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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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DOUG LITTLE – Chairman
BOB STUMP
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TOM FORESE
ANDY TOBIN

JUN 21 2016

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY *[Signature]*

IN THE MATTER OF THE APPLICATION OF XYN COMMUNICATIONS, LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATION SERVICES.

DOCKET NO. T-20968A-16-0158

PROCEDURAL ORDER
(Schedules a Hearing)

BY THE COMMISSION:

On May 19, 2016, XYN Communications, LLC (“XYN” or “Applicant”) filed with the Arizona Corporation Commission (“Commission”) an application for a Certificate of Convenience and Necessity (“CC&N”) to provide facilities-based local exchange telecommunication services within the State of Arizona.

On June 17, 2016, the Commission’s Utilities Division (“Staff”) filed a Sufficiency Letter stating that XYN’s application for a CC&N had met the sufficiency requirements as outlined in the Arizona Administrative Code (“A.A.C.”).

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall be held on **September 20, 2016, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission’s office, 1200 West Washington St., Hearing Room No. 1, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that XYN shall **publish by August 15, 2016, notice of the application and hearing date** in a newspaper of general circulation in the proposed service areas, in the following form and style with the heading in no less than 10-point bold type and the body in no less than 6-point regular type:

1 **IN THE MATTER OF THE APPLICATION OF XYN COMMUNICATIONS,**
2 **LLC FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND**
3 **NECESSITY TO PROVIDE FACILITIES-BASED LOCAL EXCHANGE**
4 **TELECOMMUNICATION SERVICES.**
5 **DOCKET NO. T-20968A-16-0158**

6 On May 19, 2016, XYN Communications, LLC (“XYN” or “Applicant”) filed with the
7 Arizona Corporation Commission (“Commission”) an application for a Certificate of
8 Convenience and Necessity (“CC&N”), to provide facilities-based local exchange
9 telecommunication services within the State of Arizona.

10 The Commission’s Utilities Division (“Staff”) has not yet made a recommendation
11 regarding the application. **The Commission is not bound by the proposals made by**
12 **XYN, Staff, or any intervenors.** The Commission will issue a Decision regarding the
13 application following consideration of testimony and evidence presented at an
14 evidentiary hearing.

15 **How You Can View or Obtain a Copy of the Application**

16 A copy of the application is available at XYN’s offices [insert addresses]; at the
17 Commission’s Docket Control Center at 1200 West Washington, Phoenix, Arizona, for
18 public inspection during regular business hours; and on the Commission’s website
19 (www.azcc.gov) using the e-Docket function.

20 **Arizona Corporation Commission Public Hearing Information**

21 The Commission will hold a hearing on the application on **September 20, 2016, at**
22 **10:00 a.m.**, at the Commission’s offices, in Hearing Room No. 1, 1200 West
23 Washington, Phoenix, Arizona. Public comments will be taken **on the first day** of the
24 hearing.

25 Written public comments may be submitted by mailing a letter referencing Docket No.
26 **T-20968A-16-0158** to the Arizona Corporation Commission, Consumer Services
27 Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting comments on
28 the Commission’s website (www.azcc.gov) using the “Submit a Public Comment for a
Utility” function. If you require assistance, you may contact the Consumer Services
Section at 602-542-4251 or 1-800-222-7000 (outside the metro Phoenix area).

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances,
interested parties may intervene. Any interested person may be granted intervention if
the outcome of the case will directly and substantially impact the person, and the
person’s intervention will not unduly broaden the issues in the case. Intervention,
among other things, entitles a party to present sworn evidence at hearing and to cross-
examine other parties’ witnesses. However, failure to intervene will not preclude any
interested person or entity from appearing at the hearing and providing public comment
on the application or from filing written comments in the record of the case.

To request intervention, you must file an **original and 13 hard copies** of a written
request to intervene with Docket Control, 1200 West Washington, Phoenix, AZ 85007,
no later than August 29, 2016. You also **must** serve a copy of the request to intervene

1 on each party of record, on the same day that you file the request to intervene with the
 2 Commission. Information about intervention and sample intervention requests are
 3 available on the Commission's website (www.azcc.gov) using the "Intervention in
 4 Utility Cases" link.

