

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 6, 2008

IN RE:

**PETITION OF XO COMMUNICATIONS SERVICES,
INC. FOR AUTHORITY TO PROVIDE ITS SECURITY
IN CONNECTION WITH FINANCING**

**DOCKET NO.
08-00043**

ORDER APPROVING FINANCING TRANSACTION

This matter came before Chairman Eddie Roberson, Director Sara Kyle 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 5, 2008 for consideration of the *Petition* filed on March 24, 2008 by XO Communications Services, Inc. (“XOCS” or “Petitioner”) seeking approval to provide its security in connection with a refinancing involving its parent company, XO Communications, LLC (“XO” or “Borrower”).

XO is a Delaware corporation with its principal offices in Herndon, Virginia. XO is a national provider of local and long distance telecommunications services to businesses, large enterprises and telecommunications carriers and is wholly-owned by XO Holdings, Inc. (“XO Holdings”), a publicly traded holding company. Through its subsidiaries, primarily XOCS, XO is authorized to provide intrastate interexchange services in 49 states and to provide competitive local exchange services in 48 states as well as the District of Columbia. In Tennessee, XOCS is authorized to provide intrastate telecommunications services.¹

¹ See *In re: Petition of XO Tennessee, Inc. and XO Communications Services, Inc. for Approval of Transfer of Authority*, Docket No 04-00212, *Order Approving Transfer Of Authority* (October 7, 2004).

The Petition

XOCS seeks approval to provide security in connection with a refinancing involving its parent, XO, whereby pursuant to a note purchase agreement dated March 13, 2008, XO will issue and sell up to \$145,000,000 of its notes with a maturity date of April 15, 2009. According to the *Petition*, the obligations under the notes would be guaranteed by XO Holdings, various subsidiaries of XO, and XOCS. Further, although XOCS will become a guarantor of the notes after receipt of the necessary regulatory approval, no Tennessee assets are expected to be pledged as collateral.²

The Petitioner states that the proceeds from this transaction will be used to finance the refinancing, pay fees and expenses incurred in connection with the refinancing and for general corporate purposes of XO Holdings and its subsidiaries. The transaction is not expected to directly affect the rates and services of XOCS or its operating affiliates, or result in any change in control of XOCS or its operating affiliates. The financing arrangement will provide the XO companies with the financial resources to grow and compete thereby enhancing its ability to provide lower rates and better services.

Findings and Conclusions

Tenn. Code Ann. § 65-4-109 (2004) provides

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the authority for such proposed issue. It shall be the duty of the authority after hearing to approve any such proposed issue maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the authority.

At a regularly scheduled Authority Conference held on May 5, 2008, the panel voted unanimously to approve the *Petition* and made the following findings:

² See Data Response, p. 4 (April 9, 2008).

1. The proposed financing transaction is subject to Authority approval pursuant to Tenn. Code Ann. § 65-4-109 (2004).

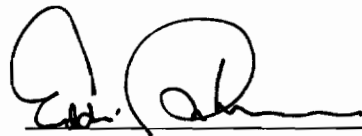
2. The proposed financing transaction is being made in accordance with laws enforceable by this agency.

3. The proposed financing transaction will promote the public interest by enhancing XO's ability to compete in Tennessee.³

IT IS THEREFORE ORDERED THAT:

1. XO Communications Services, Inc. is authorized to enter into the financing transaction described in the *Petition* and discussed herein.

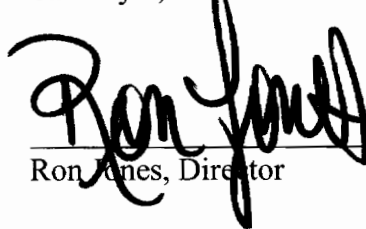
2. The authorization and approval given hereby shall not be used by any party for the purpose of inferring an analysis or assessment of the risks involved. This decision is not intended to create any liability on the part of the Tennessee Regulatory Authority, the State of Tennessee or any political subdivision thereof.



Eddie Roberson, Chairman



Sara Kyle, Director



Ron Jones, Director

³ Director Jones made the following additional findings:

(1) The Petitioner has stated that it has filed similar petitions in other states and that federal approval of the indebtedness is not required.

(2) Tennessee has a legitimate interest in monitoring the integrity of the competitive marketplace, which includes obtaining information on the financial transactions and fitness of certificated telecommunications carriers.

(3) The burden of compliance with Tenn. Code Ann. § 65-4-109 (2004) is minimal, as such, compliance should be perfunctory given the telecommunications industry's movement to a competitive environment.