

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

Before Commissioners:                    Shari Feist Albrecht, Chair  
    Jay Scott Emler  
    Dwight D. Keen

In the Matter of the Application of Triton                    )  
Networks LLC for a Certificate of Convenience                )  
and Authority to Provide Local Exchange and                )        Docket No. 18-TTNT-407-COC  
Interexchange Service Within the State of                    )        (CLEC)  
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 March 15, 2018, Triton Networks LLC (Triton) filed an Application requesting a Certificate of Convenience and Authority authorizing the company to provide Competitive Local Exchange Carrier (CLEC) service in the State of Kansas.

2.        On June 27, 2018, the Commission Staff (Staff) submitted its Report and Recommendation, containing its analysis and recommendation of the Triton's Application.

3.        Triton indicates that it intends to initially provide local exchange services, including exchange access service throughout Kansas (other than in areas served by rural ILECs) via resale of services provided from other carriers and/or by leasing facilities from other facilities-based carriers. Triton 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 at a later date. 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. Triton's service will be offered to business customers only.<sup>1</sup> Triton states that it will request negotiation of an interconnection agreement with AT&T Kansas and/or CenturyLink upon approval of its Application and will not begin operations until the agreement is approved.<sup>2</sup> Triton is a foreign 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. 2017 Supp. 66-1,188. Defining telecommunications public utilities, K.S.A. 2017 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. 2017 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, Staff points out that the Commission looks at a number of factors when determining

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<sup>1</sup> Application, ¶10.

<sup>2</sup> Id., ¶19.

whether a particular application is consistent with the public interest. Regarding such factors, Staff cites K.S.A. 2017 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”.

5. According to Staff, the combined service of the executive staff of Triton includes eighty years specifically in telecommunications with additional background in non-telecommunications financial leadership positions. Staff further states that the financial records submitted by the company support Triton’s financial ability to operate a business. Staff notes that the company will not collect deposits or advanced payments. Based on Staff’s investigation, it determines the company has demonstrated the managerial, technical and financial ability to provide Competitive Local Exchange service in Kansas. As part of the investigation, Staff did not identify any enforcement actions brought against Triton within the last five years.

6. Based on its investigation, Staff recommends the Commission grant Triton’s Application requesting Certificate authority to provide Competitive Local Exchange Carrier service in Kansas. Staff further determines that the granting of Triton’s Application and issuance of the requested Certificate would be in the public interest of Kansans. At the same time, Staff recommends that upon certification Triton be directed to comply with the following requirements:

- (i) Triton file Interrogatory Reports with the Commission; 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.
- (ii) Triton Register with GVNW Consulting, Inc., the KUSF Administrator, for KUSF purposes within 30 days of an order granting the company’s Application.

- (iii) Once Triton begins generating Kansas intrastate assessable retail revenue, the company, within 30 days of commencing operations, will ensure that it has made the appropriate KUSF remittance and payment election via the Company Identification and Operations Form (Attachment B) and submit the relevant Carrier Remittance Worksheets and assessment payments to GVNW.
- (iv) Triton notify the Commission of any changes of contact personnel, address and/or phone numbers.

Triton's failure to meet the foregoing requirements could result in the revocation of its Certificate of Convenience and Authority.

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

7. Pursuant to K.S.A. 2017 Supp. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. Triton is a telecommunications public utility under K.S.A. 2017 Supp. 66-1,187 and is subject to the Commission's jurisdiction. The Commission adopts Staff's analysis and recommendation of June 27, 2018, as stated in its Report and Recommendation, which is attached and made a part the Order by reference, and finds that Triton's Application should be granted and a Certificate of Convenience and Authority should be issued to Triton authorizing it to engage in the business of providing Competitive Local Exchange Carrier services in the State of Kansas.

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

A. Triton Networks LLC's Application filed in this matter on March 15, 2018 is hereby granted and Triton is hereby issued a Certificate of Convenience and Authority authorizing the company to provide Competitive Local Exchange Carrier services in the State of Kansas within the territories served by AT&T Kansas and CenturyLink.

B. Triton 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>3</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.

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

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/19/2018



Lynn M. Retz  
Secretary to the Commission

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<sup>3</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

# STATE OF KANSAS



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## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Emler  
Commissioner Dwight D. Keen

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

**DATE:** June 27, 2018

**SUBJECT:** Docket No. 18-TTNT-407-COC  
In the Matter of the Application of Triton Networks LLC for a Certificate of Convenience and Authority to Provide Local Exchange and Interexchange Service Within the State of Kansas. (CLEC)

### **EXECUTIVE SUMMARY:**

Triton Networks, LLC (Triton) has submitted an Application for Authority to provide resold Competitive Local Exchange Carrier (CLEC) service in the state of Kansas. Staff has researched the Application as part of its normal approval process and recommends approval of the Application.

### **BACKGROUND:**

On March 15, 2018, Triton filed an Application requesting a Certificate to provide CLEC services in Kansas. In this Application, Triton requests authority to provide CLEC services within Kansas in the areas served by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) and United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink). Triton indicates they will serve subscribers through facilities acquired through an Incumbent Local Exchange Carrier (ILEC). Triton indicates once Interconnection Agreements are finalized with any ILEC, they understand the contracts must be submitted to the Commission for approval prior to offering service. Triton also filed 18-TTNT-409-COC the same day requesting a Certificate for Interexchange service (IXC).

Triton is a Texas Limited Liability Company and is properly registered with the Kansas Secretary of State's Office and its status is "active and in good standing". The Company headquarters is in Dallas, Texas and Triton has been in business since 2006.

## 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 combined service of the executive staff with Triton has over eighty years specifically in telecommunications, with additional background in non-telecommunications financial leadership positions. The CEO is Robert House.

Staff did discover a bankruptcy filing for the Company from December of 2008<sup>1</sup>, and a Fair Labor Standards case against the Company in 2013<sup>2</sup>. Both cases appear to be resolved. The financial records submitted support the Applicant's financial ability to operate a business. Staff issued Information Request No. 1 on June 21, 2018, inquiring why the Company only submitted a one-month balance sheet with the Application when 3 years of documentation is required with the filing. The Company indicated it was an oversight and provided the remaining documents on June 26, 2018. Information Request No. 2 issued on June 21, 2018 inquired if the Company intended to collect deposits from new customers. The Company responded to the Information Request on June 26, 2018 and said no, they did not intend to collect deposits.

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 Competitive Local Exchange service in Kansas. The Applicant holds Certificates in Texas, California, Illinois and Florida.

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<sup>1</sup> See United States Bankruptcy Court, Case No. 08-36253-hdh11, Date December 01, 2008.

<sup>2</sup> See Texas Northern District Court, White vs. Triton Networks, LLC, Case No. 3:2013cv04620, Date November 19, 2013.

**RECOMMENDATION:**

Staff recommends the Commission approve Triton's request for Certification to provide Competitive Local Exchange services in the areas served by AT&T and CenturyLink in the state of Kansas. The Applicant has shown the technical, managerial and financial ability to provide Competitive Local Exchange service in Kansas. The previous bankruptcy and labor cases are resolved to Staff's satisfaction. Triton does not intend to charge deposits. Based on the findings discussed above, Staff believes it would be in the public interest of Kansans to grant this request. Upon Commission approval, Triton 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**

18-TTNT-407-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 07/20/2018.

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