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July 28, 2006

HAND DELIVERY

Honorable Sara Kyle, Chairman
c/o Sharla Dillon, Docket & Records Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

06-00193

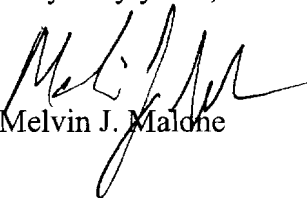
**RE: In Re: Application of Electric Power Board of Chattanooga for
Expanded Certificate of Public Convenience and Necessity to Provide
Intrastate Telecommunications Services Statewide**

Dear Chairman Kyle:

Please find enclosed an original and thirteen (13) copies of the *Application of Electric Power Board of Chattanooga for Expanded Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services Statewide*. Also enclosed is a \$25.00 check for the required filing fee.

An additional copy of this filing is enclosed to be "File Stamped" for our records. If you have any questions or require additional information, please let me know.

Very truly yours,


Melvin J. Malone

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

APPLICATION OF ELECTRIC)	DOCKET NO.
POWER BOARD OF CHATTANOOGA)	
TO EXPAND ITS CERTIFICATE OF)	
CONVENIENCE AND NECESSITY TO)	
PROVIDE INTRASTATE)	
TELECOMMUNICATIONS SERVICES)	
STATEWIDE		

**APPLICATION OF ELECTRIC POWER BOARD OF CHATTANOOGA
FOR EXPANDED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE INTRASTATE TELECOMMUNICATIONS SERVICES STATEWIDE**

The Electric Power Board of Chattanooga d/b/a EPB Telecom (“EPB” or “Applicant”), by and through its undersigned counsel, and pursuant to Tenn. Code Ann. §§ 65-4-201 through 65-4-204 and Chapter 1220-4-8 of the Rules and Regulations of the Tennessee Regulatory Authority (“TRA” or “Authority”), as applicable, hereby submits this *Application of Electric Power Board of Chattanooga for Expanded Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services Statewide* (the “*Application*”) and applies to modify its Certificate of Public Convenience and Necessity for authority to provide intrastate telecommunications services.¹

In its Order dated May 10, 1999, in Docket 97-07488, the Authority found that EPB satisfied the managerial, technical and financial requirements set forth in Tenn. Code Ann. § 65-4-201(c) to provide telecommunications services within Hamilton, Bledsoe, Bradley, Marion,

¹ Pursuant to Chapter 1220-4-8-.04(3)(a) of the Rules and Regulations of the Tennessee Regulatory Authority, a petition to modify a certificate must be acted upon “within sixty (60) days of filing.”

Rhea and Sequatchie Counties.² The Authority also found that EPB had filed an acceptable Small and Minority-Owned Telecommunications Business Participation Plan pursuant to Tenn. Code Ann. § 65-5-212. EPB now seeks expanded authority to provide telecommunications services on a statewide basis, as business conditions warrant, including the areas served by incumbent local exchange carriers with less than 100,000 total access lines in Tennessee. As demonstrated below, the granting of this *Application* will provide significant benefits to Tennessee consumers and thereby serve the public interest. In order to serve the public interest in a timely manner, EPB requests expedited approval of this *Application*.

In support of its *Application*, EPB submits the following.

I. DESCRIPTION OF THE APPLICANT

1. Legal Name of Applicant: Applicant's legal name is Electric Power Board of Chattanooga, an independent Board of the City of Chattanooga, Tennessee, by and through the Telecommunications Division of EPB. EPB maintains its principal place of business at:

EPB Telecom
536 Market Street, Eighth Floor
Chattanooga, Tennessee 37402

and EPB's mailing address is:

EPB Telecom
P.O. Box 182255
Chattanooga, Tennessee 37422-2255

² See Order Approving Application For Certificate of Public Convenience and Necessity, *In Re: Application of Electric Power Board of Chattanooga for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Service*, TRA Docket No. 97-07488 (May 10, 1999) ("Order Approving EPB Application").

