

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 12, 2013**

**IN RE:**

**APPLICATION OF CONTERRA ULTRA BROADBAND,  
LLC FOR A CERTIFICATE TO PROVIDE COMPETING  
LOCAL EXCHANGE SERVICES WITHIN THE STATE  
OF TENNESSEE**

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**DOCKET NO.  
13-00097**

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

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This matter came before the Hearing Officer of the Tennessee Regulatory Authority (the “Authority” or “TRA”) at a Hearing held on November 12, 2013 to consider the *Application for Authority to Provide Competing Local Exchange Services* (the “*Application*”) filed by Conterra Ultra Broadband, LLC (“Conterra” or “Applicant”), on July 2, 2013. In its *Application*, Conterra seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide competing local exchange telecommunications services in Tennessee.

**LEGAL STANDARD**

Conterra’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. 2013), 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.

#### **HEARING ON THE MERITS**

Pursuant to Tenn. Code Ann. § 65-4-201, *et seq.*, public notice of the Hearing in this matter was issued by the Hearing Officer on October 22, 2013. No persons sought intervention prior to or during the Hearing. Mr. Kelley Boan, Regulatory & Special Projects Manager of Conterra, appeared personally at the Hearing, ratified his sworn notice of the adoption of the pre-filed testimony of Ms. Angela C. Lee, VP, Corporate Counsel and Secretary of Conterra, which had been filed in the docket filed on November 1, 2013, and was subject to examination by the Hearing Officer.

## **I. CONTERRA'S QUALIFICATIONS**

1. Conterra is a limited liability company organized under the laws of the state of South Carolina on April 20, 2001, and was licensed by the Secretary of State to transact business in Tennessee on April 5, 2010.

2. The registered agent for Conterra is National Registered Agents, Inc., located at 800 S. Gay Street, Suite 2021, Knoxville, Tennessee 37929. The corporate offices of Conterra are located at 2101 Rexford Road, Suite 200E, Charlotte, North Carolina 28211. Conterra may be reached at telephone number (704) 936-1806.

3. The *Application* and information in the record demonstrate that Conterra has the requisite technical and managerial ability to provide the services for which it has applied within the State of Tennessee. Specifically, Conterra's senior management team possesses extensive business, technical, operational and regulatory experience.

4. Conterra has also demonstrated that it has the necessary capital and financial ability to provide the services it proposes to offer.

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

## **II. PROPOSED SERVICES**

Conterra intends to provide cellular backhaul transport, access networks and broadband networks for K-12, healthcare and governmental entities. Each product and service offered by Conterra is physically based on FCC licensed common carrier microwave and fiber optic transport customers. In addition, each network is customized to a specific customer's needs and requirements and is not available to the general public through retail sales by the Applicant.

Within cellular backhaul transport, the Applicant provides carrier grade Ethernet or TDM connectivity and transport from a wireless carrier or from a lower profile connection point

(telecommunications tower, point of presence or carrier hotel). The Applicant supplies customer specified transport bandwidth from site A to Z.

### **III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY**


Conterra's *Application* and its proposed services have been found to foster the goals of the Tennessee General Assembly and are likely to benefit the present and future public convenience by increasing 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**

Conterra 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 for Authority to Provide Competing Local Exchange Service* filed by Conterra Ultra Broadband, LLC, 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, unless a petition requesting reconsideration or an appeal of this Order is filed prior to the expiration of the fifteen-day period noted above.

  
Kelly Cashman-Grams, Hearing Officer