

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of Conterra)
Ultra Broadband, LLC for a Certificate of)
Convenience and Authority to Provide) Docket No. 15-CUBZ-035-COC
Competitive Local Exchange Service) (CLEC)
Within the State of Kansas.)

ORDER AND 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 July 25, 2014, Conterra Ultra Broadband, LLC (Conterra) filed an Application requesting authority to provide competitive local exchange telecommunications services (CLEC) in the State of Kansas. The two specific service packages to be offered to business customers, schools, healthcare providers, and government entities are: (1) cellular backhaul transport and (2) access to broadband networks¹.

2. On October 29, 2014, the Commission Staff (Staff) filed its Report and Recommendation dated October 27, 2014, providing its analysis and recommendation regarding Conterra's Application. Staff indicates that it has researched Conterra's Application as part of its normal approval process and that the company has addressed Staff's concerns. Based on its review and investigation of Conterra's Application, Staff recommends the Commission grant the company's Application.

¹ Each service is physically-based on Federal Communications Commission (FCC) licensed common carrier microwave and fiber optic transport.

II. DISCUSSION AND ANALYSIS

3. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2013 Supp. 66-1,188. K.S.A. 2013 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 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, Staff points out that the Commission looks at a number of factors. Regarding such factors, Staff cites K.S.A. 2013 Supp. 66-2005(w) which 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”.

4. According to Staff, Conterra seeks authority to provide customized networks to meet specific customer needs and requirements that are not available to the general public through retail sales by Conterra. Staff indicates that Conterra provides infrastructure-based broadband services to schools, healthcare organizations, government entities, wireless and wireline carriers, and other enterprises in the United States. The company specializes in design, deployment, and operation of customized transport networks in underserved markets. Conterra offers wireless backhaul network services, such as Ethernet and Time Division Multiplex (TDM) access, backhaul transport, and optical fiber and FCC-licensed microwave; high-speed broadband networks services, which include high speed internet, distance learning, and voice over IP telephony; and support services, including 24/7 network monitoring, field support,

network engineering and deployment. In response to Staff's requests for additional information, Conterra stated that the company will not offer such services to residential customers. In addition, the company indicated that it currently provides cellular backhaul transport and/or broadband access services in twelve states and is authorized to provide these services in four additional states. The company further stated that it does not offer traditional voice service, and has no plans to offer resale of voice services in the future. Within cellular backhaul transport, Conterra indicates that it will provide carrier-grade Ethernet or TDM connectivity and transport from a wireless carrier or from a lower profile connection point, i.e., telecommunications tower, point of presence, or carrier hotel. Conterra will be supplying customer-specified bandwidth from site A to Z. Content of the transport, voice or data, are at the discretion of the customer. Within access networks and broadband for K-12, healthcare, and government entities, Conterra provides carrier-grade Ethernet (data), video and voice connectivity. These broadband networks are defined as wide area networks (WANs) that are not available to the public. Staff indicates that with respect to equipment and facilities used to provide the subject services, the specific locations of Conterra's facilities in Kansas will depend upon customer locations and requirements. Conterra's CLEC services will be provided only in the exchanges of Southwestern Bell Telephone Company d/b/a AT&T Kansas and United Telephone Companies of Kansas d/b/a CenturyLink. Report and Recommendation at pages 2 and 3.

5. Staff indicates that it has reviewed Conterra's Application and the information provided by the company and determines that it supports the company's technical, managerial, and financial capability to provide specific network arrangements. Conterra is a foreign limited liability company properly registered with the Kansas Secretary of State's office and whose status with that office is "active and in good standing". Conterra has committed to adhering to

the Commission's prescribed business practices by submitting a signed Telecommunications Carrier Code of Conduct document dated July 24, 2014. To the extent Conterra's presence in Kansas would increase the connectivity of telecommunications services by means of a cellular backhaul transport network and/or broadband access services, Staff states its belief that the general public will benefit from Commission approval of Conterra's Application. Concluding, Staff recommends the Commission grant Conterra's Application authorizing the company to provide carrier-grade Ethernet (data) and video and voice connectivity via broadband networks defined as WANs² in the State of Kansas. Staff adds that upon certification the company will be required to file responses to Annual Interrogatories, 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. Conterra's failure to meet these requirements could result in revocation of the company's Certificate of Convenience and Authority. Report and Recommendation at page 3.

