

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

February 2, 2018

IN RE:

APPLICATION OF MONSTER BROADBAND, INC.
FOR A CERTIFICATE TO PROVIDE COMPETING
LOCAL TELECOMMUNICATIONS SERVICES

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DOCKET NO.
17-00065

INITIAL ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

This matter came before the Hearing Officer of the Tennessee Public Utility Commission (the "Commission" or "TPUC") at a Hearing held on January 18, 2018 to consider the *Application of Monster Broadband, Inc. for a Certificate to Provide Competing Local Telecommunications Services* (the "*Application*") filed by Monster Broadband, Inc. ("Monster" or "Applicant") on June 26, 2017. In its *Application*, Monster seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local telecommunications services within the State of Tennessee.

LEGAL STANDARD

Monster'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

* * *

(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, 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, public notice of the Hearing in this matter was issued by the Hearing Officer on January 5, 2018. No persons sought intervention prior to or during the Hearing. Mr. Charles Johnston, President of Monster Broadband, Inc. and Mr. Steve Baker, Chief Technical Officer of Monster Broadband, Inc., appeared at the Hearing. Mr. Johnston provided testimony at the Hearing.

Mr. Johnston participated in the Hearing, adopted and summarized his pre-filed testimony and was subject to examination by the Hearing Officer. During the Hearing, Mr. Johnston testified that Monster intends to provide fiber broadband internet and voice over internet protocol (“VOIP”) services and that the Company has been involved with fiber installations previously, having installed approximately five (5) miles of underground fiber to date. Further, Mr. Johnston submitted financial statements and other exhibits to the *Application* as part of the record of this matter.

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 Monster’s *Application* based upon the following findings of fact and conclusions of law:

I. MONSTER’S QUALIFICATIONS

1. Monster is a corporation organized under the laws of the State of Tennessee, originally established on April 30, 2009 and authorized to transact business in Tennessee by the Secretary of State on said date.

2. The complete street address of the registered agent for Monster, Charles Johnston, is 927 Galloway Lane, Winchester, TN 37398. The complete street address of the corporate office of Monster is 11058 Dinah Shore Blvd., Winchester, TN 37398. The telephone number is (931) 361-0111.

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

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

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

II. PROPOSED SERVICES

Monster intends to offer a broad variety of local exchange services, primarily to wholesale and business customers in Tennessee. Monster's initial line of local services will be comparable to that currently offered by the incumbent LECs. Monster currently provides broadband wireless Internet services and VOIP to residents and businesses in seven rural middle Tennessee counties (Bedford, Coffee, Franklin, Giles, Lawrence, Lincoln and Moore) with a network comprising fifty towers. This area provides coverage to approximately 200,000 people. Monster intends to deploy a fiber optic network offering speeds of up to 1 gigabit per second to support its wireless network as well as provide fiber to the premises services to both commercial and residential customers.¹

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

Monster'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

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

¹ *Application of Monster Broadband for a Certificate of Public Convenience and Necessity*, p. 4 (June 26, 2017).

IT IS THEREFORE ORDERED THAT:

1. The *Application of Monster Broadband, Inc. 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.



Aaron J. Conklin, Hearing Officer