

BEFORE THE TENNESSEE REGULATORY AUTHORITY

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Application for Approval of the Transfer of )  
DukeNet Communications, LLC's )  
Certificate to Provide Local Exchange and )  
Interexchange Telecommunications Services )  
as a Competitive Local Exchange Carrier to )  
DukeNet OpCo, LLC )  
)

T.R.A. DOCKET ROOM

Docket No. 10-00137

**APPLICATION FOR TRANSFER OF CERTIFICATE**

Pursuant to T.C.A. § 64-5-113 and Rules and Regulations of the Tennessee Regulatory Authority ("TRA"), Duke Energy Corp. ("Duke Energy"), Duke Energy Services, Inc. ("DES"), DukeNet Communications, LLC ("DukeNet"), DukeNet VentureCo, Inc. ("Seller"), DukeNet Communications Holdings, LLC ("HoldCo"), DukeNet OpCo, LLC ("OpCo") and Alinda Telecom Investor I, L.P. ("Alinda I") and Alinda Telecom Investor II, L.P. ("Alinda II and together with Alinda I, "Investor") (collectively, "Applicants") hereby respectfully request approval of the transfer of DukeNet's certificate to provide local exchange and interexchange services as a competitive local exchange carrier to OpCo.

In support of this Application, the Applicants provide the following information:

**I. Parties to the Transaction**

**A. Duke Energy Corporation ("Duke Energy")**

Duke Energy is a corporation organized under the laws of the State of Delaware and located at 526 South Church Street Charlotte, North Carolina 28202 Telephone: (704) 594-6200. No one person or entity directly or indirectly owns ten percent or more of the equity of Duke Energy. Duke Energy, through its various affiliates, is one of the largest electric power companies in the United States, supplying and delivering energy to approximately 4 million U.S.

customers. It has approximately 35,000 megawatts of electric generation capacity in the Carolinas and Midwest, and natural gas distribution services in Ohio and Kentucky. In addition, Duke Energy owns and operates a portfolio of renewable energy assets. Duke Energy's other businesses include DukeNet, a telecommunications business described more fully below.

**B. Duke Energy Services, Inc. ("DES")**

DES is a corporation organized under the laws of the State of Delaware and is a wholly owned, indirect subsidiary of Duke Energy. DES is located at 526 South Church Street Charlotte, North Carolina 28202 Telephone: (704) 594-6200.

**C. DukeNet Communications, LLC ("DukeNet")**

DukeNet is a limited liability company organized under the laws of the State of Delaware and a wholly owned, direct subsidiary of DES. DukeNet is located at 400 South Tryon Street Charlotte, North Carolina 28202-1904 Telephone: (704) 382-8104. DukeNet is authorized to provide competitive local exchange and interexchange telecommunications services in North Carolina pursuant to certificates of public convenience and necessity issued in Dockets No. P-426 Sub 2 and 3. Since 1994, DukeNet has developed and managed fiber optic and microwave systems for wireless, local and long-distance communications companies, Internet service providers and other businesses and organizations. DukeNet network currently includes approximately 4,300 miles of fiber optic cable. Approximately 26 percent of those route miles are leased from affiliates.

**D. DukeNet Venture Co, Inc. ("Seller")**

Seller is a corporation organized under the laws of the State of Delaware and a wholly owned, direct subsidiary of DES. Seller is located at 526 South Church Street Charlotte, North Carolina 28202 Telephone: (704) 594-6200.

**E. DukeNet Communications Holdings, LLC (“HoldCo”)**

HoldCo is a limited liability company organized under the laws of the State of Delaware and a wholly owned, direct subsidiary of Seller. HoldCo is located at 526 South Church Street Charlotte, North Carolina 28202 Telephone: (704) 594-6200.

**F. DukeNet OpCo, LLC (“OpCo”)**

OpCo is anticipated a limited liability company organized under the laws of the State of Delaware and a wholly owned, direct subsidiary of HoldCo. OpCo is located at 400 South Tryon Street Charlotte, North Carolina 28202-1904 Telephone: (704) 382-8104.

