

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 9, 2009

IN RE:

APPLICATION OF BROADVOX-CLEC, LLC FOR  
AUTHORITY TO PROVIDE COMPETING LOCAL  
EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES IN TENNESSEE

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DOCKET NO.  
09-00076

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ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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This matter came before Chairman Sara Kyle, Director Kenneth C. Hill and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a Hearing held on October 26, 2009 to consider the *Application of Broadvox-CLEC, LLC For Authority to Provide Competing Local Exchange and Interexchange Service* (the "Petition") filed by Broadvox-CLEC, LLC ("Broadvox" or "Petitioner") on June 5, 2009. In its *Petition*, Broadvox seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local and interexchange telecommunications services in Tennessee.

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

Broadvox's *Petition* 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. 2009), 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 October 26, 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 October 8, 2009. No persons sought intervention prior to or during the Hearing. At the Hearing held on October 26, 2009, Mr. Jeff Slater, President of Broadvox, participated in the Hearing, adopted the pre-filed testimony of Mr. Alex Gertsburg, Vice President and General Counsel and was subject to examination by the panel.

#### **I. Broadvox's Qualifications**

1. Broadvox 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 as of February 13, 2009.

2. The complete street address of the corporate office of Broadvox is 1228 Euclid Avenue, Suite 390, Cleveland, Ohio 44115. The telephone number is (216) 373-4623.

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

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

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

## **II. Proposed Services**

Broadvox intends to offer local exchange and interexchange services to both business and residential customers throughout the state. The Petitioner intends to provide local exchange service to customers located in non-rural local exchange carriers' service areas and plans to provide interexchange service statewide. Broadvox will initially resell services and provide service using unbundled network elements obtained through commercial and interconnection agreements. The Petitioner has no plans to install facilities in Tennessee. Broadvox served notice of its *Petition* to all eighteen ILECs operating within the State of Tennessee on June 4, 2009.

## **III. Permitting Competition to Serve the Public Convenience and Necessity**

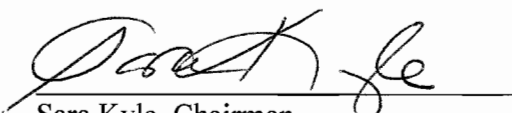
Upon a review of the *Petition* and the record in this matter, the panel found that approval of Broadvox's *Petition* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

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

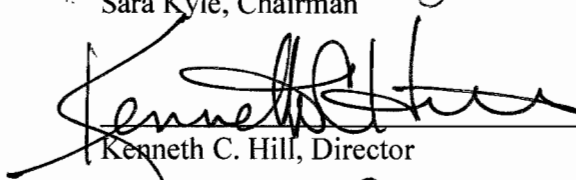
Broadview has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

**IT IS THEREFORE ORDERED THAT:**

*The Application of Broadvox-CLEC. For Authority to Provide Competing Local Exchange and Interexchange Service* filed by Broadvox-CLEC, LLC. is approved.



Sara Kyle, Chairman



Kenneth C. Hill, Director



Mary W. Freeman, Director