

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:                      Dwight D. Keen, Chair  
   Shari Feist Albrecht  
   Susan K. Duffy

In the Matter of the Application of ExteNet Asset    )  
Entity, LLC for a Certificate of Convenience and    )  
Authority to Provide Resold and Facilities-Based    )       Docket No. 19-EAET-343-COC  
Interexchange Telecommunications Services        )       (IXC)  
in the State of Kansas.                                )

**ORDER GRANTING CERTIFICATE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record and being fully advised in the premises, the Commission finds and concludes as follows:

**I. BACKGROUND**

1.       On February 21, 2019, ExteNet Asset Entity, LLC (ExteNet or EAE) filed an Application requesting a Certificate of Convenience and Authority authorizing the company to provide Interexchange (IXC) telecommunications services in the State of Kansas. ExteNet Systems, Inc. (ESI), the indirect parent of EAE, plans to assign certain network infrastructure and related assets to EAE for the purpose of operating the assets and serving wireless service provider customers (WSPs). ESI currently holds competitive local exchange carrier (CLEC) and interexchange carrier (IXC) authority granted in Docket Nos. 13-ENST-616-COC and 13-ENST-617-COC and will continue to operate in Kansas, but the objective for the EAE application is to provide services to WSPs under assigned contracts (*Pro Forma* Assignment) from ESI as part of a corporate restructure. ESI intends to focus on other telecommunication business activities related

to the development, sale and construction of new distributed networks and providing service to commercial and new users.

2. On May 8, 2019, the Commission Staff (Staff) submitted its Report and Recommendation to the Commission, providing its analysis and recommendations regarding ExteNet's Application.

3. According to Staff, ExteNet requests authority to provide business Interexchange services using facilities and resold services. It is a Delaware limited liability company properly registered with the Kansas Secretary of State's office where its status is shown to be *active and in good standing*.

## **II. DISCUSSION AND ANALYSIS**

4. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2018 Supp. 66-1,188. Defining telecommunications public utilities, K.S.A. 2018 Supp. 104(a) provides in part that:

The term "public utility" as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages through any part of the state...

K.S.A. 2018 Supp. 66-131(a) provides in part that:

No...common carrier or public utility...governed by the provisions of this act shall transact business in the State of Kansas until it shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state.

In determining whether the public convenience will be promoted by the transaction of said business, the Commission looks at a number of factors when determining whether a particular application is consistent with the public interest. Regarding such factors, K.S.A. 2018 Supp. 66-2005(w) provides in part that:

...telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996...must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission.

5. According to Staff, ExteNet has the requisite personnel and expertise to provide resold and facilities-based local exchange telecommunication services. Staff further states that the financial records submitted by the company support ExteNet's financial ability to conduct operations in Kansas through its corporate relationship with parent ESI. Based on Staff's investigation it determines the company has demonstrated the managerial, technical, and financial ability to provide Interexchange services in Kansas.

6. Based on its investigation, Staff recommends the Commission grant ExteNet's Application and issue the company a Certificate of Convenience and Authority authorizing ExteNet to provide Interexchange telecommunications services within the State of Kansas. In addition, Staff recommends that ExteNet be reminded that all telecommunications companies in Kansas are required by law to file Annual Reports, remain current with the Kansas Secretary of State's office, pay all Commission and KUSF assessments and follow the Telecommunications Carrier Code of Conduct. Staff also recommends that ExteNet be reminded of the need to notify the Commission of any changes in contact personnel, address and/or telephone numbers.

### **III. FINDINGS AND CONCLUSION**

7. Pursuant to K.S.A. 2018 Supp. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. ExteNet is a telecommunications public utility under K.S.A. 2018 Supp. 66-1,187 and is subject to the Commission's jurisdiction. The Commission accepts and adopts Staff's analysis and recommendations of May 8, 2019 as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference. The Commission finds that ExteNet's Application is in the public interest and should be granted and that the requested Certificate of Convenience and Authority will promote public convenience and necessity and should be issued authorizing ExteNet to provide Interexchange telecommunications services within the State of Kansas.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED AND CERTIFIED  
THAT:**

A. ExteNet Asset Entity, LLC's Application filed in this matter on February 21, 2019, is hereby granted and it is hereby issued a Certificate of Convenience and Authority authorizing the company to provide Interexchange Telecommunications Services in the State of Kansas.

B. ExteNet is directed to comply with the filing, payment, and notification requirements set forth in paragraph 6 above. Failure to meet these requirements could result in revocation of the company's Certificate.

C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>1</sup>

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.