**G. Alinda Telecom Investor I, L.P. (“Alinda I”) and Alinda Telecom Investor II, L.P. (“Alinda II” and, together with Alinda I, “Investor”)**

Alinda I and Alinda II are limited partnerships organized under the laws of Delaware for the purpose of making investments in communications service providers. Alinda I’s ultimate parent is Alinda Infrastructure Fund II, L.P., a limited partnership organized under the laws of Delaware. Alinda I’s General Partner is Alinda Telecom I GP LLC, a limited liability company organized under the laws of Delaware. Alinda II’s ultimate parent is Alinda Infrastructure Parallel Fund II, L.P., a limited partnership organized under the laws of the Cayman Islands. Alinda II’s General Partner is Alinda Telecom II GP LLC, a limited liability company organized under the laws of Delaware.

A diagram showing the current and post-transaction corporate structure is appended hereto as **Exhibit A**.

## **II. Description of the Transaction**

As part of its efforts to expand the telecommunications business conducted by DukeNet, on June 23, 2010 DES signed a definitive agreement with Investor, pursuant to which Investor will invest in the DukeNet business through a joint venture transaction. To facilitate its ability to establish a joint venture for DukeNet's telecommunications business that can be treated as a partnership for federal tax purposes, Duke Energy intends to reorganize the DukeNet business prior to the consummation of the joint venture transaction. To effect the reorganization, the following steps have or will occur: (i) DES formed Seller, as a wholly owned direct subsidiary of DES; (ii) Seller formed HoldCo, as a wholly owned direct subsidiary of Seller; (iii) HoldCo formed OpCo, as a wholly owned direct subsidiary of HoldCo; and (iv) DukeNet will merge with and into OpCo, with OpCo as the surviving entity operating under the legal name DukeNet Communications, LLC.

After the reorganization Seller will sell fifty percent of the equity interests in HoldCo to Investor for a cash payment equal to the fair market value of such interests. After the consummation of the transaction, each of Duke Energy and Investor will own indirectly fifty percent of the equity interests in OpCo, which will operate as a joint venture under the name DukeNet Communications, LLC. At the closing, OpCo will enter into services agreements with certain Duke Energy affiliates, pursuant to which such Duke Energy affiliates will provide certain administrative, support and transition services to OpCo. It is anticipated that the management team and other employees of DukeNet will remain in place after the proposed transaction. A diagram showing the current and post-transaction structure of Applicants is attached as **Exhibit A**.

### **III. Continued Technical, Managerial and Financial Capability**

Following the merger, there will be no change in the managerial or technical staff of DukeNet and, therefore, no change in the managerial and technical capability of OpCo. DukeNet's management team has extensive business experience which will continue to enable OpCo to meet high service quality standards. Attached hereto as **Exhibit B** are the names and addresses of DukeNet's principal officers and a description of the experience and expertise of DukeNet's key management personnel. Similarly, OpCo will be technically qualified to provide competing local telecommunications services, including local exchange and interexchange telecommunications services, in Tennessee. Since 1994, DukeNet's has developed and managed fiber optic and microwave systems for wireless, local and long-distance communications companies, Internet service providers and other businesses and organizations. All assets owned and used by DukeNet in the provision of its services will remain assets of OpCo. OpCo will retain DukeNet's qualified technical and operational personnel to support its operations and OpCo's experienced management team (described in **Exhibit B**) can be relied upon for the provision of quality telecommunications services in Tennessee. Tennessee customers will still be able to call the company's toll-free customer service number which is 1-800-754-7730 and contact the company in writing at its headquarters address which will remain 400 South Tryon Street Charlotte, North Carolina 28202-1904. The Tennessee contact person knowledgeable about the company's operations is Rob Dellinger, Director of Operations, 400 South Tryon Street ST29C, Charlotte, North Carolina 28201 (704) 382-3388. After the consummation of the transaction, OpCo will be a joint venture equally owned by Duke Energy and Investor. Duke Energy is a Fortune 500 company, and its balance sheet, income statement and statement of cash flow are available in its most recent Annual Report on Form 10-K, offered at <http://www.duke->

energy.com/investors/publications/annual.asp. Investor and its affiliates are the largest managers in the United States of pension assets for investment in infrastructure, with over \$7 billion of assets under management. Currently DukeNet's capital structure has no debt and approximately \$3.8 million of capital leases. Upon or shortly after the transaction, it is anticipated the joint venture will enter into a credit facility in the amount of approximately \$100 million to fund future expansion.

