

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 11, 2010

IN RE:

APPLICATION OF HAMILTON RELAY, INC.  
FOR A CCN TO PROVIDE COMPETING LOCAL  
TELECOMMUNICATIONS SERVICES IN TENNESSEE

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DOCKET NO.  
10-00074

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ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a Hearing held on May 24, 2010 to consider the *Application for Certificate to Provide Competing Local Telecommunications Services* (the "*Application*") filed by Hamilton Relay, Inc. ("Hamilton" or "Applicant") on April 21, 2010 and amended on April 30, 2010. In its *Application*, Hamilton seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local telecommunications services in Tennessee.

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

Hamilton'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. 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 . . .

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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 24, 2010 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 14, 2010. No persons sought intervention prior to or during the Hearing.

During the Hearing held on May 24, 2010, Ms. Dixie Zeigler, Vice President, participated in the Hearing, affirmed her pre-filed testimony and was subject to examination by the panel. Mr. David Killion, Esq., represented the Company.

#### **I. Hamilton's Qualifications**

1. Hamilton is a corporation organized under the laws of the State of Nebraska and was licensed to transact business in Tennessee by the Secretary of State as of April 9, 2010.

2. The complete street address of the corporate office of Hamilton is 1001 12<sup>th</sup> Street, Aurora, Nebraska 68818. The telephone number is (402) 694-5101.

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

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

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

## **II. Proposed Services**

Hamilton initially indicated that it would not offer any services directly to the public in the State of Tennessee but would provide technical, operational, and administrative support to Stellar Relay, LLC ("Stellar") with respect to Stellar's support of GoAmerica Relay Services Corp.'s provision of intrastate relay service throughout the State of Tennessee, including areas served by local exchange carriers with fewer than 100,000 access lines. Hamilton amended its *Application* on April 30, 2010 to request that Hamilton be granted full authority to provide competing local telecommunications services to the general public in the State of Tennessee should Hamilton choose to provide such services in the future. Specifically, Section 5 of the *Application* was amended to state that Hamilton requests authority to provide relay services statewide if, in the future, Hamilton seeks to provide such services directly to the public.

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

Upon a review of the *Application* and the record in this matter, the panel found that approval of Hamilton'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**

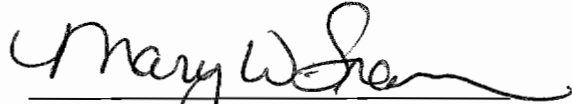
Hamilton has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

**IT IS THEREFORE ORDERED THAT:**

Hamilton Relay Inc.'s *Application for Certificate to Provide Competing Local Telecommunications Services*, as amended, is approved.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Mary W. Freeman, Director