

ORIGINAL

NOWALSKY & GOTHARD  
A Professional Limited Liability Company  
Attorneys at Law  
1420 Veterans Memorial Blvd.  
Metairie, Louisiana 70005  
Telephone: (504) 832-1984  
Facsimile: (504) 831-0892



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LEON L. NOWALSKY  
EDWARD P. GOTHARD

July 22, 2016

Via Fedex and Email  
to [mconnolly@az.cc.gov](mailto:mconnolly@az.cc.gov)

Docket Control Center  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

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2016 JUL 26 P 1:34

RE: XYN Communications, LLC  
Docket No. T-20968A-16-0158  
Responses to Staff's Data Request No. 1

Dear Sir or Madam:

Please find enclosed for filing an original and thirteen (13) copies of the Responses to Staff's Data Request No. 1 in the above matter.

An additional copy of this letter has been enclosed to be date-stamped and returned in the envelope provided as evidence of the filing.

Should you have any questions, please feel free to contact me.

Sincerely,

Leon Nowalsky *LN*  
Counsel for XYN Communications, LLC

LLN/rph  
Enclosure

Arizona Corporation Commission  
DOCKETED  
JUL 26 2016

DOCKETED BY *LLN*

**In addition to a paper response, all information responses should also be provided in searchable PDF, DOC or EXCEL files via email or electronic media.**

**For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.**

Please make sure each numbered item and each part of the item is answered completely

STF 1.1 Will XYN have any employees located in Arizona? If yes, how many and what will be their function? Please include any maintenance and repair personnel.

Response 1.1 No, the company does not currently nor do they plan to have any employees in the State of Arizona.

STF 1.2 Please clarify the net book value response (B-4) provided for number 3 in the submitted Attachment E.

Response 1.2 The Net Book Value is \$250,000.00. Please find attached a corrected Attachment E.

STF 1.3 Please clarify the relationship between XYN Communications, NuWave Communications and Avalon Telecom Services.

Response 1.3 The principals/officers of XYN Communications are also principals/officers of both NuWave Communications and Avalon Telecom Services. Both NuWave and Avalon may act as vendors to XYN providing back office services and/or resold telecommunications services in the future. Mr. Bunnell and Mr. Sims also provide funding for XYN.

STF 1.4 It appears that, according to these web pages, <https://www.nuwave.com/leadership.html> and <http://www.xyncom.com/about-us/leadership/>, Mr. Sims and Mr. Bunnell are officers of NuWave and not XYN. Please submit updated information in response to (A-8) of the Application clarifying who are the corporation officers for XYN along with current resumes of those officers. For example, Mr. Sims' resume indicates an acquisition "slated for 12/31/11".

Response 1.4 Shawn Sims and Mark Bunnell are no longer in leadership positions in XYN Communications, LLC ("XYN"). Both Mr. Sims and Mr. Bunnell are now in Technical and Regulatory positions within XYN. XYN Holdings International, Inc. is now the Managing Member of XYN. Resumes of XYN Holdings International, Inc. Members can be provided upon request.

STF 1.5 A Google search by Staff indicates XYN Communications may be providing some form of telecommunications service in at least the states of Texas, Utah, New York, Nebraska, New Jersey, Illinois and Florida. Please provide a list of all jurisdictions in which XYN is either authorized to provide telecommunications service or has a

pending application for telecommunications service. Please also indicate in which of these jurisdictions XYN is actually providing service along with the type of telecommunications service (i.e. resold long distance, etc.) authorized or requested.

Response 1.5 XYN Communications is yet not providing service in any state. XYN is authorized to provide Facilities-Based CLEC telecommunications service in the states of Illinois, New Jersey, Texas, Utah and Nebraska, and has pending applications in the states of Nevada and Arizona. Previously, certifications were obtained for XYN Communications of New York and XYN Communications of Florida, but a membership interest transfer took place in 2013 which resulted in a sale of these entities.

STF 1.6 How will XYN market its service in the Arizona market? Please provide any marketing material XYN will be using.

Response 1.6 XYN will market its service through agents and web advertising. The company is still developing its marketing materials.

STF 1.7 In reference to the Attachment B provided with the Application, since the rates listed in the top right section are attributed to Qwest/CenturyLink, please clarify if the rates listed in the bottom right section also belong to Qwest/CenturyLink or another carrier. If another carrier, please resubmit the Attachment with the correct carrier name. If Qwest/CenturyLink, please resubmit the Attachment with the rates of an alternative competitive carrier.