#### **IV. Public Interest Considerations**

The proposed Transaction will serve the public interest. The Transaction will be generally transparent to customers and at the time of the merger they will not experience any change in their services, rates, terms or conditions of such service, or in the name of their service provider. Any future change in rates, terms and conditions of service will be made in accordance with applicable TRA requirements. The only significant change following the closing of the Transaction will be that Duke Energy and Investor will jointly be the ultimate owners of OpCo. This joint ownership will infuse OpCo with additional capital allowing OpCo to continue offering high quality service and to best compete within the telecommunications market. OpCo will adhere to all applicable state and federal laws and TRA rules, including adoption of DukeNet's Small and Minority-Owned Telecommunications Business Participation Plan on file with the TRA.

To ensure a seamless transition and avoid customer confusion or inconvenience, DukeNet will provide written notice to the affected customers explaining the change in service provider. A draft of the notification letter that will be sent to affected customers is appended hereto as **Exhibit C.**

#### **V. Certificate**

Currently, DukeNet is authorized by the TRA to provide local exchange and interexchange telecommunications services as a competitive local exchange carrier in Tennessee pursuant to a certificate issued in Docket No. 09-00051. Following the merger, OpCo will become the surviving entity operating under the legal name DukeNet Communications, LLC and, upon TRA approval of the requested certificate transfer, proposes to operate pursuant to the certificate listed herein.

**VI. Notice**

DukeNet has served notice of this application to the eighteen (18) incumbent local exchange telephone companies in Tennessee. See **Exhibit D** for the service list.

**CONCLUSION**

**WHEREFORE**, Applicants respectfully request that the Tennessee Regulatory Authority grant this Application for Transfer of a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services as a competitive local exchange carrier in the State of Tennessee from DukeNet Communications, LLC to OpCo, LLC operating as DukeNet Communications, LLC.

Respectfully submitted,



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*Counsel for Investor*



## **EXHIBIT LIST**

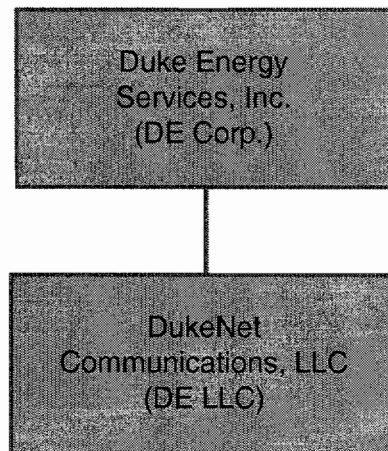
<b>EXHIBIT A</b>	<b>Diagram of Current and Post-Transaction Applicant Structure</b>
<b>EXHIBIT B</b>	<b>Names, Address and Experience of Principal Officers and Management Personnel</b>
<b>EXHIBIT C</b>	<b>Customer Notification Letter</b>
<b>EXHIBIT D</b>	<b>ILEC Service List</b>

