

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 29, 2007

IN RE:)	
)	
APPLICATION OF TOUCHTONE COMMUNICATIONS, INC.)	DOCKET NO.
FOR A CCN TO PROVIDE COMPETING LOCAL)	07-00187
TELECOMMUNICATIONS SERVICES IN TENNESSEE)	

**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 November 1, 2007, to consider the *Application for Certificate to Provide Competing Local Telecommunications Services* (the “*Application*”) filed by Touchtone Communications, Inc. (“Touchtone or Applicant”) on August 7, 2007, as amended on August 30, 2007 and September 26, 2007. In its *Application*, Touchtone seeks a certificate of public convenience and necessity for authority to provide competing local telecommunications services, including resold local exchange, exchange access and interexchange services, within the State of Tennessee.

Legal Standard for Granting Certificate of Public Convenience and Necessity

Touchtone’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 . . .

* * *

(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.

* * *

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 November 1, 2007 Hearing

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), a *Notice of Hearing* was issued by the Hearing Officer on October 18, 2007. No persons sought intervention prior to or during the Hearing. On October 19, 2007, Touchtone filed a request to participate telephonically in the Hearing. The Hearing Officer granted Touchtone's request in an *Order Granting Electronic Participation In Hearing* issued on October 23, 2007.

During the Hearing, Mr. Gary Glodek, Director of Retail Services, and Mr. Marcello Anzalone, Chief Financial Officer, participated telephonically on behalf of Touchtone and were subject to examination by the Hearing Officer. In accordance with the *Order Granting Electronic Participation in Hearing*, Ms. Denise DiDomenico, a licensed Notary Public in good standing in the state of New Jersey, administered the testimonial oath to the witnesses for Touchtone and remained physically present with them throughout their examination and testimony. In addition, properly executed Witness Certifications and Affidavits were received via overnight mail on November 2, 2007.

During his testimony, Mr. Glodek adopted the pre-filed testimony of Mr. Giuseppe Bio, President of Touchtone, and stated that Touchtone utilizes sales agents to market its services and does not engage in telephone solicitation. He described the process that Touchtone uses when verifying the intent of a subscriber before switching service in order to ensure that it complies with all anti-slamming laws. Additionally, Mr. Glodek affirmed that Touchtone will comply with all of Tennessee's public interest services and obligations as mandated in TRA Rule 1220-4-8-.04(3)(b) and (c). Subsequently, Mr. Anzalone provided testimony regarding the financial qualifications of Touchtone. Upon the conclusion of the presentation of proof, the Hearing Officer granted Touchtone's *Application* based upon the following findings of fact and conclusions of law:

I. Touchtone's Qualifications

1. Touchtone is a corporation organized under the laws of the State of Delaware on January 30, 2002 and was licensed to transact business in Tennessee by the Secretary of State on September 6, 2002.

2. The complete street address of the registered agent for Touchtone, TCS Corporate Services Incorporated, is 1900 Church Street, Suite 400, Nashville, Tennessee, 37203. The complete street address of Touchtone's corporate office is 16 South Jefferson Road, Whippany, New Jersey 07981. The telephone number is (973) 739-9300.

3. The *Application*, and documentation provided in support thereof, indicates that Touchtone has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee. Specifically, Touchtone's senior management team possesses extensive business, technical, operational and regulatory telecommunications experience.

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

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

II. Proposed Services

Touchtone currently offers long distance services in Tennessee, and now seeks certification to offer competing local service. Through the use of independent sales agents and direct mailings, Touchtone intends to effect a marketing campaign to solicit its Tennessee and other long distance customers for local service. Touchtone intends to offer resale local exchange service to both business and residential customers throughout the state in non-rural local exchange carriers' service areas, specifically targeting Nashville, Knoxville, Memphis and Chattanooga, and will not be installing any of its own facilities. A Notice of Filing dated July 26, 2007 sent by Touchtone to all eighteen ILECs in Tennessee was provided to this Authority with the initial *Application*.

III. Permitting Competition to Serve the Public Convenience and Necessity

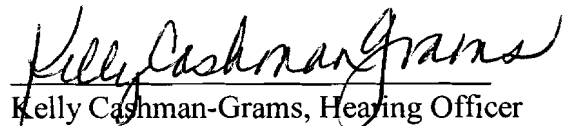
Upon review of the record in this matter, the Hearing Officer finds that approval of Touchtone's *Application* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an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

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

Touchtone has filed a satisfactory small and minority-owned telecommunications business participation plan in accordance with 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 Telecommunications Services in Tennessee* filed by Touchtone Communications, 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 the date of this Order.
3. This Initial Order shall become a Final Order of the Tennessee Regulatory Authority, in the absence of a timely filed petition for reconsideration or appeal of this Order.


Kelly Cashman-Grams, Hearing Officer