

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 20, 2008

IN RE:

APPLICATION OF PRAYZTEL COMMUNICATIONS, LLC  
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETING LOCAL EXCHANGE  
AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES

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DOCKET NO.  
08-00049

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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 May 22, 2008 to consider the *Application for a Certificate to Provide Competing Local Exchange and Interexchange Telecommunications Services* (the "*Application*") filed by Prayztel Communications, LLC ("Prayztel" or "Applicant") on April 2, 2008. In its *Application*, Prayztel seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local telecommunications services, including facilities-based, resold local exchange and interexchange telecommunications services within the State of Tennessee.

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

Prayztel's *Application* was made pursuant to and considered in light of the criteria for granting a 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 May 22, 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 May 15, 2008. No persons sought intervention prior to or during the Hearing. On May 5, 2008, Prayztel filed a *Motion to Appear and Participate Telephonically at Hearing* requesting to participate in the Hearing by telephone. On May 15, 2008, the Hearing officer granted Prayztel's request in an *Order Granting Motion to Appear and Participate Telephonically at Hearing*.

At the Hearing held on May 22, 2008, Mr. Bruce Teitelbaum, Chairman of the Board of Managers and President of Prayztel, participated in the Hearing telephonically, adopted the pre-filed

testimony of Mr. Mark Goldsmith, Prayztel's General Counsel, and was subject to examination by the Hearing Officer. Mr. Mark Goldsmith, General Counsel for Prayztel, was later sworn and provided additional testimony. In accordance with the *Order Granting Motion to Appear and Participate Telephonically at Hearing*, Mr. Robert Libonati, a licensed Notary Public in good standing in the state of New York, administered the testimonial oath to Mr. Teitelbaum and Mr. Goldsmith, and remained physically present with them throughout their examination and testimony. In addition, the Authority received a properly executed *Witness Certification and Affidavit* for Mr. Teitelbaum and for Mr. Goldsmith on May 27, 2008.

Mr. Teitelbaum stated that Prayztel plans to resell services using unbundled network elements utilizing the facilities of existing Local Exchange Carriers ("LECs") or other competitive carriers that currently serve Tennessee. Additionally, Prayztel expects to advertise its services through personal contact and will not engage in telephone solicitations. Mr. Teitelbaum affirmed that Prayztel 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 conclusion of the presentation of its proof, the Hearing Officer granted Prayztel's *Application* based upon the following findings of fact and conclusions of law:

**I. Prayztel's Qualifications**

1. Prayztel is a corporation organized under the laws of the State of Delaware and was licensed to transact business in Tennessee by the Secretary of State on March 13, 2008.

2. The complete street address of the registered agent for Prayztel, TSC Corporate Services, Inc., is 1900 Church Street, Suite 400, Nashville TN 37203. The complete street address of the corporate office of Prayztel is 1930 Harrison Street, Suite 605, Hollywood, Florida 33020. The telephone number is (212) 704-6255.

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

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

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

## **II. Proposed Services**

Prayztel expects to offer a full array of local exchange and interexchange services to both business and residential customers, including 1+, 800/888 toll-free inbound dialing, calling cards and data services as well as local exchange, switched local exchange services, non-switched local services, centrex and/or centrex-like services, digital subscriber line, Integrated Services Digital Network ("ISDN"), and other high capacity services. The Applicant will also offer dual-party relay services, 911 Emergency Services, directory assistance and operator assisted calls, Lifeline and Link-Up, free blocking for 900/976 type services and educational discounts in existence as of June 6, 1995, and has no plans to install facilities in the state of Tennessee. Prayztel provided the Authority with 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 April 1, 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 Prayztel's *Application* would inure to the benefit of the present and future public

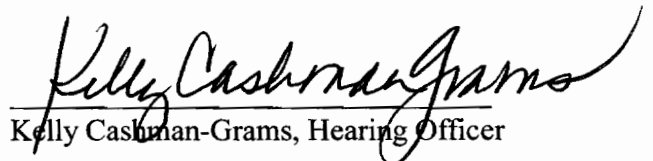
convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

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

Praytel 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 Exchange and Interexchange Telecommunications Services* filed by Praytel Communications, LLC 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