

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**April 10, 2006**

**IN RE:**

**APPLICATION OF NETWORK TELEPHONE  
CORPORATION FOR APPROVAL FOR A  
PROPOSED TRANSFER OF CONTROL TO  
TALK AMERICA, INC.**

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**DOCKET NO.  
05-00294**

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**ORDER APPROVING TRANSFER OF AUTHORITY**

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This matter came before Chairman Ron Jones, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 12, 2005 for consideration of the *Application* for approval of a proposed transfer of authority to Talk America, Inc. ("Talk America") filed on October 25, 2005 by Network Telephone Corporation ("Network Telephone").

**The Application**

Network Telephone, a privately held Florida corporation, is a direct wholly-owned subsidiary of NET Corporation, a privately held Delaware corporation based in Pensacola, Florida. The TRA granted Network Telephone long distance resale authority in TRA Docket No. 98-00349 by order issued February 2, 1999. Additionally, the TRA granted Network Telephone a Certificate of Public Convenience and Necessity ("CCN") to provide services as a facilities-based competitive local exchange carrier in Tennessee, as set forth in an order dated June 23, 2000 in TRA Docket No. 00-00009.

Talk America is a Pennsylvania corporation and a wholly-owned subsidiary of Talk America Holdings, Inc., a publicly held Delaware corporation. The Tennessee Public Service Commission ("TPSC") granted Talk America a CCN to provide operator services and to resell local and long distance telecommunications services in Tennessee, as set forth in the order dated September 12, 1995 in TPSC Docket No. 95-02758.<sup>1</sup> Additionally, the TRA granted Talk America a CCN to provide facilities-based local telecommunications services in Tennessee, including exchange access telecommunications services, as set forth in the order dated December 17, 2002 in TRA Docket No. 02-00991.

On October 25, 2005, Network Telephone filed the *Application* seeking TRA approval pursuant to Tenn. Code Ann. § 65-4-113 of a proposed transfer of authority that will result from an Agreement and Plan of Merger ("Agreement") that was signed by Network Telephone and Talk America on October 18, 2005. Pursuant to the Agreement, Talk America will pay \$24 million in cash and issue 1.8 million shares of common stock in consideration for all issued and outstanding capital stock of Network Telephone.<sup>2</sup> As a result of the transaction, Network Telephone will remain a direct, wholly-owned subsidiary of NET Corporation, and NET Corporation will be a direct, wholly-owned subsidiary of Talk America, which itself will remain a direct, wholly-owned subsidiary of Talk Holdings.

According to the *Application*, Network Telephone will retain its CCN and its customer base following the transaction. The *Application* states that Network Telephone will continue to provide the same services at the same rates, terms and conditions as it did

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<sup>1</sup> At that time, Talk America was known as Tel-Save, Inc. The TRA later approved the company's name change to Talk.com Holding Corp. d/b/a Network Services of New Hope and also d/b/a The Phone Company by order dated September 14, 1999 in TRA Docket No. 99-00610, and the name change to Talk America, Inc. by order dated January 29, 2003 in TRA Docket No. 01-00410.

<sup>2</sup> The shares of Talk America common stock will be issued only to holders of LDMI's preferred stock and will not be registered under the Securities Act of 1933.

prior to completion of the transfer. Additionally, Network Telephone asserted that any future changes in its rates, terms or conditions of service will be made consistent with applicable law and Authority rules.

**Applicable Statute**

Network Telephone submitted its *Application* for approval pursuant to Tenn. Code Ann. § 65-4-113 (2004), which requires a public utility to obtain TRA approval to transfer its authority to provide utility services. This provision is, however, not applicable here, as the transfer at issue in this docket is governed by Tenn. Code Ann. § 65-4-112 (2004). Tenn. Code Ann. § 65-4-112 (2004) requires that public utilities obtain TRA approval before merging or consolidating property, rights or franchises with utilities of like character holding CCNs in the State of Tennessee. Tenn. Code Ann. § 65-4-112(a) (2004) provides:

No lease of its property, rights, or franchises, by any such public utility, and no merger or consolidation of its property, rights and franchises by any such public utility with the property, rights and franchises of any other such public utility of like character shall be valid until approved by the [A]uthority, even though power to take such action has been conferred on such public utility by the state of Tennessee or by any political subdivision of the state.

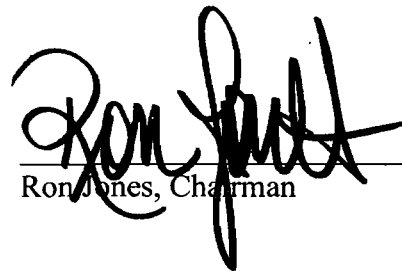
**The December 12, 2005 Authority Conference**

At the regularly scheduled Authority Conference held on December 12, 2005, the panel found that approval of the transfer proposed by Network Telephone and Talk America should be considered under Tenn. Code Ann. § 65-4-112 (2004) because the transfer involves the consolidation of property and both companies currently hold a CCN. Tenn. Code Ann. § 65-4-113 (2004) does not apply when Tenn. Code Ann. § 65-4-112 (2004) is applicable.

The panel acknowledged that no one had intervened in the docket to contest approval of the merger, and the Federal Communications Commission approved the transaction on June 24, 2005. The panel voted unanimously to approve the transaction pursuant to a finding of compliance with Tenn. Code Ann. § 65-4-112 (2004).

**IT IS THEREFORE ORDERED THAT:**

1. The transfer of authority of Network Telephone Corporation to Talk America, Inc. as described in the *Application* and discussed herein is approved.
2. Because this transaction is an indirect transfer of authority, Network Telephone Corporation will retain its Certificate of Public Convenience and Necessity.



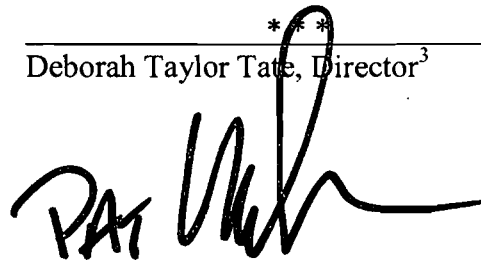
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Ron Jones, Chairman

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Deborah Taylor Tate, Director<sup>3</sup>



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Pat Miller, Director

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<sup>3</sup> Director Tate voted in agreement with the other directors but resigned her position as director before the issuance of this order.