

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 14, 2008

IN RE:

JOINT PETITION OF ACCESS INTEGRATED NETWORKS,
INC. D/B/A BIRCH COMMUNICATIONS AND NAVIGATOR
TELECOMMUNICATIONS, LLC FOR APPROVAL OF
TRANSFER OF CERTAIN CUSTOMERS

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DOCKET NO.
08-00142

ORDER APPROVING TRANSFER OF CERTAIN CUSTOMERS

This matter came before Chairman Tre Hargett, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 6, 2008 for consideration of the *Joint Petition of Access Integrated Networks, Inc. d/b/a Birch Communications and Navigator Telecommunications, LLC for Expedited Approval of Transfer of Certain Customers* ("Joint Petition") filed on August 4, 2008.

The Joint Petition

Access Integrated Networks, Inc. d/b/a Birch Communications ("Birch") is a full service telecommunications company that provides local exchange and long distance services to residential and small to medium sized business customers in nine states, including Tennessee,¹ with certification pending in five additional states.

¹ See *In re: Application of Access Integrated Networks, Inc. for a Certificate of Public Convenience and Necessity as a Competing Telecommunications Service Provider*, Docket No. 99-00644, Order Granting Certificate of Public Convenience and Necessity (December 3, 1999).

Navigator Telecommunications, LLC (“Navigator”) currently provides local exchange service in thirty-six states, including Tennessee,² and long distance telephone service in forty-seven states, including Tennessee. As a result of federally mandated changes in competitive local exchange carriers’ costs, Navigator has modified its business plan in Tennessee but will continue to provide service to its existing coin operated service accounts.

Birch and Navigator, (together “Petitioners”) request approval to transfer approximately forty-five business customers and forty-eight residential customers of Navigator to Birch. According to the *Joint Petition*, the Petitioners will provide advance written notice to the affected customers at least thirty days prior to the transfer, explaining the change in service provider in accordance with applicable Federal Communications Commission and Authority requirements for changing a customer’s presubscribed carrier.

The transaction will be made in a seamless manner that will avoid disruption to consumers. There will be no change in affected customers’ rates, terms or conditions of service and customers will be well informed of their choices. After the transaction, Birch will provide telecommunications services to Navigator’s former customers and resolve any questions or issues that may arise from the transfer. The Petitioners state that the proposed transaction will improve operational efficiency and promote the public interest as it will ensure continuity of Navigator customers’ services. The Petitioners stated that they filed a self-certification letter with the Federal Communications Commission (“FCC”) and submitted a revised customer notification letter on August 29, 2008.³

² See *In re: Application of Navigator Telecommunications, LLC. for a Certificate to Provide Competing Telecommunications Services*, Docket No. 99-00726, *Order Granting Certificate of Public Convenience and Necessity* (February 22, 2000).

³ See *Data Response* (August 29, 2008).

Findings and Conclusions

Regarding the transfer of a customer base, Tenn. Comp. R. & Regs.1220-4-2-.56(2)(d)

provides:

- (d) In the case of a transfer of a customer base between two or more telecommunications service providers, the Authority, upon petition by the acquiring telecommunications service provider, may deem that sufficient notice has been given and approval received from the affected customers when the following criteria are met:
1. The acquiring telecommunications service provider shall provide the Authority a copy of the self-certification letter it shall file with the Federal Communications Commission ("FCC"), as required in CC Docket No. 00-257, certifying that the customer transfer is in compliance with all FCC regulations governing such transactions.
 2. A notification letter, pre-approved by the Authority, shall be mailed by the current provider of telecommunications service to its customers describing the customer transfer and explaining that unless the customer selects another telecommunications service provider, the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a date specified in the notification letter. The notification letter shall be mailed by U.S. First Class Postage, with the logo or name of the current provider displayed on both the letterhead and the exterior envelope, no less than thirty (30) days prior to the actual customer transfer. For good cause shown, the Authority may waive any requirement of this part or order any requirement thereof to be fulfilled by the acquiring provider. Good cause includes, but is not limited to, evidence that the current provider is no longer providing service in Tennessee.
 3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
 4. The acquiring telecommunications service provider agrees to provide to 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 date of the transfer of customers. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

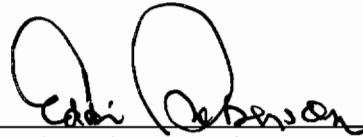
At the regularly scheduled Authority Conference held on October 6, 2008 the panel voted unanimously to approve the *Joint Petition* and the amended customer notification letter which was filed on August 29, 2008.

IT IS THEREFORE ORDERED THAT:

The *Joint Petition of Access Integrated Networks, Inc. d/b/a Birch Communications and Navigator Telecommunications, LLC for Expedited Approval of Transfer of Certain Customers* as discussed herein and the customer notification letter as revised and filed on August 29, 2008 are approved pursuant to Tenn. Comp. R. & Regs.1220-4-2-.56(2)(d).



Tre Hargett, Chairman



Eddie Roberson, Director



Mary W. Freeman, Director