

June 8, 2022

**APPLICATION OF MIDDLE MILE
INFRASTRUCTURE, LLC FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETING
INTRASTATE TELECOMMUNICATION
SERVICE**

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 May 19, 2022 to consider the *Application for Certificate to Provide Facilities-Based Interexchange Services* (the “*Application*”) filed by Middle Mile Infrastructure, LLC (“MMI,” “Applicant,” or “Company”) on June 21, 2021. In its *Application*, MMI seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide facilities-based interexchange services within the State of Tennessee.

I. LEGAL STANDARD

MMI'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) (1) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the commission shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(A) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(B) 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 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, a public notice of the Hearing in this matter was issued by the Hearing Officer on May 3, 2022 setting the case for Hearing on May 19, 2022. No persons sought intervention prior to or during the Hearing. Mr. Keith Osborn, Network Development Manager of MMI, appeared at the Hearing and provided testimony.

Mr. Osborn participated in the Hearing, adopting and summarizing his Pre-Filed Testimony with three changes: the name change of MMI's parent company from Facebook to Meta; additional certifications in Wyoming, South Dakota, Nevada, and Minnesota along with pending certification in Arizona and Oklahoma; and a change in the corporate officers with David Kling being replaced

by Kate Kelly. Mr. Osborn testified that the Company will comply with all applicable laws, and TPUC rules, policies, and orders and stated that it is in the public interest to grant the *Application*. He also provided a summary of the Company's financial, technical, and managerial qualifications. Mr. Osborn also was subject to questions of the Commission Staff and 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 MMI's *Application* based upon the findings of fact and conclusions of law stated herein.

III. FINDINGS AND CONCLUSIONS

A. MMI'S QUALIFICATIONS

1. MMI is a limited liability company, incorporated in the State of Delaware on July 26, 2017. It became authorized to transact business in the State of Tennessee on April 29, 2020.

2. The Company's principal office is located at 1601 Willow Road, Menlo Park, California 94026. The Company's telephone number is (650) 804-3710.

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

4. MMI, through its parent company Meta Platforms, Inc.¹, has the necessary capital and financial ability to provide the services it proposes to offer.

¹ See *In Re: Middle Mile Infrastructure, LLC Notice of Name Change to Meta Platforms, Inc.*, Docket No. 21-00133, *Middle Mile Infrastructure, LLC Notice of Name Change to Meta Platforms, Inc.* (November 1, 2021) (giving notice of the name change of MMI's parent company from Facebook, Inc. to Meta Platforms, Inc.).

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

B. PROPOSED SERVICES

MMI proposes to offer point-to-point data transmission services, including Wavelength service and other high-capacity telecommunications services throughout the State of Tennessee. MMI anticipates that its customers will consist of business enterprise and other carriers. MMI does not intend to serve residential customers. MMI proposed to provide the described services through a combination of its own facilities and leased facilities.²

C. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

MMI'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. The Company's proposed services would also assist in ensuring that persons are able to obtain competitive pricing, increased accountability through reliable and responsive customer service, and advanced technological innovation.

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

MMI 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 Certificate to Provide Competing Local Telecommunications Services* filed by Middle Mile Infrastructure, LLC is approved.

² *Application*, p. 5 (June 21, 2021).

2. Any party aggrieved by the Hearing Officer's decision in this matter may file a petition for reconsideration within fifteen (15) 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