

April 17, 2008

**JOINT PETITION OF COMPUTER NETWORK
TECHNOLOGY CORPORATION AND BANDWIDTH.COM
CLEC, LLC FOR AUTHORITY TO COMPLETE A
TRANSFER OF THE CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY OF COMPUTER
NETWORK TECHNOLOGY CORPORATION TO
BANDWIDTH.COM CLEC, LLC**

DOCKET NO.
07-00256

¹ See *In re: Joint Application of McDATA Corporation, Computer Network Technology Corporation and Brocade Communications Systems, Inc. for Approval of the Indirect Transfer of Control of Computer Network Technology Corporation*, Docket No. 06-00271, *Order Approving Transfer of Authority* (February 15, 2007).

provide telecommunications services in approximately forty-three states and the District of Columbia. CNT also holds authorization to provide local and interexchange telecommunications services in Tennessee.²

Brocade is a publicly traded Delaware corporation that designs, develops, markets, sells and supports data storage networking and application infrastructure management solutions, offering a line of storage networking products, software, and services that enable companies to implement highly manageable and secure environments for data storage applications.

Bandwidth is a Delaware limited liability company and a subsidiary of Bandwidth.com, Inc., a Delaware corporation providing voice and data services. Bandwidth is authorized to provide international and domestic interstate telecommunications services as a non-dominant carrier by the FCC. Bandwidth holds authorization to provide telecommunications services from several states, has requests for authorization to provide telecommunications services pending in three states and is in the process of seeking similar authority in all other states, including Tennessee.

The Joint Petition

The Petitioners request approval for Bandwidth to acquire all of CNT's regulated telecommunications services operations, including CNT's operating certificate pursuant to an asset purchase agreement entered into by Bandwidth.com, Inc., the parent of Bandwidth, and CNT.

According to the *Joint Petition*, after the transaction, CNT intends to transfer its existing Tennessee certificate to Bandwidth and change the name associated with the certificate to Bandwidth, resulting in Bandwidth replacing CNT as the Tennessee-certificated entity. Bandwidth will adopt all of CNT's existing tariffs or make such other filings as may be necessary to comply with Tennessee laws and offer services under the same rates, terms, and conditions as currently set

² See *In re: Petition of Computer Network Technology Corporation for a Certificate of Public Convenience and Necessity to Provide Competing Local Telecommunications Services in Tennessee*, Docket No. 03-00612, *Initial Order Granting Certificate of Public Convenience and Necessity* (June 10, 2004).

forth in CNT's existing tariff, thereby making the transaction transparent to prospective intrastate customers of CNT and Bandwidth.

If the TRA declines to approve a transfer of CNT's operating certificate, the Petitioners request that a separate certificate be granted to Bandwidth in the alternative. In that event, CNT will surrender its operating certificate upon completion of the proposed transaction. CNT does not have any intrastate customers in the State of Tennessee, currently.

The Petitioners assert that the transaction is in the public interest because it will provide Bandwidth with a presence in Tennessee, invigorate competition, and enable Bandwidth to attract customers seeking intrastate telecommunications services in multiple states, thereby making Bandwidth a more viable competitor in all of its markets. Bandwidth sought and obtained approval for this transaction from the FCC.³ Bandwidth also submitted a notice of filing to all eighteen incumbent local exchange carriers in Tennessee and provided an acceptable letter of credit.⁴

Findings and Conclusions

The Petitioners submitted the *Joint Petition* requesting approval pursuant to Tenn. Code Ann. § 65-4-113 (2004) and TRA Rule 1220-4-8-.05(2).

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) provides:

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 application 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

³ See WC Docket Nos. 07-261, *Public Notice*, DA 07-5097 (December 26, 2007).

⁴ Data Response, pp.1-2 (February 13, 2008).

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.

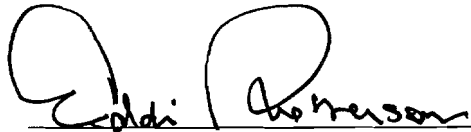
TRA Rule 1220-4-8-.05(2) states:


Transfer of a certificate. The transfer of a certificate or any services by any Local Telecommunications Services Provider shall be approved by the Authority so long as the new provider meets the requirements of T.C.A. § 65-4-201(c). The Authority shall render a decision regarding the transfer of the certificate, whether in whole or in part, within sixty (60) days of the filing date of the petition to transfer. If the Authority determines, based on the information presented, that the recipient is financially and technically capable of providing the service, and will adhere to all applicable Authority rules, policies and order, the Authority shall approve the transfer of the certificate.

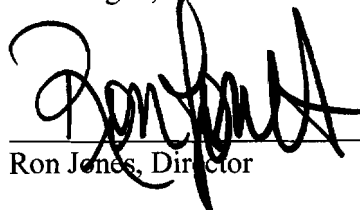
At the regularly scheduled Authority Conference held on March 24, 2008, the panel voted unanimously to approve the *Joint Petition* based on the findings that Bandwidth has fulfilled all the requirements for obtaining a certificate and granting a certificate will benefit the public interest by furthering competition in the telecommunications market in the State of Tennessee.

IT IS THEREFORE ORDERED THAT:

The transfer of authority of Computer Network Technology Corporation a/k/a McDATA Services Corporation to Bandwidth.com CLEC, LLC as described in the *Joint Petition* and discussed herein is approved pursuant to Tenn. Code Ann. § 65-4-113 (2004) and TRA Rule 1220-4-8-.05(2).


Eddie Roberson, Chairman


Tre Hargett, Director


Ron Jones, Director