

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 28, 2016

IN RE:

PETITION OF SKYBEST COMMUNICATIONS, INC.
FOR A CERTIFICATE TO PROVIDE COMPETING
LOCAL TELECOMMUNICATION SERVICES WITHIN
THE STATE OF TENNESSEE

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DOCKET NO.
16-00078

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 September 15, 2016 to consider the *Application of SkyBest Communications, Inc. for a Certificate to Provide Competing Local Telecommunications Services Within the State of Tennessee* filed by SkyBest Communications, Inc. (“SkyBest” or “Company”) on April 28, 2016. In its *Application*, SkyBest seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide competing local exchange and interexchange telecommunications services in Tennessee.¹

LEGAL STANDARD

The *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:

¹ In TRA Docket 00-00959, the Company’s CCN was revoked by the Authority for non-payment of fees. *In re: Application For Authority to Provide Operator Services And/Or Resell Telecommunications Services in Tennessee Pursuant to Rule 1220-4-2-.57, Docket 00-00959, Order Revoking Authority to Provide Operator Services And/Or Resell Telecommunications Services in Tennessee For Non-Payment of Fees*, October 18, 2005.

(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 August 31, 2016. The Hearing was conducted on September 15, 2016. The witness for SkyBest, Mr. Jimmy Blevins adopted pre-filed testimony of Cindy Rothstein originally submitted with the *Application*. At the Hearing, Mr. Blevins was sworn and provided testimony before the Hearing Officer. No persons sought intervention prior to or during

the Hearing.

I. SKYBEST'S QUALIFICATIONS

1. SkyBest is a corporation organized under the laws of the State of North Carolina on January 28, 1998, and was licensed to transact business in Tennessee by the Secretary of State on May 11, 2016.

2. The complete street address of the registered agent for SkyBest is Mr. Keith Blair, 2908 Poston Ave., Nashville, Tennessee 37203-1312. The complete street address of the corporate office of SkyBest is 1200 NC Highway, 194 N, West Jefferson, NC 28694. The telephone number is (336) 877-3111.

3. The *Application* and information in the record indicate that SkyBest 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, SkyBest has the necessary capital and financial ability to provide the services it proposes to offer.

5. SkyBest has represented that it will adhere to all applicable statutes, policies, rules and orders of the Authority.²

II. PROPOSED SERVICES

SkyBest proposes to provide diversified telecommunication services, including but not limited to, toll, local exchange, access, private line, voicemail, and broadband services.³ The Company intends to extend its fiber expansion into Mountain City.

² SkyBest has indicated it will work with Authority to resolve any outstanding issues stemming from the revocation of the Company's CCN in TRA Docket 00-00959. Transcript of Hearing, p. 10 (September 15, 2016).

³ *Application*, 5.

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

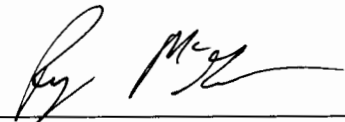
SkyBest's *Application* and its proposed services would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications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

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

SkyBest 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 SkyBest Communications, Inc. for a Certificate to Provide Competing Local Telecommunications Services Within the State of Tennessee* filed by SkyBest Communications, Inc. 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.



Ryan McGehee, Hearing Officer