

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE**

August 1, 2007

IN RE:)	
)	
JOINT PETITION OF YAK COMMUNICATIONS)	DOCKET NO.
(AMERICA) INC., YAKTASTIC INC., AND)	07-00067
BLACKBIRD CORPORATION FOR APPROVAL)	
<i>NUNC PRO TUNC</i> OF A TRANSFER OF CONTROL OF)	
YAK COMMUNICATIONS (AMERICA), INC.)	

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Ron Jones 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, 2007 for consideration of the *Joint Petition* filed by Yak Communications (America), Inc. (“Yak America”),¹ Yaktastic, Inc. (“Yaktastic”), and Blackbird Corporation (“Blackbird”) (collectively, the “Petitioners”) on March 16, 2007 for approval *nunc pro tunc* of a transfer of control of Yak America. Blackbird acquired control of Yak America from Yaktastic by acquiring 100% of the issued and outstanding shares of capital stock of Yak America.

THE JOINT PETITION

The *Joint Petition* was filed subsequent to the Authority’s approval in Docket No. 06-00264 on December 4, 2006 authorizing the transfer of authority of Yak America to

¹ Yak Communications (America) Inc. is in the process of changing its name to Yak America Inc. and will file all relevant filings in accordance with all applicable Authority rules and procedures.

Yaktastic. Following difficulties surrounding the operation of Yak America by Yaktastic, Blackbird was formed for the sole purpose of acquiring Yak America to serve the U.S. market. Blackbird is 100% owned by Mr. Jose Cadi. The Federal Communications Commission (“FCC”) granted the Domestic Section 214 Authorization for the transfer of control of Yak America from Yaktastic to Blackbird on January 13, 2007 in WC Docket No. 06-222.

Yak America is authorized to provide resold intrastate long distance communications services pursuant to Authority Order in Docket No. 04-00043 issued on April 2, 2004. Yak America is authorized to provide resold interexchange telecommunications services in all of the other contiguous forty-eight states and the District of Columbia. The services offered by Yak America include basic 1+ long distance services, 10-10 casual calling services and calling card services. Yak America is also authorized by the FCC to provide domestic interstate and facilities-based and resold international telecommunications services. Prior to the transfer of control to Blackbird, Yak America was a direct, wholly-owned subsidiary of Yaktastic. Yaktastic, a Delaware corporation, is 100% owned by Mr. Anthony Lopez (“Mr. Lopez”). Neither Yaktastic nor Mr. Lopez hold any authorizations to provide telecommunications services.

The *Joint Petition* requests approval from the Authority *nunc pro tunc* of a transaction whereby, pursuant to the terms of a Stock Purchase Agreement (“Agreement”) dated December 4, 2006, among Blackbird, Yaktastic, and Yak America, Blackbird purchased from Yaktastic all of the issued and outstanding shares of capital stock of Yak America for cash payment. As a result, Yak America became a direct, wholly-owned subsidiary of Blackbird.

The *Joint Petition* further states that the transaction does not involve a transfer of operating authority, assets, or customers. Yak America continues to offer the same services at the same rates and terms and conditions, pursuant to existing authorizations, tariffs, contracts,

and published rates and charges. The Petitioners maintain that the transaction is transparent to Tennessee consumers. The only change is that Yak America is now owned by Blackbird and ultimately owned by Mr. Cadi. The *Joint Petition* asserts that the day-to-day operations of Yak America, including its existing experienced management team and technical qualifications, have not changed as a result of the transaction and that Yak America continues to have the financial resources necessary to provide telecommunications services to consumers in the State of Tennessee. The *Joint Petition* further asserts that the transaction has served the public interest by keeping a competitor alive in the long distance telecommunications market and maintaining continuity of services in the U.S. market.

FINDINGS AND CONCLUSIONS

The Petitioners request approval, on a *nunc pro tunc* basis, of a transfer of authority pursuant to Tenn. Code Ann. § 65-4-112 (2004). However, because this transaction results in the transfer of authority of a certificated carrier to a company that is not Tennessee certificated the pertinent statutory authority applicable to this transaction is Tenn. Code Ann. § 65-4-113 (2004).

Tenn. Code Ann. § 65-4-113 (2004) requires a public utility to obtain TRA approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) (2004) states as follows:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority


shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.


At the regularly scheduled Authority Conference held on May 15, 2007, the voting panel assigned to this docket considered the transfer requested in the *Joint Petition*. Thereafter, based upon the evidentiary and administrative record as a whole and relying on the legal standard set forth in Tenn. Code Ann. § 65-4-113 (2004), the panel determined that the transfer furthers the public interest and voted unanimously to grant *nunc pro tunc* approval of the *Joint Petition*.

IT IS THEREFORE ORDERED THAT:

The transfer of authority of Yak Communications (America), Inc. to Blackbird Corporation as described in the *Joint Petition* and discussed herein is approved *nunc pro tunc*.


Sara Kyle, Chairman


Eddie Roberson, Director


Ron Jones, Director