

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 3, 2009

IN RE:

APPLICATION OF TELE CIRCUIT NETWORK CORPORATION)
FOR A CCN TO PROVIDE COMPETING LOCAL EXCHANGE) DOCKET NO.
AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES) 08-00199
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 January 12, 2009 to consider the *Application of Tele-Circuit Network for Authority to Provide Competing Local Exchange Service* (the "*Application*") filed by Tele Circuit Network Corporation ("Tele Circuit" or "Applicant") on October 16, 2008. In its *Application*, Tele Circuit seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local exchange telecommunications services, including exchange access telecommunications services, within the State of Tennessee.

Legal Standard for Granting Certificate of Public Convenience and Necessity

Tele Circuit'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 January 12, 2009 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 December 30, 2008. No persons sought intervention prior to or during the Hearing. On January 6, 2009, Tele Circuit filed a *Motion to Appear and Participate Telephonically at Hearing* requesting to participate in the Hearing by telephone. On January 7, 2009, the Hearing officer granted Tele Circuit's request as to company representatives and witnesses in an *Order Granting Electronic Participation in Hearing*.

During the Hearing held on January 12, 2009, Mr. Ashar M. Syed, CEO of Tele Circuit, participated in the Hearing telephonically, affirmed his pre-filed testimony, and was subject to

examination by the Hearing Officer.¹ In accordance with the *Order Granting Electronic Participation in Hearing*, Ms. Ana Karina Genao, a licensed Notary Public in good standing in the State of Georgia, administered the testimonial oath to Mr. Syed and remained physically present with him throughout his examination and testimony. In addition, as required, the Authority received a properly executed *Witness Certification* and a *Notary Public Affidavit* on January 14, 2009.

Mr. Syed stated that Tele Circuit plans to operate as a reseller in Tennessee. Additionally, Tele Circuit expects to advertise its services primarily through television, radio and print, and is aware of federal and state regulations concerning telephone solicitation. Mr. Syed affirmed that Tele Circuit 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 Tele Circuit's *Application* based upon the following findings of fact and conclusions of law:

I. Tele Circuit's Qualifications

1. Tele Circuit is a corporation organized under the laws of the State of Georgia and is licensed to transact business in Tennessee by the Secretary of State as of September 24, 2008.
2. The complete street address of the registered agent for Tele Circuit, TSC Corporate Services, Inc., is 1900 Church Street, Suite 400, Nashville TN 37203. The complete street address of

¹ As has occurred in certain other proceedings conducted telephonically before the Authority, during the hearing in this matter, communication difficulties were experienced by and between the telephonic witness and those present in the Hearing Room located at the TRA, including the Hearing Officer and the Court Reporter. Tenn. Code Ann. § 4-5-312(c), the Tennessee Uniform Administrative Procedures Act, permits a hearing, pursuant to specific conditions, to be conducted by telephone, television or other electronic means within the discretion of the administrative judge or hearing officer. Further, it is, and has been, the policy of the Authority to encourage the conservation of company and utility resources through the use of telephonic means of representation during hearings in furtherance of competition whenever possible, so long as such use is not detrimental to the public or the Authority. Nevertheless, the repeated occurrences of difficulties demonstrate a lack of respect for or appreciation of the nature and formality of legal proceedings conducted electronically. Additionally, attempts to safeguard the legitimacy and integrity of the process and the proceedings have failed to sufficiently negate reasonable concerns relating to potential abuses. For these reasons, in the future the Hearing Officer will only permit representation by electronic means where good cause is shown.

the corporate office of Tele Circuit is 3050 Royal Blvd. South, Suite 145, Alpharetta, Georgia 30022. The telephone number is (877) 835-3247.

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

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

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

II. Proposed Services

Tele Circuit intends to offer local exchange and interexchange service to both business and residential customers throughout the state. Local service will be offered to customers located in non-rural local exchange carriers' service areas, and interexchange service will be offered statewide. Tele Circuit plans to commence offering service in the BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee Service area. Tele Circuit will initially resell services and provide service using unbundled network elements obtained through commercial and interconnection agreements, utilizing the facilities of the existing LECs or other competitive carriers that currently serve Tennessee. The company does not plan to install facilities in the State of Tennessee. Tele Circuit 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 October 15, 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 Tele Circuit'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

Tele Circuit 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 of Tele Circuit Network Corporation for Authority to Provide Competing Local Exchange and Interexchange Service* filed by Tele Circuit Network Corporation 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