

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

August 10, 2018

IN RE:

**APPLICATION OF MAGNA5, LLC FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
COMPETING LOCAL EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES**

**DOCKET NO.
18-00068**

**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 August 1, 2018 to consider the *Application of Magna5, LLC for a Certificate of Public Convenience and Necessity to Provide Competing Local Exchange and Interexchange Telecommunications Services* (the “*Application*”) filed by Magna5, LLC (“Magna5” or “Applicant”) on June 19, 2018. In its *Application*, Magna5 seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide competing local telecommunications services within the State of Tennessee.

LEGAL STANDARD

Magna5’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 July 20, 2018. No persons sought intervention prior to or during the Hearing. Mr. Joseph O'Hara, Chief Financial Officer, appeared at the Hearing telephonically and provided testimony.¹

Mr. O'Hara participated in the Hearing and adopted his pre-filed testimony. He offered an amendment to his pre-filed testimony, indicating that the Company has received authority in

¹ Mr. O'Hara provided testimony pursuant to the conditions established in the order entered on July 25, 2018. *See Order Granting Motion to Appear and Participate Telephonically at Hearing*, (July 25, 2018). *See also Witness*

Maine and Maryland since the filing of its *Application*. Mr. O'Hara was then subject to examination by the Hearing Officer. During the Hearing, Mr. O'Hara testified that the Company will comply with all Commission policies, rules and orders. He also provided supplemental information to verify that the Company had no complaints currently pending against it.

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 Magna5's *Application* based upon the following findings of fact and conclusions of law:

I. MAGNA5'S QUALIFICATIONS

1. Magna5 is a limited liability company organized under the laws of the State of Delaware on October 10, 2014 and currently authorized to transact business in the State of Tennessee.

2. The complete street address of the registered agent for Magna5, CT Corporation System, is 300 Montvue Rd., Knoxville, TN 37919. The complete street address of the corporate office of Magna5 is 5445 Legacy Drive, Suite 180, Plano, TX 75024. The telephone number is (866) 240-1912.

3. The *Application* and information in the record indicate that Magna5 has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee. Specifically, Magna5's management team possesses extensive business, technical, operational and regulatory experience.

4. Magna5 has the necessary capital and financial ability to provide the services it proposes to offer.

5. Magna5 has represented that it will adhere to all applicable statutes, policies, rules and orders of the Commission.

II. PROPOSED SERVICES

Magna5 seeks a certificate of public convenience and necessity in order to provide local exchange service to customers in non-rural areas of the state, specifically in Nashville, Knoxville, Memphis and Chattanooga. The Company intends to provide interexchange service statewide. Magna5 is currently providing VoIP services nationwide. Magna5 will resell and provide services in Tennessee using unbundled network elements through commercial and/or interconnection agreements with the existing LECs or other competitive carriers that presently serve Tennessee. The company has no plans to install facilities in Tennessee.²

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

Magna5'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

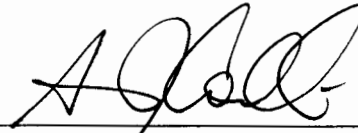
Magna5 has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 and the Commission's Rules.

IT IS THEREFORE ORDERED THAT:

1. The *Application of Magna5, LLC for a Certificate of Public Convenience and Necessity to Provide Competing Local Exchange and Interexchange 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.

² *Application of Magna5, LLC for a Certificate of Public Convenience and Necessity to Provide Competing Local*

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.

A handwritten signature in black ink, appearing to read 'A. Conklin', written over a horizontal line.

Aaron J. Conklin, Hearing Officer