

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

May 17, 2018

IN RE:)	
)	
APPLICATION OF WEST KENTUCKY & TENNESSEE)	
TELECOMMUNICATIONS COOPERATIVE CORPORATION)	DOCKET NO.
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND)	18-00013
NECESSITY TO PROVIDE INTRASTATE)	
TELECOMMUNICATIONS SERVICES STATEWIDE)	

**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 April 30, 2018 to consider the *Application of West Kentucky and Tennessee Rural Telephone Cooperative Corporation, Inc. d/b/a West Kentucky & Tennessee Telecommunications Cooperative for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services Statewide* (the “Application”) filed by West Kentucky & Tennessee Telecommunications Cooperative Corporation (“WK&T” or “Applicant”) on January 26, 2018. In its *Application*, WK&T seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide competing local telecommunications services within the State of Tennessee.

LEGAL STANDARD

WK&T’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 April 20, 2018. No persons sought intervention prior to or during the Hearing. Mr. Trevor Bonnstetter, Chief Executive Officer of WK&T, appeared at the Hearing and provided testimony.

Counsel for WK&T provided a copy of a document that has since been filed clarifying and correcting the incorporation status of WK&T.¹ The documents provided evidence of WK&T's active registration and eligibility to do business in the state of Tennessee² and corrected the response provided to staff in data request #2, wherein WK&T stated that it was not registered with the Tennessee Secretary of State because of a statutory exemption provided in Tenn. Code Ann. § 65-29-128.³

Mr. Bonnstetter participated in the Hearing and adopted and summarized his pre-filed testimony. Mr. Bonnstetter was then subject to examination by the Hearing Officer. During the Hearing, Mr. Bonnstetter testified that the Company seeks authority to provide intrastate telecommunications services throughout the state in order to expand its offerings in Tennessee and to provide consumers with additional carrier choices with competitive pricing, increased reliability, responsiveness and innovation. He further stated that the increased competition in telecommunications services brought about by grant of WK&T's application will be a benefit to Tennessee consumers and serve the public interest.

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 WK&T's *Application* based upon the following findings of fact and conclusions of law:

I. WK&T'S QUALIFICATIONS

1. WK&T is a nonprofit corporation organized under the laws of the State of Kentucky in 1951, under the laws of the State of Tennessee on January 22, 1954 and currently authorized to transact business in the State of Tennessee.

¹ *West Kentucky & Tennessee Telecommunication Cooperative Corporation, Inc's Certified Copy of Its Formation Documents* (May 2, 2018).

² *Id.*

³ *Data Response*, p. 2 (March 2, 2018).

2. The complete street address of the registered agent for WK&T, is 2 Nebo Yorkville Rd., Newbern, TN 38059. The complete street address of the corporate office of WK&T is 237 N 8th St., Mayfield, KY 42066-1825. The telephone number is (303) 350-4060.

3. The *Application* and information in the record indicate that WK&T has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee. Specifically, WK&T's management team possesses extensive business, technical, operational and regulatory experience.

4. WK&T has the necessary capital and financial ability to provide the services it proposes to offer.

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

II. PROPOSED SERVICES

WK&T seeks a certificate of public convenience and necessity to expand upon telephone services provided in Obion, Dyer, Gibson, Weakley and Henry Counties since 1951 and pursuant to authority provided by Order of this Commission in Docket No. 12-00023.⁴ In the current application, WK&T proposes to provide, in addition to its current offerings, telecommunications services via VoIP and other platforms, including, but not limited to, dedicated and switched access services, private line services, local dial tone, 911 and E911 emergency services and all other services as required by Commission rule 1220-4-8-.04(3)(b). WK&T may supplement its services by leasing the facilities of third party carriers and/or by reselling services.

⁴ *In re: Petition of West Kentucky Rural Telephone Cooperative Corporation Inc., d/b/a WK&T for a State-Issued Certificate of Franchise Authority, Certificate of Franchise Authority, Docket No. 12-00023, Certificate of*

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

WK&T'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

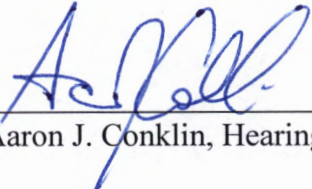
WK&T has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 and the Commission's Rules.

IT IS THEREFORE ORDERED THAT:

1. The *Application of West Kentucky Rural Telephone Cooperative Corporation, Inc. d/b/a West Kentucky & Tennessee Telecommunications Cooperative for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services Statewide* 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