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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION  
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COMMISSIONERS

GARY PIERCE  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

DOCKET NO. T-20805A-11-0221

IN THE MATTER OF THE APPLICATION OF  
HYPERCUBE TELECOM, LLC FOR  
APPROVAL OF A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO  
PROVIDE RESOLD AND FACILITIES-BASED  
LOCAL EXCHANGE AND LONG DISTANCE  
TELECOMMUNICATIONS SERVICES.

PROCEDURAL ORDER

**BY THE COMMISSION:**

On May 31, 2011, Hypercube Telecom, LLC ("Hypercube") filed with the Arizona Corporation Commission ("Commission") an application for approval of a Certificate of Convenience and Necessity ("CC&N") to provide resold and facilities-based local exchange and long distance telecommunications services in Arizona ("Application"). Hypercube's Application also requests a determination that its proposed services are competitive in Arizona. Hypercube's Application was signed by George C. Myers, as Hypercube's Chief Financial Officer, and was filed by Connie Wightman, who is identified as a Consultant with Technologies Management Inc. and not as a member of the State Bar of Arizona or of any other jurisdiction.

On October 24, 2011, Ms. Wightman filed Hypercube's responses to the first set of data requests from the Commission's Utilities Division ("Staff"), along with Hypercube's proposed tariffs for local, interexchange, and access services.

On December 1, 2011, Ms. Wightman filed Hypercube's revised proposed local, interexchange, and access tariffs.

On December 2, 2011, Ms. Wightman filed a copy of a Protective Agreement that appears to have been executed on November 30, 2011, by counsel for Staff and Ms. Wightman for Hypercube.

On December 22, 2011, Staff filed a Staff Report recommending approval of Hypercube's application subject to certain conditions.

1           Because Hypercube's application requests CC&N authorization to provide facilities-based  
2 telecommunications services, it is necessary to schedule an evidentiary hearing in this matter and to  
3 establish other procedural requirements and deadlines related thereto. In addition, because it appears  
4 that Hypercube has not retained counsel to represent Hypercube in this matter, and because no  
5 documentation has been provided to establish Ms. Wightman's legal eligibility to represent  
6 Hypercube in this matter, it is also necessary and appropriate to require Hypercube to familiarize  
7 itself with the requirements for representation before the Commission and to make a filing  
8 demonstrating that those requirements will be met.

9           Each party to a matter before the Commission is required to be represented by an active  
10 member of the State Bar of Arizona; by an individual authorized to represent the party as provided  
11 under Arizona Supreme Court Rule 31<sup>1</sup> or 38; or by the party on his or her own behalf, if the party is  
12 an individual. Hypercube will be required to familiarize itself with the provisions of these rules and  
13 to make a filing identifying Hypercube's desired representative and providing all necessary  
14 documentation to establish that representative's legal eligibility to serve as Hypercube's  
15 representative.

16           IT IS THEREFORE ORDERED that **Hypercube shall, by February 1, 2012, make a filing**  
17 identifying its intended representative and providing all necessary documentation to establish that its  
18 intended representative is legally eligible to serve as Hypercube's representative as provided under  
19 Arizona Supreme Court Rules 31, 38, and 42, as applicable.

20           IT IS FURTHER ORDERED that the **hearing** on Hypercube's application shall commence  
21 on **March 8, 2012, at 10:00 a.m.**, or as soon thereafter as is practicable, at the Commission's offices,  
22 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona 85007.

23           IT IS FURTHER ORDERED that **Hypercube shall, by February 8, 2012, publish notice** of  
24 the application and the hearing date, as stated below, in a newspaper of general circulation in every  
25 county in Arizona in which Hypercube desires to provide service.

26  
27 \_\_\_\_\_  
28 <sup>1</sup> The State Bar of Arizona has stated, in UPL Advisory Opinion UPL 06-01 (April 2006), that the first exception  
within Arizona Supreme Court Rule 31(d)(13) does not apply to Commission proceedings, as Commission proceedings  
are not related to tax disputes.

1                    **IN THE MATTER OF THE APPLICATION OF HYPERCUBE TELECOM,**  
2                    **LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND**  
3                    **NECESSITY TO PROVIDE RESOLD AND FACILITIES-BASED LOCAL**  
4                    **EXCHANGE AND LONG DISTANCE TELECOMMUNICATIONS**  
5                    **SERVICES IN ARIZONA.**  
6                    **(DOCKET NO. T-20805A-11-0221)**

