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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

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

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
TELEQUALITY COMMUNICATIONS, INC. FOR  
APPROVAL OF A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
PRIVATE LINE DATA SERVICES.

DOCKET NO. T-20626A-08-0484

PROCEDURAL ORDER

BY THE COMMISSION:

On September 19, 2008, TeleQuality Communications, Inc. ("TeleQuality"), filed with the Arizona Corporation Commission ("Commission") an application requesting a Certificate of Convenience and Necessity ("CC&N") to provide resold and facilities-based private line data services and that its services be classified as competitive. TeleQuality described the services to be rendered as resold and facilities-based, non-switched, dedicated point-to-point data transport telecommunications services.

On June 5, 2009, TeleQuality filed a revised tariff, specifying that certain changes had been made in response to Data Requests from the Commission's Utilities Division Staff ("Staff").

On September 18, 2009, TeleQuality filed additional revised tariff pages.

On July 23, 2010, Staff issued a Staff Report, recommending approval of the amended application, with conditions, including a condition to obtain a performance bond or irrevocable sight draft letter of credit in the amount of \$225,000.

On July 26, 2010, a Procedural Order was issued scheduling a hearing in this matter to commence on September 28, 2010, at the Commission's offices in Phoenix, Arizona; requiring TeleQuality to publish notice of its application and the hearing; requiring TeleQuality to file any disagreements or comments regarding the Staff Report; requiring Staff to file copies of Staff's Data Requests issued to TeleQuality; requiring TeleQuality to file copies of its data responses provided to Staff; requiring TeleQuality to file an affidavit of publication; and establishing other procedural

1 requirements and deadlines.

2 On August 17, 2010, Staff filed copies of Staff's first and second data requests, issued on  
3 November 14, 2008, and June 29, 2009, respectively.

4 On August 23, 2010, TeleQuality filed copies of its responses to Staff's first and second data  
5 requests;<sup>1</sup> an Affidavit of Publication showing that notice was published in *The Arizona Republic* on  
6 August 13, 2010; and a Response to Staff Report and Amendment to Application ("Response"). In  
7 the Response, TeleQuality stated that it desires to amend its application by eliminating its request for  
8 facilities-based authority, both because it had not intended initially to provide facilities-based service  
9 and because of the "prohibitive nature of the performance bond requirement for doing so."  
10 TeleQuality stated that it will only seek resold private line authority. TeleQuality requested that the  
11 hearing in this matter be vacated and stated that Staff agrees that a hearing is not necessary or  
12 required. TeleQuality further requested that the performance bond requirement be reduced to  
13 \$25,000, to be consistent with the performance bond requirement for a resold local exchange  
14 provider, and added that it does not intend to collect deposits and that Staff agrees that \$25,000 is the  
15 appropriate amount.

16 Although TeleQuality has determined that it no longer desires to obtain facilities-based  
17 authority, its application and data responses, and the Staff Report issued in this matter, appear to be  
18 based on a business model that will include some Arizona-based facilities. Both the application and  
19 the Staff Report state that TeleQuality's Arizona assets will have a net book value of \$50,000. As  
20 TeleQuality has also stated that it does not intend to have any employees in Arizona, this strongly  
21 suggests that TeleQuality expects to have \$50,000 in Arizona-based plant assets. Thus, it is unclear  
22 whether it would be appropriate under A.R.S. § 40-282 for the Commission to consider TeleQuality's  
23 CC&N application without holding a hearing. In addition, because public notice of the hearing has  
24 already been published, it would be necessary for the scheduled hearing to convene at least for the  
25 taking of public comment even if an evidentiary hearing were not necessary.

26 Because the record in the case is somewhat stale and incomplete, in that it is apparently based  
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28 <sup>1</sup> There is no issuance date discernible for the responses to Staff's first data request. It appears that the response to Staff's second data request were issued on July 8, 2009.

1 on a business model other than that now intended to be used by TeleQuality, and because it appears  
2 that TeleQuality will have Arizona-based plant assets, it is appropriate to hold a hearing in this matter  
3 as previously scheduled.

4 IT IS THEREFORE ORDERED that the **hearing scheduled for September 28, 2010, shall**  
5 **proceed as scheduled.**

6 IT IS FURTHER ORDERED that all other provisions of the Procedural Order issued on July  
7 26, 2010, shall remain in effect.

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

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

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

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

22 Dated this 25<sup>th</sup> day of August, 2010.

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SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

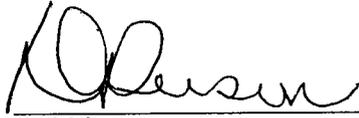
1 Copies of the foregoing mailed/delivered  
this 25<sup>th</sup> day of August, 2010, to:

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