

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 18, 2007

IN RE:

**APPLICATION OF COST PLUS COMMUNICATIONS, LLC
FOR A CCN TO PROVIDE COMPETING LOCAL
TELECOMMUNICATIONS AND INTEREXCHANGE
SERVICE**

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**DOCKET NO.
06-00306**

**INITIAL ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

This matter came before the Hearing Officer of the Tennessee Regulatory Authority (the “Authority” or “TRA”) at a Hearing held on April 25, 2007, to consider the *Application for Certificate to Provide Competing Local Telecommunications and Interexchange Service* (the “*Application*”) filed by Cost Plus Communications, LLC (“Cost Plus”) on December 12, 2006, and supplemented on February 9, 2007. In its *Application*, Cost Plus seeks a certificate of public convenience and necessity for authority to provide competing local telecommunications services, including facilities-based and resold local exchange, exchange access and interexchange telecommunications services within the State of Tennessee.

Legal Standard for Granting Certificate of Public Convenience and Necessity

Cost Plus’s *Application* was made pursuant to, and was considered in light of, the criteria for granting a certificate of public convenience and necessity (“CCN”) as set forth in Tenn. Code Ann. § 65-4-201 (Supp. 2006), which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

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(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

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Furthermore, pursuant to Tenn. Code Ann. § 65-5-112 (2004), a competing telecommunications provider is required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

The April 25, 2007 Hearing

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on April 10, 2007. No persons sought intervention prior to or during the Hearing. At the Hearing held on April 25, 2007, Mr. Casey

Wojciechowski, President of Cost Plus, participated in the Hearing, and was subject to examination by the Hearing Officer. Mr. Wojciechowski clarified certain inconsistencies in the *Application*, stating that Cost Plus is primarily a wholesale operation and does not require deposits; however, if it decides at a later date to venture into the provision of prepaid local service it may require deposits from customers. Mr. Wojciechowski stated further that Cost Plus will comply with all of Tennessee's public interest obligations and responsibilities as mandated in TRA Rule 1220-4-8-.04(3)(b) and (c). Upon Cost Plus' conclusion of the presentation of its proof, the Hearing Officer granted Cost Plus' *Application* based upon the following findings of fact and conclusions of law:

I. Cost Plus Telecom, Inc.'s Qualifications

1. Cost Plus is a corporation organized under the laws of the State of Michigan on March 16, 2005. Cost Plus has no corporate affiliates and was licensed to transact business in Tennessee by the Secretary of State on October 3, 2006.

2. The complete street address of the registered agent for Cost Plus, Joseph Martin, Jr., is 315 Deaderick Street, Suite 1100, Nashville, Tennessee, 37238. The complete street address of the corporate office of Cost Plus is 151 South Rose Street, Suite 900, Kalamazoo, Michigan 49007. The telephone number is (847) 685-8750.

3. The *Application* and supporting documentary information existing in the record indicate that Cost Plus has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee. Specifically, Cost Plus' senior management team possesses extensive business, technical, operational and regulatory telecommunications experience.

4. Cost Plus has the necessary capital and financial ability to provide the services it proposes to offer.

5. Cost Plus has represented that it will adhere to all applicable statutes, policies, rules and orders of the Authority.

II. Proposed Services

Cost Plus' initial line of local services will be comparable to that currently offered by the incumbent local exchange carriers ("ILECs") and expects to offer a broad variety of local exchange services, primarily to business customers in Tennessee. Initially, Cost Plus plans to offer basic access line service, optional calling features, directory assistance, directory services, and operator services, as well as all services required under TRA Rule 1220-4-8-.04. Cost Plus will offer termination services for time-division multiplexing ("TDM") and voice over internet protocol ("VOIP") operations, mostly into major metropolitan areas like Nashville, Memphis and Knoxville. Cost Plus customers may contact the company at its toll free customer service number regarding network repair and maintenance. The toll free number will be printed on the customer's monthly billing statements. Cost Plus provided the Authority with a Notice of Filing to all eighteen ILECs in Tennessee.

III. Permitting Competition to Serve the Public Convenience and Necessity


Upon a review of the *Application* and the record in this matter, the Hearing Officer finds that approval of Cost Plus' *Application* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

IV. Small and Minority-Owned Telecommunications Business Participation Plan and Business Assistance Program

Cost Plus has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

IT IS THEREFORE ORDERED THAT:

1. The *Application for Certificate to Provide Competing Local Telecommunications and Interexchange Service* filed by Cost Plus Telecom, Inc. is approved;
2. Any party aggrieved by the Hearing Officer's decision in this matter may file a petition for reconsideration within fifteen (15) days from and after the date of this Order; and
3. Following the expiration of the fifteen (15) day appeal period, and if no petition for reconsideration or appeal of this Order is filed prior thereto, this Interim Order shall become a Final Order of the Tennessee Regulatory Authority.


Kelly Cashman-Grams, Hearing Officer