7                    On May 31, 2011, Hypercube Telecom, LLC (“Hypercube”) filed with the Arizona  
8                    Corporation Commission (“Commission”) an application for approval of a Certificate  
9                    of Convenience and Necessity (“CC&N”) to provide resold and facilities-based local  
10                    exchange and long distance telecommunications services in Arizona (“Application”).  
11                    Hypercube’s Application also requests a determination that its proposed services are  
12                    competitive in Arizona. The Commission’s Utilities Division (“Staff”) has  
13                    recommended approval of Hypercube’s Application, subject to certain conditions.  
14                    The Commission will issue a Decision following consideration of testimony and  
15                    evidence presented at an evidentiary hearing. The Commission is not bound by the  
16                    proposals made by Hypercube, Staff, or any intervenors. Hypercube will be required  
17                    to provide service under the rates, charges, terms, and conditions established by the  
18                    Commission. Copies of the Application, Staff Report, and any written objections to  
19                    the Staff Report filed by Hypercube or intervenor(s) will be available at Hypercube’s  
20                    offices [Insert Company Address]; at the Commission’s Docket Control Center at  
21                    1200 West Washington, Phoenix, Arizona; and on the internet via the Commission  
22                    website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function.

23                    The Commission will hold a hearing on Hypercube’s application on **March 8, 2012,**  
24                    **at 10:00 a.m.,** at the Commission’s offices, 1200 West Washington Street, Hearing  
25                    Room No. 2, Phoenix, Arizona. Public comments will be taken on the first day of the  
26                    hearing. Written public comments may be submitted via e-mail (for instructions go to  
27                    <http://www.azcc.gov/Divisions/Utilities/forms/PublicCommentForm.pdf>) or  
28                    by mailing a letter referencing Docket No. T-20805A-11-0221 to: Arizona  
29                    Corporation Commission, Consumer Services Section, 1200 West Washington Street,  
30                    Phoenix, AZ 85007. If you require assistance, you may contact the Consumer  
31                    Services Section at 1-800-222-7000 or 602-542-4251.

32                    The law provides for an open public hearing at which, under appropriate  
33                    circumstances, interested parties may intervene. Any person or entity entitled by law  
34                    to intervene and having a direct and substantial interest in the matter will be permitted  
35                    to intervene. If you would like to intervene, you must file a written motion to  
36                    intervene with the Commission, and you must send copies of the motion to  
37                    Hypercube or its counsel and to all parties of record in the case. Your motion to  
38                    intervene must contain the following:

- 39                    1. The name, address and telephone number of the proposed intervenor and of  
40                    any person upon whom service of documents is to be made if different from  
41                    the intervenor;
- 42                    2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,  
43                    a customer of Hypercube, a shareholder of Hypercube, etc.);
- 44                    3. A statement certifying that a copy of the motion to intervene has been mailed  
45                    to Hypercube or its counsel and to all parties of record in the case; and
- 46                    4. If you are not represented by an attorney who is an active member of the  
47                    Arizona State Bar, and are not representing yourself as an individual, a

1 statement with information and any appropriate documentation demonstrating  
2 compliance with Arizona Supreme Court Rules 31, 38, and 42, as applicable.

3 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
4 that all motions to intervene must be filed on or before February 24, 2012. The  
5 granting of intervention, among other things, entitles a party to present sworn  
6 evidence at the hearing and to cross examine other witnesses. However, failure to  
7 intervene will not preclude any interested person from appearing at the hearing and  
8 making a statement on the person's own behalf. If representation by counsel is  
9 required by Arizona Supreme Court Rules, intervention will be conditioned upon the  
10 intervenor obtaining counsel to represent the intervenor.

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

17 IT IS FURTHER ORDERED that **Hypercube shall file an Affidavit of Publication** with the  
18 Commission **no later than February 24, 2012**.

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 **February 24, 2012**.

21 IT IS FURTHER ORDERED that any **objections to intervention(s)** shall be filed by **March**  
22 **2, 2012**.

23 IT IS FURTHER ORDERED that **Hypercube shall file any specific**  
24 **disagreements/comments regarding the Staff Report by February 3, 2012**.

25 IT IS FURTHER ORDERED that any **intervenor** shall file any specific  
26 **disagreement/comments regarding the Application and/or Staff Report by March 2, 2012**.

27 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
28 31, 38, and 42 with respect to practice of law in Arizona and before the Commission.

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

1 Law Judge or the Commission.

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

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

7 Dated this 9th day of January, 2012.

8  
9  
10   
11 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

12 Copies of the foregoing mailed/delivered  
13 this 9th day of January, 2012, to:

14 Karen Turner  
15 Manager-Regulatory Compliance  
HYPERCUBE TELECOM, LLC  
16 3200 West Pleasant Run Road, Suite 300  
Lancaster, TX 75146

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

19 Steven M. Olea, Director  
20 Utilities Division  
ARIZONA CORPORATION COMMISSION  
21 1200 West Washington Street  
Phoenix, AZ 85007

22 ARIZONA REPORTING SERVICE, INC.  
23 2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004-1184

24 **Courtesy Copy provided to:**

25 Connie Wightman, Consultant  
26 TECHNOLOGIES MANAGEMENT, INC.  
2600 Maitland Center Parkway, Suite 300  
27 Maitland, FL 32751

28  
By:   
Debra Broyles  
Secretary to Sarah N. Harpring