Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-98
Local Competition Provisions of the	)	
Telecommunications Act of 1996	)	
	)	

AFFIDAVIT OF DAVID MALFARA

1. My name is David Malfara. I am President of Z-Tel Network Services, Inc., a wholly owned carrier subsidiary of Z-Tel Technologies, Inc. Before joining Z-Tel, I owned and operated a number of telecommunications ventures that applied new technology to conventional market needs. In 1983, I formed Pennsylvania Alternative Communications, Inc. and its long distance subsidiary, Pace Long Distance Service. In 1996 I sold Pace Long Distance to LCI International, which later merged with Qwest. In addition, I founded Pace Network Services, a provider of traffic and SS7 based signaling services to other carriers. I sold PNS to ICG Telecom Group in 1996.

2. As President of Z-Tel Network Services, Inc. I am responsible for the implementation of Z-Tel's overall network strategy. Z-Tel was formed in 1998 as an "applications-based" provider of telecommunications services. Unlike traditional "facilities-based" carriers that invest primarily in physical networks, Z-Tel's focus is on the development of a sophisticated applications control system that overlays the traditional network to provide customers an integrated voice, data and massaging environment.

3. Since its inception, Z-Tel has invested more than $30 million developing the necessary application and database software to provide its unique suite of integrated services, as well as acquiring a nationwide signaling and call processing network to serve as the delivery vehicle for those services. Z-Tel's initial network consists of 7 intelligent switching nodes (Z-Nodes), interconnected by a national frame-relay network to the Z-Tel applications center where Z-Tel's call control software is located. This basic architecture, organized around a centralized call logic center and distributed call processing, is modeled after the basic Advanced Intelligent Network (AIN) framework.

4. Z-Tel's software is designed to support a robust communications management system that seamlessly links individual communication services. Our focus is on integrating a customer's complete communications and messaging needs, eliminating artificial boundaries between voice, data and email. Our initial focus has been to develop unique solutions for corporate and institutional organizations (such as universities) that represent "communities" of users with a common

calling/communications need. For instance, Z-Tel's call management capabilities were used to integrate Delta Airline's pilot scheduling/communications system. Delta's pilots use a local or 800 access number to call into, and log onto, the Z-Node. From there, the pilots can access a number of real-time databases to obtain information on scheduling, receive individualized and group-based corporate and personal messaging, and gain instant access to real-time communication capability.

5. Having developed our software, integration and call processing systems to initially serve corporate, educational and similar large "communities", Z-Tel is now positioned to extend similar capabilities to the broad consumer market. We are particularly confident that our voice mail[1] and "follow-me"[2] call management applications will be well received by the consumer market. In order for these new options to be viable, however, Z-Tel must create an attractive *total* service package that includes local and long distance service; it must be able to offer the package across a broad geographic area; and, it must be able to provision a customer's service with a minimum of cost and delay. The *only* solution that provides Z-Tel a local serving arrangement that meets each of these requirements is the unbundled network element platform (UNE-P).

6. Over the next several weeks, Z-Tel will begin offering service to consumers located in LATA 132 (New York City). Z-Tel will offer consumers three pricing plans that combine local and long distance service with Z-Tel's voice mail, "follow-me" and group messaging capability. In addition, each plan provides unlimited local calling with a predefined block of long distance calling (200, 600 and 1,000 minutes). Customers will be able to configure the Z-Tel features through the Internet using Web-based configuration software, and access all their voice, data and outbound services remotely for a small additional charge (4¢/minute).

7. For those customers that subscribe to Z-Tel's service packages, Z-Tel will use UNE-P with simple call-forwarding, which will be displaced, as soon as available, with UNE-P using AIN terminating attempt switch trigger activation. Z-Tel will still be forced, however, to use NY Telephone companies AIN database to route incoming calls to Z-Tel's database and switch node.[3] This

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[1] With Z-Tel's voice mail service, customers receive a local central mailbox for all of their voice, fax and e-mail messages. Each customer will have their own e-mail address. A Z-Tel customer's family, friends and business associates will need to know only one of the customer's Z-Numbers in order to communicate on all available media. Z-Mail will be accessible from any touch-tone phone or web-browser. Z-Tel customers will be able to respond to all Z-Mail messages by a single key stroke (on either a telephone touch pad, computer keyboard or mouse pad). In addition, Z-Tel customers will be able to hear e-mails over the phone, view fax-mails on a web-browser and hear voice mails on any multi-media personal computer.

[2] "Follow me" service allows Z-Tel customers to transfer inbound calls using up to six different "follow me" scenarios, each of which has 3 phone numbers which will be called sequentially to assure a completed call.

[3] A more efficient configuration would allow Z-Tel to have AIN inquiries directly access Z-Tel's database. Because such connection is not currently allowed, however, Z-Tel must use NY Telephones AIN capability to, in effect, route calls to Z-Tel's AIN system.

configuration, though, enables Z-Tel to overlay its advanced services on the basic network platform needed for local (and access to) long distance services.

8. Significantly, Z-Tel's residential offering is possible *only* because the full complement of unbundled network elements is available in *all* central offices in LATA 132. Because NY Telephone will not support UNE-P used to serve business customers from all central offices[4] -- and intends to impose additional non-cost charges even in those central offices where it will -- Z-Tel must limit its offer to residential customers. Clearly, Z-Tel would be able to compete more effectively if it were able to offer services to *both* business and residential customers. Over time, Z-Tel hopes that other carriers are able to supply local serving platforms that are comparable to UNE-P in terms of geographic reach and transactions cost. Until such alternatives develop, however, Z-Tel is dependent upon cost-based access to the incumbent's serving platform to offer its services.

9. Z-Tel does not have the option to construct a local network in order to pursue its applications-oriented entry strategy. Z-Tel capital is prioritized to expand our data network, migrating it to an ATM network, and to develop additional call management enhancements to support new services. Z-Tel's capital budget anticipates adding additional service nodes and expanding our entry strategy to other states as UNE-P is implemented. While our hope is to ultimately begin developing local networks where economic, our first priority is to expand the services in our applications suite and to expand our geographic reach to new markets. If we are denied access to any of the network elements necessary to form our underlying local exchange product (i.e., the UNE-P) our ability to provide service would be seriously impaired.

10. Although the above affidavit addresses the specific constraints of *Z-Tel's* business strategy, its overall conclusions would apply more generally to the *class* of applications-based entrants. While 20th century telecommunications technology largely integrated services with facilities, the future will be defined by software-based applications that overlay generic transmission, switching (and routing) functions. The key to fostering innovation is assuring that basic serving platforms are available on a nondiscriminatory basis to entrants in the same manner they are available to incumbents. This is the promise of the Telecommunications Act. The most fundamental of these serving platforms are the network elements that comprise the UNE-P. Without access to this basic arrangement -- as well as each of the elements that comprise it -- an applications-based competitive environment simply will not be possible.

Executed this __th day of May 1999

[4] Because NY Telephone will not currently provide UNE-P combinations in end offices where two or more CLECs are collocated, Z-Tel is foreclosed from some of the densest central offices in the LATA. Z-Tel expects that this unjustified restriction will be lifted by the Commission in this proceeding.

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David Malfara

SWORN TO and subscribed before
me this __th day of May, 1999

_____
Notary Public

My Commission expires: _____