2. Contact Persons: Correspondence or communications pertaining to this

Application should be directed to:

Melvin J. Malone
Mark W. Smith
MILLER & MARTIN PLLC
150 Fourth Avenue North
1200 One Nashville Place
Nashville, Tennessee 37219-2433
Telephone: (615) 244-9270
Facsimile: (615) 256-8197
mmalone@millermartin.com
msmith@millermartin.com

3. Corporate Liaison: Questions concerning the ongoing operations of EPB

should be directed to:

Kathy M. Harriman, Vice President Telecommunications
EPB Telecommunications
P.O. Box 182255
Chattanooga, Tennessee 37422-2255
Telephone: (423) 648-1501
Facsimile: (423) 648-1575
harrimankm@epb.net

II. QUALIFICATIONS

1. Managerial: The Authority granted EPB a Certificate of Public Convenience and Necessity in 1999 based, in part, upon finding that EPB possessed the requisite managerial qualifications to provide telecommunications services in Tennessee.³ Since that time, EPB has supplemented its staff of experienced telecommunications personnel and gained valuable experience as a telecommunications provider. This experience provides EPB with the foundation necessary to provide the proposed telecommunications services and to serve Tennessee's telecommunications consumers. EPB remains managerially qualified to provide

³ See *Order Approving EPB Application* at 8 ("With respect to EPB's managerial and technical ability, compelling evidence was presented to demonstrate that EPB possesses a very seasoned management staff. The record also demonstrates that EPB has been effectively managing its 153,000 customer business for sixty (60) years, and that the company currently employs sophisticated technical systems in the provision of its electric utility services.").

telecommunications services statewide. Attached hereto as **Exhibit A** is a list of the names of the Applicant's principal company officers and a description of each officer's background and experience. As shown in **Exhibit A**, these officers of the company have substantial managerial experience in the areas of utility engineering, utility operations, utility customer service and utility marketing.

2. **Financial Qualifications:** The Authority granted EPB a Certificate of Public Convenience and Necessity in 1999 based, in part, upon finding that EPB possessed the requisite financial qualifications to provide telecommunications services in Tennessee.⁴ EPB remains financially qualified to provide telecommunications services statewide. EPB submits as **Exhibit B** its 2005 Annual Report, which demonstrates that EPB is financially qualified to provide local exchange services.

3. **Technical Qualifications:** The Authority granted EPB a Certificate of Public Convenience and Necessity in 1999 based, in part, upon finding that EPB possessed the requisite technical qualifications to provide telecommunications services in Tennessee.⁵ Since that time, EPB has supplemented its staff of experienced telecommunications personnel, gained valuable telecommunications experience, and successfully serviced its telecommunications customers. Information concerning the technical expertise of EPB's senior management team is included in **Exhibit A**. This experience provides EPB with the foundation necessary to provide the proposed telecommunications services and to serve Tennessee's telecommunications consumers. Hence, EPB remains technically qualified to offer local exchange services.

⁴ See *Order Approving EPB Application*.

⁵ *Id.*

III. PROPOSED SERVICES

1. EPB currently offers a full range of telecommunications services, including, but not limited to, dedicated and switched access services, private line services, local dial tone, 911 services and enhanced services in its authorized service area. EPB operates as a facilities-based local exchange provider, utilizing capacity on its fiber optics network and supplementing its services by leasing the facilities of third party carriers and/or by reselling the services of the incumbent LEC.⁶

2. EPB is authorized to provide services within the Tennessee counties of Hamilton, Bledsoe, Bradley, Marion, Rhea and Sequatchie, and it desires to expand those services to other Tennessee counties to provide more consumers with increased carrier choices, competitive pricing, increased reliability, responsiveness, and innovation. EPB provides service via its own fiber optic network and by leasing facilities, or reselling the services, of other carriers.

3. To the extent required by state law, EPB will not provide telecommunications services in any area of the State of Tennessee covered by this *Application* without first seeking and obtaining the consent of the affected municipality, or local government, in said area(s).

4. To the extent that any rural incumbent LEC possesses an exemption or suspension under Section 251(f) of the Federal Communications Act, EPB does not seek interconnection under Section 251(c) at this time, nor does EPB seek at this time to challenge any such exemption from any of the other obligations specified in Section 251(c).