Response 1.7 The rates in the bottom right section belong to West Telecom Services formerly known as Hypercube. A revised Attachment B is attached.

STF 1.8 Where are the facilities located that will be used by XYN to provide local exchange service for potential Arizona customers? Are these facilities owned or leased by XYN?

Response 1.8 XYN's facilities are located in the State of Nevada. XYN owns its facilities.

STF 1.9 In regards to page 6 of the proposed Tariff, does the Company, also recognize Labor Day, Thanksgiving, New Year's Day and Independence Day as holidays?

Response 1.9 Yes. A corrected proposed tariff page is enclosed.

STF 1.10 In regards to page 7 of the proposed Tariff, as Resold Local Exchange Service is listed as a definition, does the Company also plan to offer this service in Arizona?

Response 1.10 Yes. The Company may resell services in the future.

STF 1.11 In regards to page 16 of the proposed Tariff, section 2.7.2.A, the sentence in parenthesis appears to be grammatically incorrect. Please correct this sentence if applicable.

Response 1.11 The sentence has been corrected and a proposed tariff page is enclosed.

STF 1.12 In regards to page 19 of the proposed Tariff, section 2.8.2.C, please provide a copy of the Company's Business Credit Evaluation Plan.

Response 1.12 The Credit Evaluation Plan is still in development and can be provided as soon as it becomes available.

STF 1.13 In regards to page 21 of the proposed Tariff, section 2.9.5, the Commission does not set interest percentage rates by Rule. It is Staff's policy to request the Company to set a simple interest at 6 percent a year payable on the actual amount on deposit with the Company. Is the Company agreeable to make this language modification to this section of the proposed Tariff?

Response. 1.13 Yes. The Company is agreeable.

STF 1.14 In regards to page 30, section 2.21 of the proposed Tariff, please include the full complaint contact information of the Company as well as the Commission's complaint contact information for its Tucson office.

Response 1.14 A corrected proposed tariff page is enclosed.

STF 1.15 In regards to page 33 of the proposed Tariff, section 3.1, Staff is under the impression the Company proposes to offer services in Arizona statewide. However, this section appears to limit the service area to only the geographic area in which the Company has outside plant. Please clarify this possible discrepancy.

Response 1.15 Staff is correct the Company proposes to offer services in Arizona statewide. A revised proposed tariff page has been enclosed.

STF 1.16 In regards to page 35 of the proposed Tariff, section 3.10.1, the PRI service listed is for long distance calling. In regards to page 36 of the proposed Tariff, section 3.11.2, the Unlimited US service listed is also for long distance calling. Does the company plan to offer interexchange service in Arizona?

Response 1.16 Not at this time, should XYN start to do this it will engage in a LIS scenario.

**Attachment E (B-4)**

**Revenue Projections**

- 1. Projected total revenue for the first 12 months: \$150,000.00**
- 2. Operating expenses during the first 12 months: \$75,000.00**
- 3. Net book value of Arizona jurisdictional assets used to provide service in Arizona – \$250,000.00.**
- 4. N/A**
- 5. N/A**

