

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 7, 2006

IN RE:

JOINT APPLICATION OF YORKVILLE
TELEPHONE COOPERATIVE, INC.,
YORKVILLE COMMUNICATIONS, INC.,
WEST KENTUCKY RURAL TELEPHONE
COOPERATIVE CORPORATION, INC AND
WEST KENTUCKY NETWORKS D/B/A
WK.NET FOR APPROVAL OF ASSET SALE

DOCKET NO.
06-00127

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 15, 2006 for consideration of the *Joint Application for Approval of Asset Sale* ("Joint Application") filed on May 3, 2006 by Yorkville Telephone Cooperative, Inc. ("Yorkville Cooperative"), Yorkville Communications, Inc. ("YCOM"), West Kentucky Rural Telephone Cooperative Corporation, Inc. ("West Kentucky Cooperative"), and West Kentucky Networks, Inc. d/b/a wk.net ("Networks") (collectively the "Applicants").

The Joint Application

Yorkville Cooperative is a telephone cooperative corporation with principal offices located in Yorkville, Tennessee. Yorkville Cooperative is organized under the Telephone Cooperative Act, Tenn. Code Ann. §§ 65-29-101 *et seq.*

YCOM, a Tennessee corporation with principal offices located in Yorkville, Tennessee, is a wholly-owned subsidiary of Yorkville Cooperative. YCOM is authorized as a long distance reseller in Tennessee by Authority Order in Docket No. 00-00023 issued on March 14, 2000.

West Kentucky Cooperative is a Kentucky corporation with principles offices located in Mayfield, Kentucky and provides services in Tennessee as a telephone cooperative pursuant to Tenn. Code Ann. § 65-29-128. West Kentucky Cooperative has been providing telecommunications services since the early 1950's. West Kentucky Cooperative and its affiliate(s) offer a full array of telecommunications services and support to the communities that they serve in both Tennessee and Kentucky.

Networks is a Kentucky corporation with principal offices located in Mayfield, Kentucky and is a wholly-owned subsidiary of West Kentucky Cooperative. Networks is authorized as a long distance reseller in Tennessee by Authority Order in Docket No. 99-00155 issued on January 25, 2000.

The *Joint Application*, filed on May 3, 2006, seeks Authority approval for the proposed sale of assets. In accordance with the Asset Purchase Agreement dated April 10, 2006 (the "Yorkville Cooperative Sale Agreement"), by and among Yorkville Cooperative, West Kentucky Cooperative, and Networks, Yorkville Cooperative will, among other things, sell substantially all of its assets to West Kentucky Cooperative and Networks. In addition, in accordance with an Asset Purchase Agreement dated April 10, 2006, (the "YCOM Sale Agreement"), between YCOM and Networks, YCOM will, among other things, transfer its long distance customers and any assets related to its provisioning of resold long distance services to Networks.

The *Joint Application* states that consistent with the by-laws of Yorkville Cooperative and State law, both the Board of Directors of Yorkville Cooperative and the membership of Yorkville Cooperative have formally approved the transactions set forth in the Agreements. In WC Docket No. 06-86, Yorkville Cooperative, YCOM, West Kentucky Cooperative, and Networks (the "Applicants") currently have a Domestic Section 214 pending before the Federal Communications Commission regarding the authority to assign certain telecommunications assets, including domestic Section 214 authorizations, from Yorkville Cooperative to West Kentucky Cooperative, and from YCOM to Networks, respectively.

The *Joint Application* indicates that subsequent to the transfers under the Agreements, both Yorkville Cooperative and YCOM will, after a wind-down period, cease telecommunications operations

and be dissolved. The *Joint Application* states approximately 1,800 Tennessee wireline consumers will be affected by the transactions set forth in the Yorkville Cooperative Sale Agreement and approximately 2,210 Tennessee wireline consumers will be affected by the transactions set forth in the YCOM Sale Agreement.