⁶ Consistent with Tenn. Code Ann. § 7-52-403(b), EPB is not seeking expanded authority to provide services within the service area of an existing telephone cooperative with fewer than 100,000 total access lines organized and operating under the provisions of title 65, chapter 29.

IV. REGULATORY MATTERS

1. Applicant is familiar with and will adhere to all applicable Authority policies, rules, and orders governing the provision of local exchange telecommunications services in the State of Tennessee.

2. Subsequent to the approval of its *Application*, EPB will file any necessary tariff revisions prior to providing service in those areas of Tennessee covered by this *Application*.

3. A certificate of service stating that notice of this *Application* has been served on all eighteen (18) incumbent local exchange telephone companies in Tennessee is attached hereto.

4. EPB is aware of its obligation to comply with the requirements of county-wide calling, as set forth in Tenn. Code Ann. § 65-21-114.

V. PUBLIC INTEREST STATEMENT

1. The Authority approved EPB's application for a Certificate of Public Convenience and Necessity on February 2, 1999, based, in part, upon finding that granting the same was in the public interest.⁷ Since that time, EPB has developed and matured as a seasoned telecommunications provider, and the FCC has determined that Tenn. Code. Ann. § 65-4-201(d) is preempted by Federal law.⁸ Moreover, due to said preemption, the Attorney General for the State of Tennessee has issued an opinion that § 65-4-201(d) is not enforceable.⁹

2. The grant of this *Application* will further the public interest by expanding the availability of telecommunications services, consistent with state law and as EPB's business circumstances permit, throughout the State of Tennessee. Specifically, Tennessee consumers

⁷ *Id.*

⁸ See *In the Matter of AVR, L.P. d/b/a Hyperion of Tennessee, L.P. Petition for Preemption of Tennessee Code Annotated § 65-4-201(d) and Tennessee Regulatory Authority Decision Denying Hyperion's Application Requesting Authority to Provide Service in Tennessee Rural LEC Areas*, Memorandum Opinion and Order, FCC 99-100, 14 F.C.C.R. 11,064 (rel. May 27, 1999), *aff'd* 16 F.C.C.R. 1247 (Jan. 8, 2001).

⁹ See Office of the Attorney General, Opinion No. 01-036, 2001 Tenn. AG Lexis 36 (Mar. 19, 2001).

will benefit directly through the use of the competitive local services to be offered by EPB. Further, the public will benefit indirectly because the competitive presence of EPB will increase the incentives for telecommunications providers to operate more efficiently, offer more innovative services, reduce prices, improve the quality and coverage of their services, and increase investment in broadband infrastructure.

3. The granting of this *Application* would be consistent with the public policy of the State of Tennessee, as set forth at Tenn. Code Ann. § 65-4-123, “to foster the development of an efficient, technologically advanced statewide system of telecommunications services by permitting competition in all telecommunications services market[.]”

VI. CONCLUSION

For the foregoing reasons, Electric Power Board of Chattanooga d/b/a EPB Telecom respectfully requests the Authority to modify its Certificate of Public Convenience and Necessity on an expedited basis and authorize it to provide telecommunications services throughout the

State of Tennessee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark W. Smith', is written over a horizontal line.

Melvin J. Malone
Mark W. Smith
MILLER & MARTIN PLLC
150 Fourth Avenue North
1200 One Nashville Place
Nashville, Tennessee 37219-2433
(615) 244-9270 telephone
(615) 256-8197 facsimile

Attorneys for:

**Electric Power Board of Chattanooga d/b/a
EPB Telecom**

Certificate of Service

I hereby certify that a true and correct copy has been forwarded via U.S. Mail to the following on this the 24th day of July 2006.