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<sup>1</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

**BY THE COMMISSION IT IS SO ORDERED AND CERTIFIED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 05/23/2019

  
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Lynn M. Retz  
Secretary to the Commission

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**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Dwight D. Keen  
Commissioner Shari Feist Albrecht  
Commissioner Susan K. Duffy

**FROM:** Paula Artzer, Senior Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** May 8, 2019

**SUBJECT:** Docket No. 19-EAET-343-COC  
In the Matter of the Application of ExteNet Asset Entity, LLC for a Certificate of Authority to Provide Resold and Facilities-Based Interexchange Telecommunications Services in the State of Kansas (IXC)

**EXECUTIVE SUMMARY:**

ExteNet Asset Entity, LLC (ExteNet or EAE) has submitted an Application for Authority to provide Interexchange Carrier (IXC) service in the state of Kansas. Staff has researched the Application as part of its normal approval process and recommends approval of the Application, as amended.

**BACKGROUND:**

On February 21, 2019, ExteNet filed an Application requesting a Certificate to provide IXC services in Kansas. ExteNet/EAE indicates:

EAE's indirect parent, ExteNet Systems, Inc. ("ESI") will assign to EAE, and EAE will thereafter, operate certain network infrastructure and related assets, including ESI's customer accounts and contracts, antennas, fiber and other telecommunications equipment, with which EAE will serve the wireless service provider customers ("WSPs") which are parties to the assigned contracts ("*Pro Forma* Assignment"). As a result of the *Pro Forma* Assignment, EAE will primarily provide service and networks targeted to WSPs. ESI will continue to operate under its existing certificate and will focus on continuing to develop, sell,

and construct new distributed networks and providing “lit” services to commercial users and new services.

ESI, the parent company, currently holds a Kansas Certificate to provide IXC and Competitive Local Exchange (CLEC) services granted on July 18, 2013, in Docket Nos. 13-ENST-616-COC and 13-ENST-617-COC, respectively.

The Application indicated the Company is requesting a Certificate to provide interexchange telecommunications services throughout the state of Kansas.

ExteNet is a Delaware Limited Liability Corporation and is properly registered with the Kansas Secretary of State’s Office and its status is “active and in good standing”. The Company’s headquarters is in Lisle, Illinois. The Chief Executive Officer (CEO) is James Hyde. The Company has also filed for a CLEC Certificate in Docket No. 19-EAET-344-COC.

#### **ANALYSIS:**

Pursuant to K.S.A. 66-131, no common carrier or public utility shall transact business in the state of Kansas until it shall have obtained a certificate from the Commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in the state.

In making the determination as to whether the public convenience will be promoted by the transaction of said business, the Commission determined that it would look at a number of factors when determining whether a particular application is consistent with the public interest. The factors may include, but are not limited to, the provider’s commitment to meet all requirements of the existing Statutes and Orders and modifications specified in House Bill 2201.

K.S.A. 2012 Supp. 66-2005 (w) states:

...telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996...must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission.

The Company management has a varied background in telecommunications, particularly wireless and networks. The financial records submitted support the Applicant’s financial ability to operate a business through the parent company, ESI.

Based on the information submitted and the investigation Staff has performed, the Company has shown to have the managerial, technical and financial ability to provide IXC service in Kansas. The Applicant’s parent holds Certificates in 46 states.

**RECOMMENDATION:**

Staff recommends the Commission approve ExteNet's request for Certification to provide IXC service in Kansas. Based on the findings discussed above, Staff believes it would be in the public interest of Kansans to grant the amended request. Upon Commission approval, ExteNet is required to file Interrogatory Reports, remain current with the Kansas Secretary of State's office, pay all Commission and Kansas Universal Service Fund (KUSF) assessments, and follow the Telecommunications Carrier Code of Conduct.



## CERTIFICATE OF SERVICE

19-EAET-343-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 05/23/2019.

RONALD W DEL SESTO JR, ATTORNEY  
MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20006-1806  
ronald.delsesto@morganlewis.com

STEPHANY FAN, ATTORNEY  
MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20006-1806  
stephany.fan@morganlewis.com

WALKER HENDRIX, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3354  
w.hendrix@kcc.ks.gov

Brian Kirk, ASSISTANT GENERAL COUNSEL  
EXTENET SYSTEMS, INC.  
3030 Warrenville Road  
Suite 340  
Lisle, IL 60532  
bkirk@extenetsystems.com

JOHN KOBER, ATTORNEY AT LAW  
MORGAN LEWIS & BOCKIUS LLP  
1717 MAIN STREET, SUITE 3200  
DALLAS, TX 75201-7347  
Fax: 214-466-4001  
john.kober@morganlewis.com

H. ANTHONY LEHV, GENERAL COUNSEL AND  
SECRETARY  
EXTENET ASSET ENTITY, LLC  
3030 WARRENVILLE ROAD  
SUITE 340  
LISLE, IL 60532  
compliance@util.extenetsystems.com

MATT SIMPSON, EXEC DIRECTOR, NETWORK  
OPERATIONS  
EXTENET ASSET ENTITY, LLC  
3030 WARRENVILLE ROAD  
SUITE 340  
LISLE, IL 60532  
msimpson@extenetsystems.com

/S/ DeeAnn Shupe  
DeeAnn Shupe