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August 10, 2004

**RECEIVED**

AUG 11 2004

PUBLIC SERVICE  
COMMISSION

**VIA UPS**

Ms. Stephanie Bell  
Secretary of the Commission  
Kentucky Public Service Commission  
211 Sower Blvd., P.O. Box 615  
Frankfort, KY 40602

**Re: Informational Filing of Z-Tel Communications, Inc. and Touch 1 Communications, Inc. Regarding Their Intent to Provide Security in Connection with Financing**

Dear Ms. Bell:

Z-Tel Communications, Inc. ("Z-Tel")<sup>1</sup> and Touch 1 Communications, Inc. ("Touch 1")<sup>2</sup> (together, the "Parties"), by their attorneys, hereby respectfully advise the Kentucky Public Service Commission ("Commission"), pursuant to the Commission's Administrative Case No. 359 and No. 370, both issued June 21, 1996, of their intent to guarantee and provide a security interest in their assets in connection with indebtedness to be incurred by the Parties' parent corporation, Z-Tel Technologies, Inc. ("Parent"). Parent is seeking to arrange additional debt financing of up to fifty million dollars (\$50,000,000) from one or more lenders, including existing investors in Parent. As explained below, Z-Tel and Touch 1 operate on a nationwide basis and derive only a very small portion of their revenue from intrastate services provided in Kentucky, Z-Tel and Touch 1 believe that no prior approval is required by this Commission in connection with this financing. In support of this notice, Z-Tel and Touch 1 provide the following information:

<sup>1</sup> The Commission authorized Z-Tel to provide competitive local exchange, long distance and operator services in Kentucky. Z-Tel's current tariff is available on the Commission's website.

<sup>2</sup> The Commission authorized Touch 1 to provide long distance telecommunications services in Case No. 96-275, dated August 28, 1996.

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**I. The Parties**

Z-Tel, a Delaware corporation, is a direct, wholly owned subsidiary of Z-Tel Technologies, Inc., a publicly held corporation. Touch 1, an Alabama corporation, is also a direct, wholly owned subsidiary of Z-Tel Technologies, Inc. Touch 1 is located at 100 Brookwood Road, Atmore, Alabama 36504. Z-Tel and Parent are located at 601 South Harbour Island Boulevard, Suite 220, Tampa, Florida 33602.

Z-Tel provides advanced, integrated telecommunications services targeted to residential and small business customers, including local and long distance telephone services in combination with enhanced communication features. Z-Tel offers service on both a retail and wholesale basis. Its principal wholesale customer is Sprint. Touch 1 offers long distance telecommunications services to residential customers nationwide. Z-Tel currently is authorized to provide long distance telecommunications services nationwide, and competitive local exchange services in 48 states. The largest concentrations of Z-Tel's customers are in New York, Illinois and Michigan. In Kentucky, Z-Tel is authorized to provide competitive local exchange, long distance, and operator services, and Touch 1 is authorized to provide long distance services. Z-Tel and Touch 1 are also authorized by the Federal Communications Commission to provide both interstate and international telecommunications services.

**II. Designated Contacts**

The designated contact for questions concerning this notice is:

Erin W. Emmott, Esq.  
KELLEY DRYE & WARREN LLP  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
Telephone: (202) 955-9766  
Facsimile: (202) 955-9792

Copies of any correspondence should also be sent to the following designated representative of the Parties:

Andrew L. Graham  
Corporate Counsel  
Z-TEL COMMUNICATIONS, INC.  
601 South Harbour Blvd., Suite 220  
Tampa, FL 33602  
Telephone: (813) 233-4567  
Facsimile: (813) 233-4623

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**III. Description of The Transaction**

By this notice, Z-Tel and Touch 1 intend to guarantee additional indebtedness to be incurred by their Parent. This new indebtedness will be arranged through one or more transactions with one or more lenders, including an existing investor in the Parent, The 1818 Fund III, L.P. (the "1818 Fund"). It is expected that the new debt will be evidenced by notes of the Parent that will be subordinate to certain existing indebtedness.<sup>3</sup> The exact terms of the financing may not be finalized until shortly before the loan is to be made to reflect conditions of the credit markets at that time, but Parties believe that the terms of any such loans will be consistent with those set forth below. In addition to providing guarantees, Parties may provide a security interest in their assets to the extent permitted by the terms of the then-existing indebtedness.