5 Your request to intervene must contain the following:

- 6 1. Your name, address, and telephone number and the name, address,
 7 and telephone number of any party upon whom service of documents
 8 is to be made, if not yourself;
- 9 2. A reference to **Docket No. T-20968A-16-0158**;
- 10 3. A short statement explaining:
 - 11 a. Your interest in the proceeding (e.g., a customer of the Company,
 12 etc.);
 - 13 b. How you will be directly and substantially affected by the
 14 outcome of the case; and
 - 15 c. Why your intervention will not unduly broaden the issues in the
 16 case;
- 17 4. A statement certifying that you have served a copy of the request to
 18 intervene on the utility or its attorney and all other parties of record
 19 in the case; and
- 20 5. If you are not represented by an attorney who is an active member of
 21 the Arizona State Bar, and you are not representing yourself as an
 22 individual, sufficient information and any appropriate
 23 documentation to demonstrate compliance with Arizona Supreme
 24 Court Rules 31, 38, 39, and 42, as applicable.

25 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
 26 that all motions to intervene must be filed on or before August 29, 2016.

27 **ADA/Equal Access Information**

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

IT IS FURTHER ORDERED that XYN shall **file certification of publication** as soon as
 practicable after publication has been completed, but not later than **4:00 p.m. on August 29, 2016.**

IT IS FURTHER ORDERED that the **Staff Report** and associated exhibits to be presented at
 hearing shall be reduced to writing and filed on or before **4:00 p.m. on August 22, 2016.**

IT IS FURTHER ORDERED that any objections to the Staff Report shall be reduced to writing
 and filed on or before **4:00 p.m. on September 13, 2016.**

IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
 except that all motions to intervene must be filed on or before **4:00 p.m. on August 29, 2016.**

1 IT IS FURTHER ORDERED that any objections to any Motions to Intervene shall be filed on
2 or before **4:00 p.m. on September 13, 2016.**

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

6 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
7 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

14 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this
15 matter may opt to receive service of all filings in this docket, including all filings by parties and all
16 Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the
17 Commission's Hearing Division, via email sent to an email address provided by the party rather than
18 via U.S. Mail. To exercise this option, a party shall:

- 19 1. Ensure that the party has a valid and active email address to which the party has regular
20 and reliable access ("designated email address");
- 21 2. Complete a Consent to Email Service using the form available on the Commission's
22 website (www.azcc.gov) or a substantially similar format;
- 23 3. File the original and 13 copies of the Consent to Email Service with the Commission's
24 Docket Control, also providing service to each party to the service list;
- 25 4. Send an email, containing the party's name and the docket number for this matter, to
26 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow
27 the Hearing Division to verify the validity of the designated email address;

1 5. Understand and agree that service of a document on the party shall be complete upon
2 the sending of an email containing the document to the designated email address,
3 regardless of whether the party receives or reads the email containing the document;
4 and

5 6. Understand and agree that the party will no longer receive service of filings in this
6 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless
7 and until the party withdraws this consent through a filing made in this docket.

8 IT IS FURTHER ORDERED that a party's consent to email service shall not become effective
9 until a Procedural Order is issued approving the use of email service for the party. The Procedural
10 Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing
11 Division has verified receipt of an email from the party's designated email address.

12 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter
13 via email does not change the requirement that all filings with the Commission's Docket Control must
14 be made in hard copy and must include an original and 13 copies.

15 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or
16 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
17 hearing.

18 DATED this 21 day of June, 2016.

19
20 
21 _____
BRIAN D. SCHNEIDER
ADMINISTRATIVE LAW JUDGE

22 Copies of the foregoing mailed
this 21st day of June, 2016 to:

23 Leon Nowalsky
24 NOWALSKY & GOTHARD
1420 Veterans Memorial Blvd.
25 Metairie, LA 70005
Attorneys for XYN Communications, LLC

26 Janice Alward, Chief Counsel
27 Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
28 Phoenix, AZ 85007

1 Thomas Broderick, Director
Utilities Division
2 ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
3 Phoenix, AZ 85007

4 COASH & COASH
COURT REPORTING, VIDEO AND
5 VIDEOCONFERENCING
1802 North 7th Street
6 Phoenix, AZ 85006

7
8 By: RTallman
Rebecca Tallman
9 Assistant to Brian D. Schneider

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