

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 20, 2008

IN RE:	)	
	)	
APPLICATION OF EVERYCALL COMMUNICATIONS,	)	DOCKET NO.
INC. D/B/A LOCAL USA D/B/A ALL AMERICAN HOME	)	08-00008
PHONE FOR A CCN TO PROVIDE COMPETING LOCAL	)	
TELECOMMUNICATIONS SERVICES IN TENNESSEE	)	

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INITIAL ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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This matter came before the Hearing Officer of the Tennessee Regulatory Authority (the “Authority” or “TRA”) at a Hearing held on April 21, 2008, to consider the *Application for a Certificate to Provide Competing Local Telecommunications Services* (the “*Application*”) filed by EveryCall Communications, Inc. d/b/a Local USA d/b/a All American Home Phone (“EveryCall” or “Applicant”) on January 7, 2008. In its *Application*, EveryCall seeks a certificate of public convenience and necessity for authority to provide competing local telecommunications services, including facilities-based, resold local exchange and interexchange and long distance telecommunications services within the State of Tennessee.

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

EveryCall’s *Application* was made pursuant to and 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.

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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 21, 2008 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 March 25, 2008. No persons sought intervention prior to or during the Hearing. At the Hearing held on April 21, 2008, Mr. Kyle Coats, President of EveryCall, participated in the Hearing, adopted the pre-filed testimony of Mr. John Brydels Jr., the Chief Financial Officer of EveryCall, and was subject to examination by the Hearing Officer.

Mr. Coats stated that the Applicant provides services under the BellSouth/AT&T Unbundled Network Elements-Platforms (“UNE-P”) for commercial/business-type clients, and utilizes the resale platform for residential customers. EveryCall will provide commercial services under its d/b/a Local USA and prepaid and other residential services under its d/b/a All American Home Phone. He also stated that EveryCall advertises its services through listings in the guide sections of the BellSouth/AT&T phone book, classified publications such as the penny pincher, shopper and classified advertisements, and will not utilize telephone solicitation. EveryCall will also seek agents in small grocery stores and retail outlets that specialize in foot traffic.

Mr. Coats affirmed that EveryCall 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 the conclusion of the presentation of its proof, the Hearing Officer granted EveryCall’s *Application* based upon the following findings of fact and conclusions of law:

**I. EveryCall’s Qualifications**

1. EveryCall is a corporation organized under the laws of the State of Louisiana and was licensed to transact business in Tennessee by the Secretary of State on July 25, 2003.

2. The complete street address of EveryCall’s registered agent, John Brydels, Jr., is 263 Third Street, Suite 208, Baton Rouge, Louisiana 70801. The complete street address of the corporate office of EveryCall is 263 Third Street, Suite 208, Baton Rouge, Louisiana 70801. The telephone number is (225) 293-3332.

3. The *Application* and supporting documentary information existing in the record indicate that EveryCall has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee.

Specifically, EveryCall's senior management team possesses sufficient business, technical, operational and regulatory telecommunications experience.

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

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

## **II. Proposed Services**

EveryCall will provide long distance, local resale and facilities-based services. Their facilities-based services will only be offered to the extent of their UNE arrangement with incumbent local exchange carriers. Applicant will not offer local services in areas served by incumbent local exchange carriers with fewer than 100,000 total access lines. EveryCall provided documentation which reflects that it served notice of its application to provide competing local telecommunications services to all eighteen Incumbent Local Exchange Carriers in Tennessee on January 3, 2008

## **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 EveryCall'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**

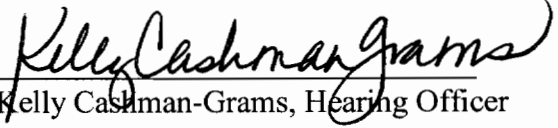
EveryCall has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

**IT IS THEREFORE ORDERED THAT:**

1. The *Application for a Certificate to Provide Competing Local Telecommunications Services* filed by EveryCall Communications, Inc. d/b/a Local USA d/b/a All American Home Phone is approved.

2. Any party aggrieved by the Hearing Officer's decision in this matter may file a petition for reconsideration within fifteen days from the date of this Order.

3. This Initial Order shall become a Final Order of the Tennessee Regulatory Authority, if no petition for reconsideration or appeal of this Order is filed prior to the expiration of the fifteen-day appeal period.

  
Kelly Cashman-Grams, Hearing Officer