

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

APPLICATION OF GC PIVOTAL, LLC. d/b/a/ GLOBAL  
CAPACITY FOR AUTHORITY TO PROVIDE COMPETING  
LOCAL EXCHANGE AND INTEREXCHANGE SERVICE

DOCKET NO.  
14-00093

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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 December 10, 2014 to consider the *Application for a Certificate to Provide Facilities-based and Resold Local Exchange and Interexchange Telecommunications Services* ("Application") filed by GC Pivotal, LLC d/b/a Global Capacity ("Global Capacity" or "Applicant") on September 14, 2014. In its *Application*, Global Capacity seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local exchange and interexchange telecommunications services in Tennessee.

**LEGAL STANDARD**

Global Capacity'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. 2012), 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. § 65-4-204 (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on November 26, 2014. No persons sought intervention prior to or during the Hearing.

#### **I. GLOBAL CAPACITY'S QUALIFICATIONS**

1. Global Capacity 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 on June 1, 2010.

2. The complete street address of the registered agent for Global Capacity is Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203. The

complete street address of the corporate office of Global Capacity is 180 North LaSalle Street, Suite 2430, Chicago, Illinois 60601. The telephone number is (312) 673-2400.

3. The *Application* and information in the record indicate that Global Capacity has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee. Specifically, the Applicant's senior management team possesses extensive business, technical, operational and regulatory experience.

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

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

## **II. PROPOSED SERVICES**

Global Capacity will primarily provide data communications services and does not intend to provide voice services at this time. Global Capacity proposes to obtain network assets and data service customers from MegaPath Corporation. Global Capacity seeks authority to provide facilities-based and resold local exchange and interexchange non-voice telecommunications services to and from all points in Tennessee that are currently or become open to competition. Global Capacity will provision telecommunications through a combination of its own facilities, facilities leased from other carriers, and resale of facilities and equipment of Incumbent Local Exchange Carriers ("ILECs") operating in Tennessee. To the extent applicable to non-voice telecommunications services, or to the extent that Global Capacity begins to provide voice telecommunications services, Applicant will provide those services required by TRA Rule 1220-4-8-.04(3)(b).

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

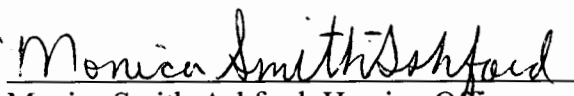
Global Capacity's *Application* and its proposed services would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

### **IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN AND BUSINESS ASSISTANCE PROGRAM**

Global Capacity 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 a Certificate to Provide Facilities-based and Resold Local Exchange and Interexchange Telecommunications Services* filed by GC Pivotal, LLC d/b/a Global Capacity 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 if no petition for reconsideration or appeal of this Order is filed prior to the expiration of the fifteen-day appeal period.

  
Monica Smith-Ashford, Hearing Officer