

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 22, 2008

IN RE:

**PETITION OF MIDWESTERN TELECOMMUNICATIONS,
INC. FOR A CCN TO PROVIDE LOCAL EXCHANGE,
ACCESS AND INTEREXCHANGE SERVICES**

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**DOCKET NO.
08-00078**

**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 October 9, 2008, to consider the *Application for Certificate to Provide Competing Local and Interexchange Telecommunications Services* (the "*Application*") filed by Midwestern Telecommunications, Inc. ("MTI") on May 13, 2008. In its *Application*, MTI seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide facilities-based and resold local exchange and interexchange telecommunications services within the State of Tennessee.

Legal Standard for Granting Certificate of Public Convenience and Necessity

MTI'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 . . .

* * *

(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 October 9, 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 September 22, 2008. No persons sought intervention prior to or during the Hearing. At the Hearing held on October 9, 2008, Mr. Jerry Holt, President and Director of Regulatory Affairs of MTI, participated in the Hearing, affirmed his pre-filed testimony and was subject to examination by the Hearing Officer.

During the Hearing, Mr. Holt stated that MTI plans to provide service to KinderCare child care centers throughout the state. Further, Mr. Holt affirmed that MTI 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 proof, the Hearing Officer granted MTI's *Application* based upon the following findings of fact and conclusions of law:

I. MTI's Qualifications

1. MTI is incorporated under the laws of the State of Illinois and is licensed to transact business in Tennessee by the Secretary of State as of March 31, 2008.

2. The complete street address of the registered agent for MTI, National Registered Agent, Inc., is 1900 Church Street #400, Nashville, Tennessee 37203. The complete street address of the corporate office of MTI is 65 E. 16th Street, Suite 300, Chicago Heights, Illinois 60411. The telephone number is (708) 679-5050.

3. The *Application* and supporting information existing in the record indicate that MTI has the requisite technical and managerial ability to provide the applied for telecommunications services within the State of Tennessee. Specifically, MTI's senior management team possesses sufficient business, technical, and operational telecommunications experience.

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

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

II. Proposed Services

MTI intends to provide resold local exchange telecommunications services through the use of its own facilities and unbundled network elements. When MTI installs facilities in Tennessee, it will provide voice and high speed data services through a combination of the latest

technology, including switching and transport, Internet service equipment and the latest Optical multiplexer DAC's configurations. The switching system will consist of a central processing and control complex capable of interconnection as a peer to the incumbent as well as to competitive local exchange companies. The hub portion of the switch will interconnect with the public switched network on Signaling System 7 ("SS7") or Feature Group D ("FGD") facilities. The systems remote module capability will allow properties to be served in a manner that provides the exchange or appropriate signaling, control and calling/caller information to the network in accordance with network standards and specifications. Additionally, these services will be delivered over a combination of delivery mechanisms through incumbent local carriers' unbundled loop network, both copper and fiber transport networks, as well as via MTI constructed facilities.¹

MTI provided documentation indicating that it had served notice of its application to provide competing local telecommunications services to all eighteen Incumbent Local Exchange Carriers in Tennessee on February 27, 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 MTI'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

MTI 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.

¹ See *Data Response*, p. 2 (May 5, 2008).

IT IS THEREFORE ORDERED THAT:

1. The *Application for Certificate to Provide Competing Local Telecommunications Services* filed by Midwestern Telecommunications, Inc. 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