The *Joint Application* asserts that West Kentucky Cooperative has the requisite technical, financial, and managerial capabilities to acquire certain assets of Yorkville Cooperative and to ensure the seamless transition in the provision of telecommunications services from Yorkville Cooperative to West Kentucky Cooperative. Likewise, the *Joint Application* asserts that Networks has the requisite technical, financial, and managerial capabilities to acquire certain assets of Yorkville Cooperative and YCOM and to ensure the seamless transition in the provision of telecommunications services.

The *Joint Application* maintains that pursuant to Authority Rule 1220-4-2-.56(2)(d)(2), the Applicants have taken the appropriate measures to notify the affected customers of the transfers set forth in the Agreements.¹ The notice letter informs affected customers that they have the right to switch to the carrier of their choice and if they wish to transfer to a carrier other than West Kentucky Cooperative or Networks, they should do so in timely manner to ensure the seamless transfer of their service(s) to the new carrier. In addition, the *Joint Application* states that Networks will provide the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the transfer of customers.

According to the *Joint Application*, the transfers under the Agreements will be transparent to the affected customers and will have no effect on the operations of West Kentucky Cooperative or Networks in Tennessee, and with respect to resold long distance services, Networks will continue to provide services in Tennessee pursuant to its existing certification.

¹ See *In Re: Joint Application of Yorkville Communications, Inc. and West Kentucky Networks, Inc. d/b/a wk.net for Transfer of Customer Base and Other Assets*, in Docket No. 06-00125.

The *Joint Application* maintains that the public interest will be served by the sale of substantially all of the assets of Yorkville Cooperative and YCOM to West Kentucky Cooperative and Networks. The *Joint Application* states that both West Kentucky Cooperative and Networks are experienced and qualified telecommunications providers and both have the technical, financial, and managerial capabilities to provide quality service to both Yorkville Cooperative and YCOM's customers. The *Joint Application* asserts this transaction serves the public interest in promoting the continuation of uninterrupted services, products and carrier expertise. In addition, the *Joint Application* asserts the transfers under the Agreements will be transparent to the affected customers and will not alter the manner or quality of service that Yorkville Cooperative's and YCOM's customers enjoy.

The May 15, 2006 Authority Conference

The transfer at issue in this docket is governed by Tenn. Code Ann. § 65-29-130(a) (2004) because this transaction involves the asset sale of a cooperative and foreign corporation rendering telephone service in Tennessee. The TRA has authority over cooperatives and foreign corporations providing telephone service in Tennessee in a limited number of circumstances. One of the areas in which the TRA has authority is the sale and purchase of operating telephone properties.

Tenn. Code Ann. § 65-29-130(a) (2004) states:

- a) Cooperatives and foreign corporations engaged in rendering telephone service in this state pursuant to this chapter fall within the jurisdiction of the Tennessee Regulatory Authority for the sole and specific purposes as set out below:
 - (1) The establishment of territorial boundaries;
 - ...
 - (3) The approval of sales and purchases of operating telephone properties.


At the regularly scheduled Authority Conference held on May 15, 2006, the panel found that the transfer will be transparent to customers and will not alter the quality of service enjoyed by Yorkville Cooperatives or YCOM customers. The Applicants have asserted that the transaction is necessitated by

Yorkville Cooperative's financial condition and is in the public interest as it ensures that subscribers will continue to receive service from a cooperative. In addition, the panel noted that Yorkville Cooperative board of directors and members have approved the transaction. Thereafter, based on the administrative record as a whole and relying on the legal standard set forth in Tenn. Code Ann. § 65-29-130(a) (2004), the panel voted unanimously to approve the *Joint Application* pursuant to Tenn. Code Ann. § 65-29-130(a) (2004).

IT IS THEREFORE ORDERED THAT:

1. The transfer of authority, including assets, customers and the Certificate of Public Convenience and Necessity from Yorkville Telephone Cooperative, Inc. and Yorkville Communications, Inc. to West Kentucky Cooperative and West Kentucky Networks, Inc. d/b/a wk.net as discussed in the *Joint Application* and described herein is approved.


2. The Applicants shall file with the Authority any documentation from the Federal Communications Commission regarding subsequent action on the transfer.



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director