

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 14, 2010

IN RE:)	
)	
PETITION OF COMCAST PHONE OF)	DOCKET NO.
TENNESSEE, LLC TO AMEND ITS CCN)	10-00061

**ORDER GRANTING AMENDMENT OF CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Director Eddie Roberson, Director Kenneth C. Hill and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the Hearing held on July 26, 2010 to consider the *Petition of Comcast Phone of Tennessee, LLC to Amend its Certificate of Convenience and Necessity* (the “*Petition*”) filed by Comcast Phone of Tennessee, LLC (“Comcast Phone” or “Petitioner”) on April 15, 2010. In its *Petition*, Comcast Phone seeks an amendment of its Certificate of Public Convenience and Necessity (“CCN”) to include authority to provide telecommunications services on a statewide basis in areas served by telephone cooperatives and incumbent local exchange carriers in the state with fewer than 100,000 total access lines.

Background

On March 23, 2005, the Authority granted Comcast Phone a CCN to provide competing local exchange and interexchange telecommunications services in Tennessee in Docket No. 04-00427. The order issued in Docket No. 04-00427 specifically addressed subsection (d) of Tenn. Code Ann. § 65-4-201, indicating that “notwithstanding the existence of subsection (d), the

Federal Communications Commission (“FCC”) has expressly preempted the Authority’s enforcement of subsection (d) pursuant to the authority granted to the FCC under 47 USC § 253 (d).¹ The Authority has since issued orders expanding competing local exchange carriers’ CCNs to provide telecommunications services on a statewide basis including areas served by incumbent local exchange carriers with fewer than 100,000 total access lines in Tennessee as well as telephone cooperatives.² Comcast is now seeking an amendment to its CCN to permit it to provide telecommunications services on a statewide basis in areas served by telephone cooperatives and incumbent local exchange carriers in the state with fewer than 100,000 total access lines.

Legal Standard for Amending Certificate of Public Convenience and Necessity

Comcast Phone’s *Petition* was made pursuant to and considered in light of the criteria for granting and extending a CCN as set forth in Tenn. Code Ann. § 65-4-201 (Supp. 2009), which provides, in pertinent part:

* * *

(b) Except as exempted by provisions of state or federal law, no individual or entity shall offer or provide any individual or group of telecommunications services, or extend its territorial areas of operations without first obtaining from the Tennessee Regulatory Authority a certificate of convenience and necessity for such service or territory; provided, however, that no telecommunications services provider offering and providing a telecommunications service under the authority of the Authority on June 6, 1995, is required to obtain additional authority in order

¹ *In the Matter of AVR, LP d/b/a Hyperion of Tennessee, LP Petition for Preemption of Tennessee Code Annotated Section 65-4-201(d) and Tennessee Regulatory Authority Decision Denying Hyperion’s Application Requesting Authority to Provide Service in Tennessee Rural LEC Service Area*, FCC 99-100 (Memorandum Opinion and Order) 14 FCCR 11,064 (May 27, 1999) (Memorandum and Opinion and Order) 16 FCCR. 1247 (January 8, 2001).

² *See In re: Application of Level 3 Communications, LLC to Expand its CCN to Provide Facilities-Based Local Exchange and Interexchange Telecommunications Services in all Tennessee Service Areas*, Docket No. 02-00230, *Order Approving Application of Level 3 Communications, LLC to Amend Its Certificate of Public Convenience and Necessity* (June 28, 2002). *See also In re: Petition of Frontier Communications of America, Inc. to Amend its Certificate of Convenience and Necessity*, Docket No. 07-00155, *Order Granting Amendment of Certificate of Public Convenience and Necessity* (July 9, 2008).

to continue to offer and provide such telecommunications services as it offers and provides as of June 6, 1995.

(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.

July 26, 2010 Authority Conference

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), public notice was issued by the Hearing Officer on July 14, 2010, setting the matter for hearing during the Authority Conference on July 26, 2010. Ms. Terri Weldon, Director of Government Affairs and Public Relations, participated in the Hearing and was subject to examination by the panel. Mr. Chuck Welch, Esq., represented the Petitioner.

I. Comcast Phone's Qualifications

1. Comcast Phone is a limited liability company organized under the laws of the State of Delaware and was licensed to transact business in Tennessee by the Secretary of State on May 28, 2004.

2. The complete street address of Comcast Phone's registered agent, C.T. Corporation System, is 800 S. Gay Street, Suite 2021, Knoxville TN 37929. The complete street address of Comcast Phone's corporate office is 1701 John F. Kennedy Blvd., Philadelphia, PA 19103. The telephone number is (215) 286-2627.

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

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

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

II. Proposed Services

Comcast Phone intends to provide telecommunications services on a statewide basis including areas served by telephone cooperatives and incumbent local exchange telephone companies with fewer than 100,000 total access lines in Tennessee, subject to 47 U.S.C. 251(f). Comcast Phone, pursuant to its existing CCN, currently has interconnection agreements with and operates within the service territory of certain incumbent local exchange carriers in the state with fewer than 100,000 total access lines. According to the Petitioner, these agreements were voluntarily negotiated and entered into by the parties.

III. Permitting Competition to Serve the Public Convenience and Necessity

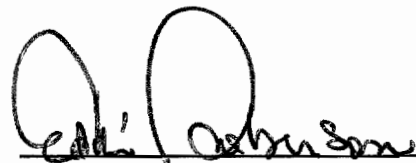
Upon a review of the *Petition* and the record in this matter, the voting panel finds that approval of Comcast Phone's *Petition* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the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

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

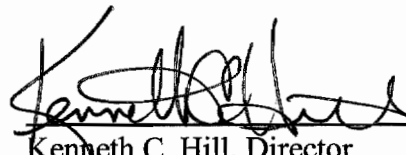
Comcast Phone has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

IT IS THEREFORE ORDERED THAT:

The *Petition of Comcast Phone of Tennessee, LLC to Amend its Certificate of Convenience and Necessity* is approved.



Eddie Roberson, Director



Kenneth C. Hill, Director



Sara Kyle, Director