## **EXHIBIT A**

### **Diagram of Current and Post-Transaction Applicant Structure**

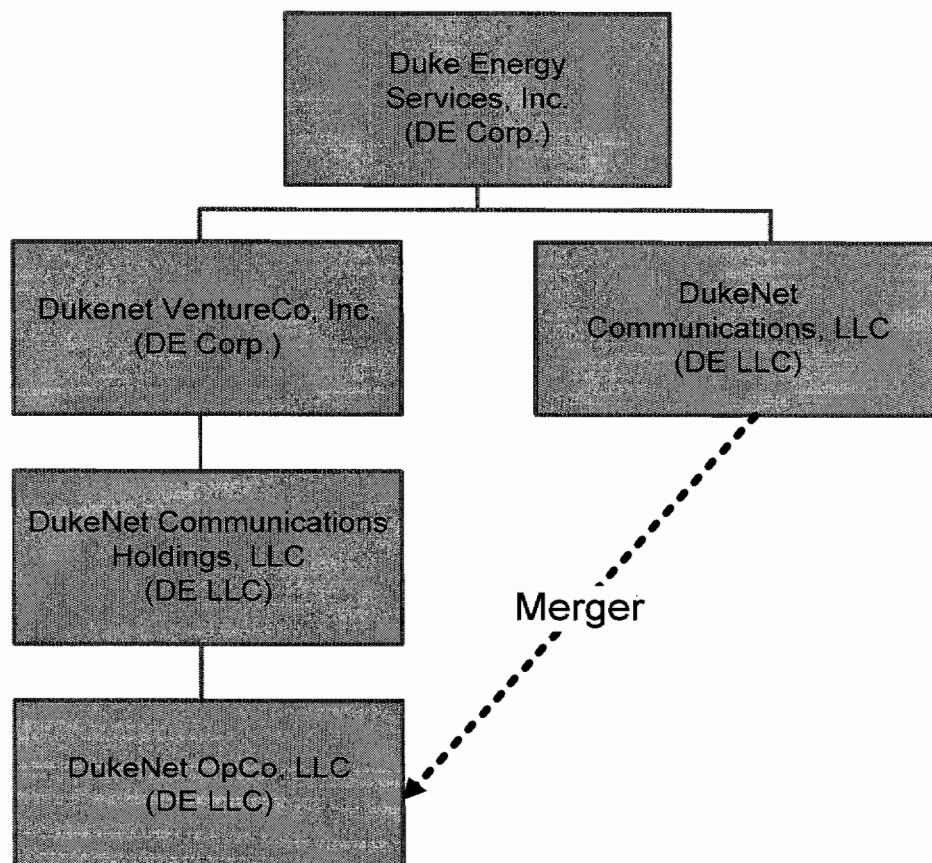
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Current structure:



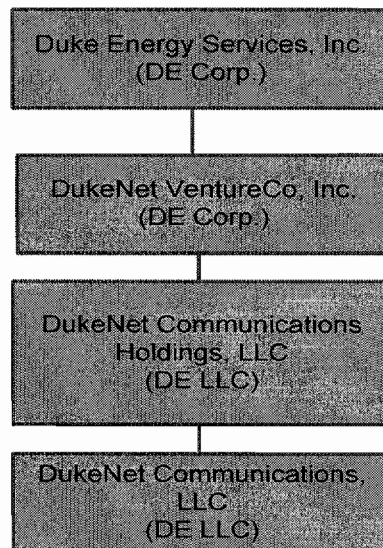
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Internal reorganization:



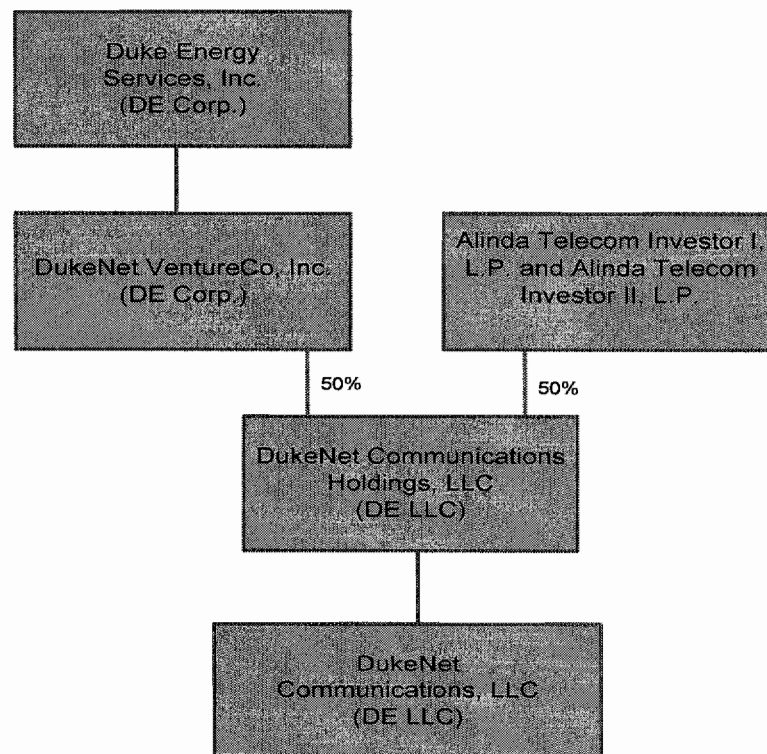
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Structure after internal reorganization:



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Post-transaction structure after sale of 50 percent of the equity interests in HoldCo to Investor:



## **EXHIBIT B**

### **Names, Address and Experience of Principal Officers and Management Personnel**

## **Principal Officers and Management Personnel**

**William Bradley Davis**

President – DukeNet

400 South Tryon Street

ST29B

Charlotte, North Carolina 28202

Brad Davis is president of DukeNet, a business unit of Duke Energy that develops and manages fiber-optic communications systems.

A career employee, Davis has more than twenty years of experience with the company. He joined Duke Power, a former Duke Energy company, in 1982 as an instrumentation and controls engineer in the nuclear production department at Catawba Nuclear Station. After a series of promotions, he was named manager of information systems at McGuire Nuclear Station. After serving in several corporate leadership positions, Davis was named manager of customer support for information technology services in 1993, manager of telecommunications systems in 1994 and manager of generation business applications in 1997. In 2001, he was named vice president of engineering and operations for DukeNet. He was named president of DukeNet Communications in 2003 and continued in that role after Duke Energy's merger with Cinergy in April 2006.

Davis received a bachelor of science degree in mechanical engineering from North Carolina State University and earned a master's degree from Queens University.

**Tony Cockerham**

Vice President of Sales and Business Development – DukeNet

400 South Tryon Street

ST29C

Charlotte, North Carolina 28202

Tony Cockerham was named vice president of sales and business development of DukeNet Communications in February 2009. Prior to his current position, Cockerham served as vice president of sales and customer operations (April 2006 through February 2009), vice president of engineering and operations (October 2003 through April 2006), director of network planning and engineering (February 2001 through October 2003) and project manager (April 1999 through February 2001) for DukeNet Communications.

Before joining DukeNet in 1999, Cockerham spent three years in engineering and project management roles in Duke Energy's Telecommunications department. Prior to that, he spent six years in various positions at BellSouth including network engineering, infrastructure planning, sales technical support, and project management.

Cockerham received a Bachelor of Science in Electrical Engineering (Magna Cum Laude) from NC State University. He received a Master of Science in Telecommunications Systems Management from Southern Methodist University.

## Kevin Lane

Vice President of Engineering, Procurement and Construction – DukeNet  
400 South Tryon Street  
ST29B  
Charlotte, North Carolina 28202

Kevin Lane was named vice president of engineering, procurement and construction of DukeNet Communications in March of 2006. Prior to his current position, Lane was responsible for business development at DukeNet. Prior to his DukeNet role, Lane worked for Duke Energy from 1997 through 2005. His first role at the new Duke Energy was overall responsibility for the implementation of PeopleSoft Financial system for the pipelines, power company and international business units of Duke Energy. As a division manager, Lane was responsible for the management of the workstation and enterprise database management services teams that provided this service corporate wide.

Before joining Duke Energy in 1997, Lane's career spanned twenty years in various technical and managerial positions within information technology spanning application development, systems management and project management roles in the energy, aerospace and manufacturing business sectors. One of the key companies that Lane was a member of included Duquesne Light Company from 1990 to 1996 where he was responsible for the implementation of the integrated Customer Information system.

Mr. Lane is a graduate of the State University of New York where he received a B.S. in Computer Science.