III. FINDINGS AND CONCLUSION

6. Pursuant to K.S.A. 2013 Supp. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. Conterra is a telecommunications public utility under K.S.A. 2013 Supp. 66-1,187 and is subject to the Commission's jurisdiction. The Commission adopts Staff's analysis and recommendation of October 27, 2014, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Conterra's Application should be granted and a Certificate of Convenience and Authority issued to Conterra authorizing it to engage in the

² A data network typically extending a local area network (LAN) outside the building, over telephone common carrier lines to link to other LANs in remote buildings in possibly remote cities enabling data terminals in one city to access data resources in another city.

business of providing carrier-grade Ethernet (data) and video and voice connectivity via broadband networks defined as WANs in the State of Kansas.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Conterra Ultra Broadband, LLC's Application filed in this matter on July 25, 2014 is hereby granted and Conterra is hereby issued a Certificate of Convenience and Authority as a competitive local exchange carrier authorized to provide cellular backhaul transport and access to broadband network services in the State of Kansas, within the exchanges of Southwestern Bell Telephone Company d/b/a AT&T Kansas and United Telephone Companies of Kansas d/b/a CenturyLink only. Conterra may be subject to the requirements of Section 251(f) of the Telecommunications Act of 1996 should it desire to provide local exchange service in a rural area. Section 251(f) exempts rural local exchange companies from certain competitive entry requirements and establishes an explicit procedure for lifting the exemption. Certification in a rural telephone company's service area is also governed by K.S.A. 66-2004.

B. Conterra is reminded of the requirements to file responses to Annual Interrogatories, remain current with the Kansas Secretary of State's office, pay all Commission and KUSF assessments, follow the Telecommunications Carrier Code of Conduct, and report revenues to GVNW Consulting, Inc. for assessment purposes. Failure to meet these requirements could result in revocation of the company's Certificate.

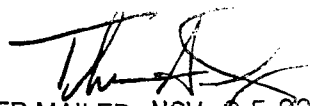
C. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529(a)(1).

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.

BY THE COMMISSION IT IS SO ORDERED AND CERTIFIED.

Albrecht, Chair; Emler, Com.; Apple, Com.

Dated: NOV 04 2014


ORDER MAILED NOV 05 2014
Thomas A. Day
Acting Executive Director

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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Hal Baumhardt, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: October 27, 2014

SUBJECT: 15-CUBZ-035-COC
In the Matter of the Application of Conterra Ultra Broadband, LLC for a Certificate of Convenience and Authority to Provide Competitive Local Exchange Services Within the State of Kansas

EXECUTIVE SUMMARY:

Conterra Ultra Broadband, LLC (Conterra) filed an Application for authority to provide Competitive Local Exchange Services (CLEC) services in the state of Kansas. Staff has researched the Application as part of its normal approval process. Conterra has addressed Staff's concerns and Staff recommends the Application for approval.

BACKGROUND:

On July 25, 2014, Conterra filed this Application. With this filing, Conterra is requesting authority to engage in the business as a CLEC within the state of Kansas. The two specific service packages to be offered to business customers, schools, healthcare providers and government entities are: (1) cellular backhaul transport; and (2) access to broadband networks.¹

ANALYSIS:

The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 66-1, 188. The Commission derives its authority to certificate and de-certificate public utilities from K.S.A. 66-131.

¹ Each service is physically-based on Federal Communications Commission (FCC) licensed common carrier microwave and fiber optic transport.

Pursuant to K.S.A. 66-131, the Commission must review all certification and de-certification Applications to determine whether the “public convenience” will be promoted by granting the request.

The Applicant seeks authority to provide customized networks to specific customer’s needs and requirements that is not available to the general public through retail sales by Conterra.

