

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 19, 2011

IN RE:

APPLICATION OF CREXENDO BUSINESS SOLUTIONS,
INC. FOR A CCN TO PROVIDE COMPETING LOCAL
EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES IN TENNESSEE

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DOCKET NO.
11-00051

ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Eddie Roberson, Director Kenneth C. Hill and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a Hearing held on August 22, 2011 to consider the *Application of Crexendo Business Solutions, Inc. for Authority to Provide Competing Local Exchange and Interexchange Services* (the "*Application*") filed by Crexendo Business Solutions, Inc. ("Crexendo" or "Applicant") on April 12, 2011. In its *Application*, Crexendo seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local exchange and interexchange telecommunications services in Tennessee.

Legal Standard for Granting Certificate of Public Convenience and Necessity

Crexendo'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. 2010), 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 August 22, 2011 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 August 12, 2011. No persons sought intervention prior to or during the Hearing. During the Hearing held on August 22, 2011, Mr. Jeffrey Korn, Chief Legal Officer of Crexendo, testified and was subject to examination by the panel.

I. Crexendo's Qualifications

1. Crexendo is a corporation organized under the laws of the State of Arizona authorized to transact business in Tennessee by the Secretary of State as of May 5, 2010.

2. Crexendo's corporate office and principal place of business is located at 1615 South 52nd Street, Tempe, Arizona 85281. The telephone number is (801) 234-5988.

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

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

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

II. Proposed Services

Crexendo intends to provide local exchange service to customers located in non-rural local exchange carriers' service areas in Tennessee and will provide interexchange service statewide. The Applicant initially plans to resell services and provide services using unbundled network elements obtained through interconnection agreements, utilizing the facilities of existing local exchange carriers or other competitive carriers currently serving Tennessee. The Applicant does not intend to install facilities in Tennessee.

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 Crexendo'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

Crexendo 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 Crexendo Business Solutions, Inc. for Authority to Provide Competing Local Exchange and Interexchange Services is approved.

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Eddie Roberson, Chairman¹


Kenneth C. Hill, Director


Sara Kyle, Director

¹ Chairman Roberson voted in agreement with the other directors but resigned his position with the TRA before the issuance of this order.