It is expected that the terms of the indebtedness will be consistent with the following:

*Lender:* One or more banks, financial institutions or public or private funds. The Parent currently is negotiating with one of its existing lenders, The 1818 Fund III, L.P. The Fund is one of a family of private equity partnerships formed by Brown Brothers Harriman & Company ("BBH"), which serves as the general partner of the Fund. BBH is the country's largest partnership bank and one of its oldest owner-managed investment partnerships. The Fund and its sister funds have been organized to take substantial, non-controlling long term ownership positions in growing companies.

*Amount:* Up to \$50 million.

*Maturity:* From one to seven years depending on the amount, interest rates and market conditions, including inflation and interest rate forecasts.

*Interest:* Interest likely will be based on the Prime Rate or LIBOR plus an applicable margin reflecting the companies' financial condition and market credit conditions. Current negotiations contemplate an interest rate of approximately 10% for a loan of relatively short maturity.

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<sup>3</sup> Notice was provided to the Commission recently regarding the involvement of the Parties in a financing transaction with the lender Textron Financial Corporation of an amount up to \$25 million in which the Parties are Borrowers and have granted a security interest in their assets. The original notification was provided to the Commission on March 17, 2004. The Parties supplemented their original notification on April 8, 2004.

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*Security:* Z-Tel and Touch 1 likely will be required to provide their guaranty as security for the loans and may pledge their assets to the extent permitted by existing indebtedness.

*Use of Proceeds:* It is intended that the net proceeds of the financing will be used for general corporate purposes and capital expenditures relating substantially to the establishment of Z-Tel's planned network.

#### **IV. Public Interest Analysis**

This transaction will serve the public interest by enhancing the ability of Z-Tel to grow and compete in the highly competitive markets for telecommunications services in Kentucky and nationwide. The financing transaction described herein is not expected to directly affect in any way the rates or services of the Parties, or result in any change in actual control of Parent or the Parties. The new financing will provide Z-Tel with the financial resources needed to continue to produce new products and services and respond to the highly competitive telecommunications environment. Z-Tel competes in Kentucky and other markets with numerous other interexchange carriers and enhanced service providers as well as the incumbent local exchange carrier and other competitive local exchange carriers. Because Z-Tel is a non-dominant carrier, it is not subject to rate of return regulation and its capital structure and indebtedness should not be a matter of concern to the Commission. In addition, because of the highly competitive environment in which it operates, the rates charged customers are subject to market discipline and the services offered generally are available from other carriers. As a result, the source of funds and capital structure of Z-Tel would have little effect on customers in Kentucky or elsewhere. In the unlikely event that Z-Tel's capital structure becomes too costly and rates rise, customers may simply migrate to other carriers with preferred rates. Thus, any adverse consequences from the Parent's financing decisions impact on shareholders, not on customers, and any favorable consequences benefit both shareholders and consumers through higher profits, lower rates and better services.

Moreover, because the public interest is best served by assuring the presence of numerous telecommunications competitors in Kentucky, it is important to provide such competitors with the flexibility to arrange their financing in the manner they deem most appropriate to carry on their business so long as there is no significant adverse impact on the public. In addition, Z-Tel notes that its Parent, as a publicly held corporation, is subject to the jurisdiction of the Securities and Exchange Commission which also serves to protect the interests of investors and consumers in Kentucky.

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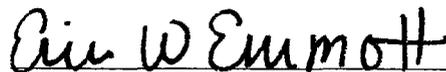
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As noted above, it is Z-Tel's and Touch 1's understanding that no prior Commission approval is required to consummate the transaction described herein. This information is being submitted, therefore solely to keep the Commission advised and its records current. Enclosed please find four (4) copies and a duplicate copy of this filing. Also enclosed is a self-addressed, postage-paid envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided. Please do not hesitate to contact the undersigned at (202) 955-9766 or via email at [ee Emmott@kelleydrye.com](mailto:ee Emmott@kelleydrye.com) should you have any questions.

Respectfully submitted,

Z-TEL COMMUNICATIONS, INC. AND TOUCH 1  
COMMUNICATIONS, INC.

By:



Jonathan E. Canis  
Melissa S. Conway  
Erin W. Emmott  
KELLEY DRYE & WARREN LLP  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, D.C. 20036  
(202) 955-9600

Their Counsel

**VERIFICATION**

I, ANDREW L. GRAHAM, am authorized to represent Z-Tel Communications, Inc. and its affiliates and to make this verification on their behalf. Except as otherwise specifically attributed, the statements in the foregoing document relating to these companies are true of my own knowledge, other than as to matters that are stated therein on information or belief, and as to those matters, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.



**Andrew L Graham**  
**Secretary**  
Z-Tel Communications, Inc.

Subscribed and sworn to before me this 41 day of August 2004.



Notary Public

My Commission expires: 4/10/08

