

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 29, 2016

IN RE:

APPLICATION OF SUNSET FIBER, LLC FOR A
CERTIFICATE TO PROVIDE COMPETING LOCAL
TELECOMMUNICATION SERVICES WITHIN THE
STATE OF TENNESSEE

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DOCKET NO.
16-00046

INITIAL ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

This matter came before the Hearing Officer of the Tennessee Regulatory Authority (the “Authority” or “TRA”) at a Hearing held on June 17, 2016 to consider the *Application of Sunset Fiber, LLC for a Certificate to Provide Competing Local Telecommunications Services Within the State of Tennessee* filed by Sunset Fiber, LLC (“Sunset” or “Company”) on April 28, 2016. In its *Application*, Sunset seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide competing local exchange and interexchange telecommunications services in Tennessee.

LEGAL STANDARD

Sunset Fiber’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 . . .

* * *

(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.

* * *

Furthermore, pursuant to Tenn. Code Ann. § 65-5-112 (2015), 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 (2015), public notice of the Hearing in this matter was issued by the Hearing Officer on June 7, 2016. The Hearing was conducted on June 17, 2016. The witness for the *Applicant*, Mr. Paul Elswick, Jr. provided pre-filed testimony with the *Application*. At the Hearing, Mr. Elswick was sworn and provided testimony before the Hearing Officer. No persons sought intervention prior to or during the Hearing.

I. SUNSET'S QUALIFICATIONS

1. Sunset is a corporation organized under the laws of the Commonwealth of Virginia on February 10, 2015, and was licensed to transact business in Tennessee by the Secretary of State on July 17, 2015.

2. The complete street address of the registered agent for Sunset is Corporation Service Company, 2908 Poston Ave., Nashville, Tennessee 37203-1312. The complete street address of the corporate office of Sunset is 333 Fraley Ave., Duffield, VA 24244. The telephone number is (877) 318-6368.

3. The *Application* and information in the record indicate that Sunset has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee.

4. Based on the record in this matter, Sunset has the necessary capital and financial ability to provide the services it proposes to offer.

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

II. PROPOSED SERVICES

Sunset proposes to offer dial tone service for residential and business customers, SIP trunking, local and long distance telecommunication services.¹ Sunset expects to provide a broad variety of local exchange service and IP services, primarily to business customers.²

The Applicant intends to provide service in the territory of BellSouth Telecommunications, LLC d/b/a AT&T and other incumbents and expand in response to market opportunities.

¹ Paul B. Elswick, Jr Pre-filed Direct Testimony, p. 2 (April 28, 2016).

² *Application*, p. 4.

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY


Sunset'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

Sunset has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2015) and the Authority's Rules.

IT IS THEREFORE ORDERED THAT:

1. The *Application of Sunset Fiber, LLC for a Certificate to Provide Competing Local Telecommunications Services Within the State of Tennessee* filed by Sunset Fiber, LLC is approved.³
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.



Ryan McGehee, Hearing Officer

³ Approval of the *Application* does not serve as an endorsement or an approval by the Authority of any acquisitions or planned acquisitions discussed by Sunset during the course of the Hearing.