

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**September 4, 2018**

<b>IN RE:</b>	)	
	)	
<b>APPLICATION OF GOOGLE FIBER</b>	)	<b>DOCKET NO. 14-00145</b>
<b>TENNESSEE, LLC FOR A STATE-ISSUED</b>	)	
<b>CERTIFICATE OF FRANCHISE AUTHORITY</b>	)	

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**ORDER GRANTING REQUEST FOR EXTENSION OF TIME  
TO MEET DEPLOYMENT REQUIREMENTS**

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This matter came before Vice Chair Kenneth C. Hill, Commissioner Herbert H. Hilliard, and Commissioner John A. Hie of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during the regularly scheduled Commission Conference held on August 21, 2018, for hearing and consideration of a *Request for Extension of Time to Meet Deployment Requirements* (“Request”) filed on July 20, 2018 by Google Fiber Tennessee, LLC (“Petitioner,” “Google Fiber” or “Company”).

**RELEVANT BACKGROUND**

Google Fiber provides video and broadband Internet services in Tennessee and is subject to the regulatory jurisdiction of the Commission. On February 9, 2015, Google Fiber was issued a Certificate of Franchise Authority (“Certificate”) to provide cable services. Under Tenn. Code Ann. § 7-59-311(b), Google Fiber is required to provide services to at least 30% of households in its franchise area within forty-two (42) months of the issuance of its Certificate. On July 20, 2018, Google Fiber filed its *Request* and Affidavit of Jill Szuchmacher, Manager of Google Fiber, Tennessee, LLC and Director of Network Deployment and Operations of Google Fiber,

Inc.<sup>1</sup> In her Affidavit, Ms. Szuchmacher states that the process of developing and building Google Fiber's network to provide video services began immediately upon receipt of its Certificate.<sup>2</sup> Ms. Szuchmacher states that Google Fiber has faced the following obstacles since commencing the building of its network: (1) timely obtaining space on poles to install fiber; and (2) multiple lawsuits have been filed challenging the legality of Metro Nashville Council's adoption of "One Touch Make Ready" ("OTMR") ordinance. Further, she asserts that, due to these obstacles, Google Fiber will not be able to provide access to at least thirty percent (30%) of the households in its franchise area by August 9, 2018, pursuant to Tenn. Code. Ann. § 7-59-311(d).<sup>3</sup>

To expedite the progress of providing service despite these issues, Ms. Szuchmacher states that Google Fiber has increasingly used shallow trenching to bury lines in the ground.<sup>4</sup> She affirms that Google Fiber has met the requirements of Tenn. Code Ann. § 7-59-311's twenty-five percent (25%) low-income household deployment; and has obtained over 27,000 permits to deploy fiber lines using all techniques. Google Fiber is seeking a twenty-four (24) month extension of time to meet the requirements of Tenn. Code Ann. § 7-59-311(b).<sup>5</sup>

#### **STANDARD FOR COMMISSION APPROVAL**

The Competitive Cable & Video Services Act of 2008 ("CCVSA") sets forth certain deployment requirements for a provider holding a State-issued Certificate:

Tenn. Code Ann. § 7-59-311(b) states in part:

"Except as otherwise provided in this section, a holder of a state-issued certificate of franchise authority shall provide access to its cable or video service, or to a broadband Internet service as provided in subsection (d), to a number of

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<sup>1</sup> Affidavit of Jill Szuchmacher, (July 20, 2018)

<sup>2</sup> *Id.*, p. 2

<sup>3</sup> *Id.*, p. 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

households equal to at least thirty percent (30%) of the households in its franchise area within forty-two (42) months after the date it receives a state-issued franchise authority.”

The Commission may consider a provider’s request for an extension of time to comply with the deployment requirements above, as follows:

Tenn. Code Ann. § 7-59-311(e)(1) states in part:

“A holder of a state-issued certificate of franchise authority may apply to the department for a waiver of or an extension of time to meet the requirements of time for deployment”....” if one (1) or more of the following conditions materially impaired the ability of the holder to meet the requirements”:

- (A) The inability to obtain access to public and private rights-of-way;
- (B) Developments or buildings not being subject to competition because of existing exclusive service arrangements;
- (C) Developments or buildings being inaccessible using reasonable technical solutions under commercially reasonable terms and conditions;
- (D) Natural disasters; or
- (E) Factors beyond the control of the holder of a state-issued certificate of franchise authority.

Further, Tenn. Code Ann. § 7-59-311(e)(2) states in part:

The department may grant the waiver or extension only if the holder has made substantial and continuous effort to meet the requirements of subsection (a) or (b), and if an extension is granted, the department shall establish a new compliance deadline.

## **FINDINGS AND CONCLUSIONS**

Upon review of the *Request* and, specifically, the Affidavit of Jill Szuchmacher, the Commission found that Google Fiber has made substantial efforts to meet the requirements in Tenn. Code Ann. § 7-59-311(b), and concluded that granting an extension of time is in accordance with applicable law as per Tenn. Code Ann. § 7-59-311(e)(1) and Tenn. Code Ann. § 7-59-311(e)(2).

Therefore, during the regularly scheduled Commission Conference held on August 21, 2018, the panel voted unanimously to approve the *Request* and grant Google Fiber twenty-four (24) month extension of time in order to meet deployment requirements.

**IT IS THEREFORE ORDERED THAT:**

1. The *Request for Extension of Time to Meet Deployment Requirements* filed by Google Fiber Tennessee, LLC on July 20, 2018 is granted.


2. Google Fiber Tennessee, LLC is hereby given a twenty-four (24) month extension of time from the date of this Order to meet the requirements in Tenn. Code Ann. § 7-59-311(b).

3. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

4. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

**Vice Chair Kenneth C. Hill, Commissioner Herbert H. Hilliard, and Commissioner John A. Hie concur.**

**ATTEST:**

  
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**Earl R. Taylor, Executive Director**