

**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-409-COC
Interexchange Service Within the State of)	(IXC)
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 March 15, 2018, Triton Networks LLC (Triton) filed an Application requesting a Certificate of Convenience and Authority authorizing the company to provide Interexchange (IXC) telecommunications services in the State of Kansas.
2. On June 27, 2018, the Commission Staff (Staff) submitted its Report and Recommendation, providing its analysis and recommendations regarding Triton's Application.
3. According to Staff, Triton requests authority to provide resold Interexchange services using facilities and services from underlying wholesale carriers. 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 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 is eighty years in the telecommunications business, with additional background in non-telecommunications financial leadership positions. Staff further states that Triton’s financial records provide support

for the company's ability to operate a business. Based on Staff's investigation it determines the company has demonstrated the managerial, technical, and financial ability to provide Interexchange services in Kansas. As part of its 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 and issue the company a Certificate of Convenience and Authority authorizing Triton to provide Interexchange telecommunications services within the State of Kansas. In addition, Staff recommends that Triton 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 Triton 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. 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 accepts and adopts Staff's analysis and recommendations of June 27, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference. The Commission finds that Triton'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 Triton to provide Interexchange telecommunications services within 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 Interexchange Telecommunications Services in the State of Kansas.

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).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, Commissioner; Keen, Commissioner

Dated: 07/19/2018



Lynn M. Retz
Secretary to the Commission

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

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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-409-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. (IXC)

EXECUTIVE SUMMARY:

Triton Networks, LLC (Triton) has submitted an Application for Authority to provide resold Interexchange (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.

BACKGROUND:

On March 15, 2018, Triton filed an Application requesting a Certificate to provide IXC services in Kansas. In this Application, Triton requests authority to provide IXC 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-407-COC the same day requesting a Certificate for Competitive Local Exchange service (CLEC).

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 2008¹, and a Fair Labor Standards case against the Company in 2013². 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 Interexchange service in Kansas. The Applicant holds Certificates in Texas, California, Illinois and Florida.

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

² 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 Interexchange 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 Interexchange 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-409-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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