

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

**December 30, 2019**

<b>IN RE:</b>	)	
	)	
<b>APPLICATION OF HUDSON FIBER</b>	)	
<b>NETWORK, INC. FOR A CERTIFICATE OF</b>	)	
<b>CONVENIENCE AND NECESSITY TO</b>	)	<b>DOCKET NO.</b>
<b>PROVIDE COMPETING LOCAL</b>	)	<b>19-00087</b>
<b>EXCHANGE AND INTEREXCHANGE</b>	)	
<b>TELECOMMUNICATION SERVICES</b>	)	
	)	

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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 December 17, 2019 to consider the *Application for a Certificate to Provide Competing Local and Interexchange Telecommunications Services* (the “*Application*”) filed by Hudson Fiber Network, Inc. (“HFN” or “Company”) on September 18, 2019. In its *Application*, HFN seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide local and interexchange telecommunications services within the State of Tennessee.

**I. LEGAL STANDARD**

HFN’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.

## **II. 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 November 25, 2019, setting the case for Hearing on December 5, 2019. Upon request of the Company, the Hearing was rescheduled for December 17, 2019. A Notice rescheduling the Hearing for December 17, 2019 was issued by the Hearing Officer on December 3, 2019. No persons sought intervention prior to or during the Hearing. Mr. Brian Kirk

appeared telephonically at the Hearing and provided testimony.<sup>1</sup> Mr. Kirk is the Deputy General Counsel for HFN.

Mr. Kirk adopted as his own testimony, the Pre-Filed Testimony of H. Anthony Lehv, who was Secretary and Senior Vice President for the Company at the time Mr. Lehv's testimony was filed. Mr. Kirk offered no corrections, amendments, or additions to Mr. Lehv's testimony. Mr. Kirk testified that the Company will comply with all applicable laws, and TPUC rules, policies and orders. He also provided a summary of the Company's financial, technical, and managerial qualifications and provided responses to the questions of the Hearing Officer.

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 HFN's *Application* based upon the findings of fact and conclusions of law state herein.

### **III. FINDINGS AND CONCLUSIONS**

#### **A. HFN'S QUALIFICATIONS**

1. HFN is a domestic profit corporation organized under the laws of the State of New Jersey on May 6, 2008 and authorized to do business in the State of Tennessee on or about April 17, 2019.

2. The Company's registered agent, Corporation Service Company, is located at 2908 Poston Ave., Nashville, Tennessee 37203-1312. The complete street address of the principal office of HFN is 3030 Warrenville Rd., Lisle, IL 60532-1000. The Company's telephone number is (888) 436-3690.

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<sup>1</sup> Mr. Kirk provided testimony telephonically pursuant to *Order Granting Motion to Appear and Participate Telephonically at Hearing* entered by the Hearing Officer on December 3, 2019 in response to the Company's *Motion to Appear and Participate Telephonically at Hearing*, filed by HFN on November 25, 2019.

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

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

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

#### **B. PROPOSED SERVICES**

HFN does not intend to offer voice telecommunications services initially, but rather proposes to offer point-to-point telecommunications services such as Private Line, Ethernet, Wavelength, Distributed Networks, and similar services to wholesale customers and other enterprise customers. HFN will primarily use its own facilities, as well as facilities leased from other carriers, but may also provide service via resale arrangements.

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

HFN'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.

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

HFN 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 and Interexchange Telecommunications Services* filed by Hudson Fiber Network, Inc., 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