Conterra provides infrastructure-based broadband services to schools, healthcare organizations, government entities, wireless and wireline carriers, and other enterprises in the United States. The company specializes in design, deployment, and operation of customized transport networks in underserved markets. It offers wireless backhaul network services, such as Ethernet and TDM² access, backhaul transport, and optical fiber and FCC-licensed microwave; high-speed broadband networks services, which include high speed internet, distance learning, and voice over IP telephony; and support services, including 24/7 network monitoring, field support, network engineering and deployment.

On September 24, 2014, Staff submitted RFI 1 and 2 to clarify Conterra’s Application on its description of operations and experience in providing such services. In response to Staff’s RFI 1, Conterra states that it will not offer such services to residential customers. Also in response to Staff’s RFI 1, the Company stated that it currently provides cellular backhaul transport and/or broadband access services in Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Texas, Tennessee, and Virginia. The Company is also authorized to provide these services in Colorado, Florida, Montana, and Washington.

Moreover, in response to RFI 2, the Company further states it does not offer traditional voice service, and Conterra has no plans to offer resale of voice services in the future.

Within cellular backhaul transport, the Company will provide carrier-grade Ethernet or TDM connectivity and transport from a wireless carrier or from a lower profile connection point (telecommunications tower, point of presence, or carrier hotel³). Conterra will be supplying customer-specified bandwidth from site A to Z. The contents of the transport, voice or data, are at the discretion of the customer. Within access networks and broadband for K-12, healthcare, and government entities, the Company provides carrier-grade Ethernet (data) and video and voice connectivity. These

² Time Division Multiplex (TDM) is a technique for transmitting a number of separate data, voice and/or video signals simultaneously over one communications medium by interleaving a piece of each signal one after the another.

³ A colocation data center/carrier hotel is where numerous consumers locate network, server and storage gear that interconnect with each other.

broadband networks are defined as wide area networks (WANs)⁴ and are not available directly to the public.⁵

With respect to equipment and facilities used to provide such services, the specific locations of Conterra's facilities in Kansas will depend upon customer locations and requirements.

Staff has reviewed this Application, and the information supports Conterra's technical, managerial and financial capabilities to provide specific network arrangements.

Conterra is a limited liability company organized under the laws of South Carolina on April 20, 2001. The Company is properly registered as such with the Kansas Secretary of State's Office and is "*active and in good standing*" with that office.

The Applicant has committed to adhering to the Commission's prescribed business practices by submitting a signed Telecommunications Carrier Code of Conduct document, dated July 24, 2014.

To the extent that the Company's presence in Kansas would increase the connectivity of telecommunications services by means of a cellular backhaul transport network and/or broadband access services, Staff believes the general public would benefit from Commission approval of this Application.

RECOMMENDATION:

Staff recommends the Commission grant this Application authorizing Conterra Ultra Broadband, LLC to provide carrier-grade Ethernet (data) and video and voice connectivity via broadband networks defined as WANs in the state of Kansas.

Upon approval, Conterra is required to file responses to interrogatories, including the annual interrogatory⁶ remain current with the Kansas Secretary of State's office, pay all Commission and KUSF assessments, and follow the Telecommunications Carrier Code of Conduct. Failure to meet these requirements could result in the revocation of its Certificate.

⁴ A WAN is a data network typically extending a LAN (local area network) outside the building, over telephone common carrier lines to link to other LANs in remote buildings in possibly remote cities enabling data terminals in one city to access data resources in another city.

⁵ In response to Staff's RFI 1, Conterra states that it will not offer access to broadband networks to residential customers.

⁶ The Annual Interrogatory was previously known as the Annual Report. The change is based on the enacted HB 2201 and the Commission's Order in Docket No. 13-GIMT-736-GIT, dated December 3, 2013, that investigated the implementation of HB 2201 and replaced the Annual Reports for telecommunications carriers and electing carriers with interrogatories to collect the financial data necessary to carry out its statutory regulatory responsibilities.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ANGELA LEE, VICE PRESIDENT, CORPORATE COUNSEL AND SECRETARY CONTERRA ULTRA BROADBAND, LLC 2101 REXFORD RD STE 200E CHARLOTTE, NC 28211		
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		

ORDER MAILED NOV 05 2014

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.