**Attachment B (A-9)**

Attachment B								
By Competitor								
Business Maximum Rate Comparison of Telecommunications Services provided by competition in Arizona			Applicants Arizona Tariff			Competitors Arizona Tariff		
			Broadvox			West Telecom Services, LLC		
Product/Services			Rates	Section Number	Page Number	Rates	Section Number	Page Number
Qwest/Century Link								
Basic Local Service			\$119.85	3.11.2	36	\$38.00(max) \$34.50	5.2.4	15
Basic Metered Service			\$59.85	3.11.1	36	Flat Rate		
Service Connect Fee			\$49.95	3.11.2	36	\$85.00(max) \$42.50	5.2.4	15
Call Dispatch/trouble call			N/A					
Feature change/order			N/A					
Toll Restriction Fee Order			N/A					
Transfer of Service (Move)			N/A					
Restoration of Service			\$49.95	3.7	34	\$55.00	2.2.9	18
Directory Assistance						\$1.99(max) \$1.99	6.2.4	14
<b>Miscellaneous Services &amp; Rates</b>								
Returned Check Charge(NSF)			\$25.00	3.6	34	\$12.50(max) \$10.00	2.3.2	30
<b>Listings</b>								
Directory Listings - Primary			N/A			No charge	5.7.1	138
Directory Listings - Non-Published			N/A			\$4.65(max) \$4.20		
<b>Primary Rate Interface (DS0) Service</b>								
Metered			\$1,376.55	3.10.2	35			
Month to Month			\$2,756.55	3.10.1	35			
12 Months						\$2,364.00(max) \$870.00	5.9.2	176
24 Months						\$2,554.00(max) \$760.00	5.9.2	176
36 Months						\$2,469.00(max) \$660.00	5.9.2	176
<b>Business Maximum Rate Comparison of Telecommunications Services provided by competition in Arizona</b>								
			Broadvox			West Telecom Services, LLC		
Product/Services			Rates	Section Number	Page Number	Rates	Section Number	Page Number
Basic Local Service			\$75.00	4.3.6	71	\$91.20	5.2.1	45
Service Connect Fee			\$80.00	5.1.1	74	\$127.50	8.6.2	67
Call Dispatch/trouble call			\$160.00	5.1.2	74	\$189.00	8.6.2	67
Feature change/order			\$55.00	5.1.2	74	\$97.50	8.6.2	67
Toll Restriction Fee Order			\$55.00	5.1.2	76			
Transfer of Service (Move)			\$130.00	5.1.1	74			
Restoration of Service			\$110.00	5.3	80	\$48.00	8.5.2	65
Directory Assistance			\$2.00	5.7.4	88	\$3.75	8.2.2	61
<b>Miscellaneous Services &amp; Rates</b>								
Returned Check Charge(NSF)			\$25.00	10.2.16	129	\$25.00	2.5.2	30
<b>Listings</b>								
Directory Listings - Primary			No charge	5.10.3	99			
Directory Listings - Non-Published			\$3.60	5.10.3	99	\$7.05	6.1.3	52
<b>Primary Rate Interface (DS0) Service</b>								
Month to Month								
12 Months			\$2,000.00	7.2.4	111	N/A		
24 Months			\$1,800.00	7.2.4	111	N/A		
36 Months			\$1,600.00	7.2.4	111	N/A		

INTRASTATE LOCAL TELEPHONE SERVICE

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**SECTION 1 - DEFINITIONS AND ABBREVIATIONS**

1.1 Definitions:

Access Line - An arrangement which connects the customer's location to a switching center or point of presence.

Authorized User - A person, firm, corporation, or other entity authorized by the customer to receive or send communications.

Carrier or Company - Whenever used in this tariff, "Carrier" or "Company" refers to XYN Communications, LLC., unless otherwise specified or clearly indicated by the context.

Commission - The Arizona Corporation Commission.

Customer - The person, firm, corporation, or other entity which orders, cancels, amends, or uses service and is responsible for payment of charges and compliance with the Company's tariff.

Due Date - The last day for payment without unpaid amounts being subject to a late payment charge.

Exchange Access Line - The serving central office line equipment and all plant facilities up to and including the Standard Network Interface.

Holidays - The Company's recognized holidays are Christmas, Labor Day, Memorial Day, Thanksgiving, New Year's Day, Independence Day and Easter.

ILEC - Incumbent Local Exchange Carrier

LEC - Local Exchange Carrier

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**ISSUED:**

**EFFECTIVE:**

**ISSUED BY:** Shawn Sims, Manager  
XYN Communications, LLC  
8275 Eastern Ave. #200  
Las Vegas, NV 89123

**INTRASTATE LOCAL TELEPHONE SERVICE**

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- 2.7.2 If the Company fails to keep a scheduled repair or installation appointment when a customer premises visit requires a customer to be present, the Company shall credit the customer \$50 per missed appointment. A credit does not apply when the Company provides the customer with 24-hour notice of its inability to keep the appointment. The 24-hour notice period shall be construed to mean 24 hours notice by the end of each 4 hour window the day before the scheduled appointment.
- 2.7.3 Credits- New Service Installation Delays.
- 2.7.3.A The Company shall install basic local exchange service within 5 business days after receipt of an order from the customer unless the customer request an installation dated that is beyond 5 business days after placing the order for basic service. (If the Company offers basic local exchange service utilizing the network of or network elements of another carrier, the Company shall install new lines for basic local exchange service within 3 business days after provisioning has been completed by the other carrier.)
- 2.7.3.B If the Company fails to install basic local service within five (5) business days. The Company will waive 50% of any installation charges.
- 2.7.3.C If the Company fails to install service within ten (10) business days after the service application is placed, or fails to install service within 5 business days after the customer's requested installation date, if the requested date was more than 5 business days after the date of the order, the Company shall waive 100% of the installation charge, or in the absences of an installation charge, the Company shall provide a credit of \$50.00.