Ardmore Telephone Company, Inc.
P.O. Box 547
517 Ardmore Avenue
Ardmore, TN 38449

BellSouth
333 Commerce Street
Nashville, TN 37201-3300

Century Telephone of Adamsville
P.O. Box 405
116 N. Oak Street
Adamsville, TN 38310

Century Telephone of Claiborne
P.O. Box 100
507 Main Street
New Tazewell, TN 37825

Century Telephone of Ooltewah-Collegedale,
Inc.
P.O. Box 782
5616 Main Street
Ooltewah, TN 37363

Citizens Communications Company of Tennessee
P.O. Box 770
300 Bland Street
Bluefield, WV 24701

Citizens Communications Company of the
Volunteer State
P.O. Box 770
300 Bland Street
Bluefield, WV 24701

Loretto Telephone Company, Inc.
P.O. Box 130
Loretto, TN 38469

Millington Telephone Company, Inc.
4880 Navy Road
Millington, TN 38053

Sprint-United
112 Sixth Street
Bristol, TN 37620

TDS Telecom-Concord Telephone Exchange,
Inc.
P.O. Box 22610
701 Concord Road
Knoxville, TN 37933-0610

TDS Telecom-Humphreys County Telephone
Company
P.O. Box 552
203 Long Street
New Johnsonville, TN 37134-0552

TDS Telecom-Tellico Telephone Company, Inc.
P.O. Box 9
102 Spence Street
Tellico Plains, TN 37385-0009

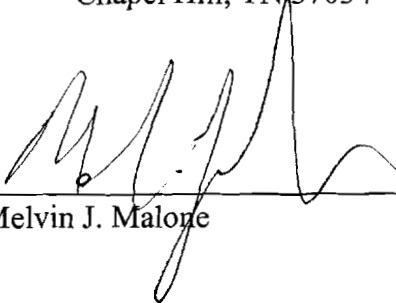
TDS Telecom-Tennessee Telephone Company
P.O. Box 18139
Knoxville, TN 37928-2139

TEC-Crockett Telephone Company, Inc.
P.O. Box 7
Friendship, TN 38034

TEC-People's Telephone Company, Inc.
P.O. Box 310
Enn, TN 37061

TEC-West Tennessee Telephone Company, Inc.
P.O. Box 10
244 E. Main Street
Bradford, TN 38316

United Telephone Company
P.O. Box 38
120 Taylor Street
Chapel Hill, TN 37034



Melvin J. Malone

EXHIBIT A

**TO THE APPLICATION OF ELECTRIC
POWER BOARD OF CHATTANOOGA
FOR EXPANDED CERTIFICATE OF
PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE INTRASTATE
TELECOMMUNICATIONS SERVICES
STATEWIDE**

EPB Telecommunications Division Officer Bios

Kathy Harriman, Vice President, joined EPB two years ago after serving with Nashville-based Adelphia Business Solutions as General Manager. She has over 25 years of experience in the industry having worked with BellSouth and AT&T and is a graduate of the University of Tennessee with a B.A. in Marketing. She serves on the Board of Directors for the national Fiber to the Home Council and the Tennessee Broadband Task Force.

Randy Laub, Director, Marketing and Strategic Planning, has 15 years of experience in the telecommunications field. Prior to joining EPB in 2003, he worked at Leap Wireless International in San Diego, California. He holds a B.A. in Management Science and Economics from the University of California at San Diego and an MBA from Pepperdine University in Malibu.

Paul Belk, Manager, Sales, has eight years of experience as an account manager. He joined EPB in 2004 after working at Dalton Utilities and ITC Deltacom. He holds a B.S. degree in political science from the University of Georgia where he minored in communications and Spanish.

Hal Dickey, Manager, Network Operations, has over 25 years of experience in the telecommunications business. Prior to joining EPB in 2003, he was employed by Comcast in Chattanooga. He has completed numerous technical training courses and studied business at the University of Tennessee at Martin.

Buddy Krajesky, Manager, Switch Operations, joined EPB in 2004 after working in California as a contractor for Tioga Networks. He has 23 years of industry experience and has an MBA from Kennesaw State University.

Ron Woody, Manager, Internet Technical Operations, joined EPB in 2004 after working for AT&T in Chattanooga. He has ten years of industry experience and holds a B.S. degree from the University of Tennessee at Chattanooga in criminal justice.

EXHIBIT B

**TO THE APPLICATION OF ELECTRIC
POWER BOARD OF CHATTANOOGA
FOR EXPANDED CERTIFICATE OF
PUBLIC CONVENIENCE AND
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