 15, 2009, a brief addressing the issues raised in this proceeding. The Procedural Order

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1 also ordered that responsive briefs could be filed by any party no later than September 29, 2009.

2 On September 15, 2009, Staff filed a request for an extension of time to file its brief, until  
3 September 18, 2009, because counsel for Staff had just returned from out of town due to an  
4 unexpected family situation.

5 On September 16, 2009, by Procedural Order, Staff's request for an extension of time was  
6 granted and the time for filing responsive briefs was extended.

7 On October 1, 2009, Carefree filed a request for an extension of time to file its brief on the  
8 issues raised by Staff and NewPath. Carefree requests additional time to negotiate a resolution with  
9 NewPath and requests an extension of time, until October 21, 2009, to file its reply brief.

10 On October 2, 2009, Paradise Valley filed a motion to withdraw as party (with prejudice) and  
11 notice of withdrawal of its hearing memorandum by Paradise Valley ("Motion"). According to the  
12 Motion, Paradise Valley has entered into an agreement with NewPath that establishes a working  
13 relationship on a going-forward basis.

14 Good cause has been shown for granting Carefree's request and Paradise Valley's motion.

15 IT IS THEREFORE ORDERED that **Carefree's** request for an extension of time, **until**  
16 **October 21, 2009**, to file its reply brief in this matter is hereby granted.

17 IT IS FURTHER ORDERED that Paradise Valley's motion to withdraw as a party (with  
18 prejudice) and request to withdraw its hearing memorandum are hereby granted.

19 IT IS FURTHER ORDERED that all other procedural guidelines set forth in the June 30,  
20 2009, Procedural Order remain in effect.

21 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
22 Communications) continues to apply to this proceeding.

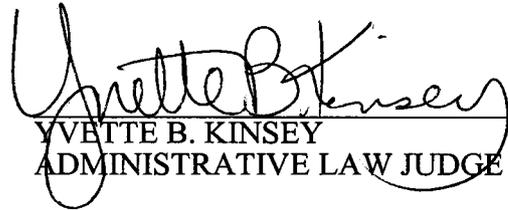
23 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
24 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*  
25 *hac vice*.

26 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
27 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
28 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation

1 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the  
2 matter is scheduled for discussion, unless counsel has previously been granted permission to  
3 withdraw by the Administrative Law Judge or the Commission.

4 IT IS FURTHER ORDERED that that the time clock in the matter remains suspended.

5 Dated this 10th day of October, 2009.

8   
9 YVETTE B. KINSEY  
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered  
12 this 10th day of October, 2009 to:

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