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**ISSUED:**

**EFFECTIVE:**

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XYN Communications, LLC  
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**INTRASTATE LOCAL TELEPHONE SERVICE**

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**2.20 Service Restoral Charge**

The Company will charge a service restoral fee as set forth in this tariff. This fee will automatically be waived for the customer's first service restoral each calendar year.

**2.21 Customer Complaints**

Customer can reach the Company's Customer Service Department by dialing 1-888-599-6996 toll free or by mail at 8275 Eastern Ave. #200, Las Vegas, NV 89123 . The Company will resolve any disputes properly brought to its attention in an expeditious and reasonable manner.

The company shall direct its personnel engaged in personal contact with the applicant, customer, or user seeking dispute resolution to inform the customer of their right to have the problem considered and acted upon by supervisory personnel of the company where any dispute cannot be resolved. The company shall further direct such supervisory personnel to inform such customer who expresses non-acceptance of the decision of such supervisory personnel of their right to have the problem reviewed by the Commission and shall furnish them with the telephone number and address of the Phoenix Office of the Arizona Corporation Commission as follows:

Arizona Corporation Commission Phoenix Office 1200 W. Washington Street Phoenix, AZ 85007 Phone: (602) 542-4251 Toll Free: (800) 222-7000	Arizona Corporation Commission Tucson Office 400 W. Congress, Suite 218 Tucson, AZ 85701-1347 Phone: (520) 628-6550 Toll Free: (800) 535-0148
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**2.22 Access to Carrier of Choice**

End users of the Company's local service shall have the right to select the interexchange telecommunications service provider of their choice. The interexchange provider should request confirmations/verifications of choice from its customers no later than the date of submission of its first bill to the customer. The Company should maintain signed letters of agency or confirmations of choice on file for use in dispute resolution.

**2.23 Directory Listings**

2.23.1 The Company does not publish a directory of subscriber listings. The Company, however, does arrange for the Customer's main billing number to be placed in the director or directories of the dominant local exchange carrier, under the conditions imposed by the dominant local exchange carrier.

2.23.2 The Company is not liable for errors or omissions in directory listings.

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**ISSUED:**

**EFFECTIVE:**

**ISSUED BY:** Shawn Sims, Manager  
XYN Communications, LLC  
8275 Eastern Ave. #200  
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**INTRASTATE LOCAL TELEPHONE SERVICE**

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**SECTION 3- RATES AND SERVICES**

**3.1 Service Area**

The Company will provide Local Exchange Service throughout the geographic area of the State of Arizona.

**3.2 Timing of Calls**

Billing for calls placed over the network is based in part on the duration of the call.

3.2.1 Timing for all calls begins when the called party answers the call (i.e. when two way communications are established). Answer detection is based on standard industry answer detection methods, including hardware and software answer detection.

3.2.2 Chargeable time for all calls ends when the parties disconnect from the call.

3.2.3 Minimum call duration and additional increments for billing are specified in the description of each service.

3.2.4 No charges apply to incomplete calls.

3.2.5 When a call is established in one rate period and ends in another rate period, the rate in effect at the calling station applies to the entire call.

**3.3 Rate Periods**

Company's services are not time of day sensitive unless otherwise specified. The same rate applies 24 hours per day, 7 days per week.

**3.4 Promotional Offerings**

The Company may, from time to time, offer promotions which may be limited as to the duration, the date and times of the offerings and the locations where the offerings are made. The Company will notify the Commission of promotional offerings prior to the effective date of the promotion.

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**ISSUED:**

**EFFECTIVE:**

**ISSUED BY:** Shawn Sims, Manager  
XYN Communications, LLC  
8275 Eastern Ave. #200  
Las Vegas, NV 89123