

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE  
August 22, 2017

IN RE:

APPLICATION OF TRI-COUNTY FIBER  
COMMUNICATIONS, LLC FOR A CERTIFICATE  
TO PROVIDE COMPETING LOCAL  
TELECOMMUNICATIONS SERVICES

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DOCKET NO.  
17-00053

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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 Public Utility Commission (the "Commission" or "TPUC") at a Hearing held on August 10, 2017 to consider the *Application of Tri-County Fiber Communications, LLC for a Certificate to Provide Competing Local Telecommunications Services* (the "*Application*") filed by Tri-County Fiber Communications, LLC ("Tri-County Fiber" or "Applicant") on June 7, 2017. In its *Application*, Tri-County Fiber seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local telecommunications services within the State of Tennessee.

**LEGAL STANDARD**

Tri-County 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 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 commission, 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 (2015), a competing telecommunications provider is required to file with the Commission a small and minority-owned telecommunications business participation plan which provides a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses and 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 July 31, 2017. No persons sought intervention prior to or during the Hearing. Mr. Paul Thompson, Executive Vice President and General Manager of Tri-County Fiber, appeared personally at the Hearing and provided testimony. Ms. Tammy

Dixon, Manager of Marketing/Key Accounts, also personally appeared at the Hearing on behalf of Tri-County Fiber, but did not offer testimony.

Thereafter, Mr. Thompson participated in the Hearing and was subject to examination by the Hearing Officer. During the Hearing, Mr. Thompson adopted his pre-filed testimony. He also offered one revision to his pre-filed testimony, indicating that while his pre-filed testimony indicated that Tri-County Fiber would offer broadband services, telephone and video, Tri-County Fiber has determined that it will not offer video at this time. Mr. Thompson further submitted testimony concerning the financial statements and other exhibits submitted and submitted such documents as part of the record of this matter. Finally, the Hearing Officer opened the floor for public comment, but no member of the public came forward to comment. Upon conclusion of the presentation of its proof, the Hearing Officer granted Tri-County Fiber's *Application* based upon the following findings of fact and conclusions of law:

#### **I. TRI-COUNTY FIBER'S QUALIFICATIONS**

1. Tri-County Fiber is a limited liability company organized under the laws of the State of Tennessee, originally established on April 28, 2017 and licensed to transact business in Tennessee by the Secretary of State on said date.

2. The complete street address of the registered agent for Tri-County Fiber, Tri-County Electric Membership Corporation, is 405 College Street, Lafayette, Tennessee 37083. The complete street address of the corporate office of Tri-County Fiber is 405 College Street, Lafayette, Tennessee 37083. The telephone number is (615) 688-2100.

3. The *Application* and information in the record indicate that Tri-County Fiber has the requisite technical and managerial ability to provide competitive access services and transport

telecommunications services within the State of Tennessee. Specifically, Tri-County Fiber's management team possesses extensive business, technical, operational and regulatory experience.

4. Tri-County Fiber has the necessary capital and financial ability to provide the services it proposes to offer.

5. Tri-County Fiber has represented that it will adhere to all applicable statutes, policies, rules and orders of the Commission.<sup>1</sup>

## **II. PROPOSED SERVICES**

Tri-County Fiber intends to provide telecommunications services to Tri-County Electric Membership Corporation ("Tri-County Electric" or "Parent") member-owners in the geographic footprint of the Parent company, in the service area of AT&T and any other ILEC's territory that does not possess a rural exemption under Section 251(f) of the Telecommunications Act of 1996. Tri-County Fiber will offer an initial line of services that is comparable to that offered by the incumbent LECs, including retail broadband and VoIP. Further, Tri-County Fiber intends to offer VoIP utilizing the services of a consultant, Pulse Broadband, to select an underlying carrier that will be approved by the FCC to obtain numbering resources.

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

Tri-County Fiber'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.

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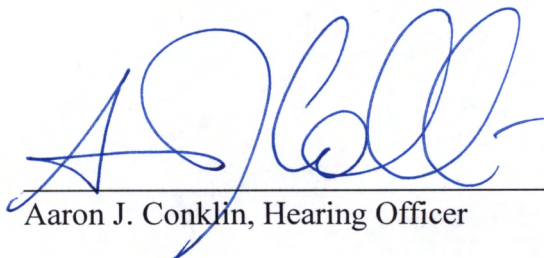
<sup>1</sup> Tri-County Fiber is a wholly-owned subsidiary of Tri-County Electric Membership Corporation, a rural electric cooperative serving more than 50,000 member-owners in northern Middle Tennessee and south central Kentucky regulated by the Tennessee Valley Authority.

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

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

#### **IT IS THEREFORE ORDERED THAT:**

1. The *Application of Tri-County Fiber Communications, LLC for a Certificate to Provide Competing Local Telecommunications Services* 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 Public Utility Commission, if no petition for reconsideration or appeal of this Order is filed prior to the expiration of the fifteen-day appeal period.



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Aaron J. Conklin, Hearing Officer