

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

May 9, 2019

IN RE:

**APPLICATION OF EXTENET ASSET ENTITY, LLC FOR A
CERTIFICATE TO PROVIDE COMPETING AND LOCAL
EXCHANGE AND INTEREXCHANGE SERVICES IN
TENNESSEE**

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**DOCKET NO.
19-00023**

**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 29, 2019 to consider the *Application for a Certificate to Provide Competing Local Exchange and Interexchange Telecommunications Services and Request for Market Regulation* (the “*Application*”) filed by ExteNet Asset Entity, LLC (“EAE” or “Company”) on February 13, 2019. In its *Application*, EAE seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide competing local telecommunications services within the State of Tennessee.

LEGAL STANDARD

EAE’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, 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 18, 2019. No persons sought intervention prior to or during the Hearing. Mr. Douglas R. Newkirk, Deputy General Counsel and Assistant Secretary for EAE, appeared at the Hearing and provided testimony telephonically.¹

Mr. Newkirk participated in the Hearing and adopted the pre-filed testimony of Anthony Lehv, whose testimony was filed along with the Company's *Application*. He had no corrections

¹ Mr. Newkirk's telephonic testimony was permitted by order of the Hearing Officer establishing the conditions and parameters by which telephonic attendance and testimony is presented. *See Order Granting Motion to Appear and*

or amendments to the pre-filed testimony or information contained in the *Application*. Mr. Newkirk was then subject to examination by the Hearing Officer, during which Mr. Newkirk stated the Company had been approved in eleven (11) states for CCN or the respective states' equivalent and along with related entities, approval has been granted in approximately thirty (30) states. During the Hearing, Mr. Newkirk testified that the Company will comply with all Commission policies, rules and orders. He also gave testimony concerning the managerial, technical and financial abilities of the Company to provide telecommunications service. Mr. Newkirk stated that Company will not provide residential services, but rather would design, build, own, and operate network infrastructure for the wireless service providers it serves.

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

I. EAE'S QUALIFICATIONS

1. EAE is a limited liability company organized under the laws of the State of Delaware on August 24, 2018. EAE was authorized to transact business in the State of Tennessee on January 25, 2019.

2. The complete street address of the registered agent for EAE, Corporation Service Company, is 2908 Poston Avenue, Nashville, TN 37203. The complete street address of the principal office of EAE is 3030 Warrenville Rd., Lisle, IL 60532. The Company's telephone number is (630) 505-3811.

3. The *Application* and information in the record indicate that EAE has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services within the State of Tennessee. Specifically, EAE's management

team possesses extensive business, technical, operational and regulatory experience in the telecommunications industry.

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

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

II. PROPOSED SERVICES

EAE proposes to offer its services throughout the State of Tennessee that are currently open or become open to competition, but does not seek to terminate any rural exemption under Section 251(f) of the Federal Telecommunications Act of 1996. EAE proposes to offer network infrastructure for wireless service provider customers through the activities of designing, building, owning, and operating such networks. EAE does not intend to provide voice telecommunications services at this time.

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

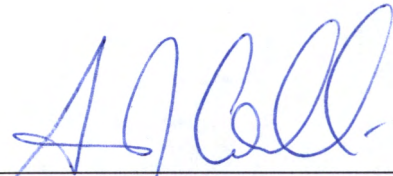
EAE's *Application* and its proposed services would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications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

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

EAE 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 for a Certificate to Provide Competing Local Exchange and Interexchange Telecommunications Services and Request for Market Regulation*, filed by ExteNet Asset Entity, LLC, 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