## **EXHIBIT C**

### **Customer Notification Letter**



**[DukeNet Communications, LLC Letterhead]**

July [•], 2010

**IMPORTANT NOTICE REGARDING YOUR SERVICES FROM  
DUKENET COMMUNICATIONS, LLC**

Dear DukeNet Communications Customer,

As part of an effort to expand DukeNet Communications, LLC's ("DukeNet") telecommunications business, DukeNet's ultimate parent company, Duke Energy Corporation ("Duke Energy"), is entering a joint venture transaction with Alinda Capital Partners LLC affiliates Alinda Telecom Investor I, L.P. ("Alinda I") and Alinda Telecom Investor II, L.P. ("Alinda II" and, together with Alinda I, "Alinda"). To facilitate this transaction, Duke Energy intends to reorganize the DukeNet business by merging DukeNet into a new operating company that will do business as DukeNet Communications, LLC ("new DukeNet"). The only significant change following the close of the transaction is that Duke Energy and Alinda will be the ultimate owners of new DukeNet. As an existing DukeNet customer, you will see no change as a result of this transaction.

You will continue to receive the same services you currently do and, of course, there will be no fees or charges to you in connection with this transfer and there will be no disruption in service. As a DukeNet customer, you will continue to receive services at the same rates, terms and conditions specified in your existing contract with DukeNet.

DukeNet anticipates the date of the transaction closing will be on or about September 30, 2010, provided all necessary regulatory approvals have been obtained. At that time, the name of your service provider will remain DukeNet Communications, LLC.

If you have any questions, please contact \_\_\_\_\_. For all questions regarding billing, service needs or complaints, please contact DukeNet at 1-800-754-7730.

We look forward to continuing to provide service to you.

Cordially,

DukeNet Communications, LLC

**EXHIBIT D**

**Sample Notice and Service List**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**IN THE MATTER OF THE APPLICATION  
OF DUKENET COMMUNICATIONS, LLC  
TO TRANSFER ITS CERTIFICATE TO PROVIDE  
LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES  
AS A COMPETITIVE LOCAL EXCHANGE CARRIER**

**NOTICE OF FILING**

**TO: ALL INCUMBENT LOCAL EXCHANGE CARRIERS (ILECS)**

PLEASE TAKE NOTICE, that on July 8<sup>th</sup>, 2010, DukeNet Communications, LLC filed an Application to Transfer its Certificate of Public Convenience and Necessity to Provide Competing Local Telecommunications Services throughout the State of Tennessee.

This the 8<sup>th</sup> day of July 2010.

By: \_\_\_\_\_

Henry M. Walker

*Attorney for DukeNet Communications, LLC*

11/21/2008

## List Of ILEC Providers

## ILEC

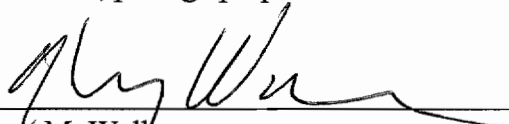
<u>ID</u>	<u>Company Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
21	Ardmore Telephone Company	P. O. Box 549	Ardmore	TN	38449-0000
1	BellSouth Telecommunications, Inc.	333 Commerce Street	Nashville	TN	37201-3300
14	CenturyTel of Adamsville	P. O. Box 4065	Monroe	LA	71211-0000
15	CenturyTel of Claiborne	P. O. Box 4065	Monroe	LA	71211-0000
17	CenturyTel of Ooltewah-Collegedale	PO Box 4065	Monroe	LA	71211-0000
13	Concord Telephone Exchange, Inc.	PO Box 22995	Knoxville	TN	37933-0995
16	Crockett Telephone Company	C/O TSI Payment Processing Center	Jackson	MS	39225-0000
74668	Frontier Communications of Tennessee	300 Bland Street	Bluefield	WV	24701-3020
20	Frontier Communications Of The Volunteer State	300 Bland Street	Bluefield	WV	24701-0770
22	Humphreys County Telephone Company	P. O. Box 22995	Knoxville	TN	37933-0995
23	Loretto Telephone Company	P. O. Box 130	Loretto	TN	38469-0000
24	Millington Telephone Company, Inc.	4880 Navy Road	Millington	TN	38053-0000
18	Peoples Telephone Company	C/O TSI Payment Processing Center	Jackson	MS	39225-0000
12	Tellico Telephone Company	PO Box 22995	Knoxville	TN	37933-0995
11	Tennessee Telephone Company	PO Box 22995	Knoxville	TN	37933-0995
25	United Telephone Company, Inc.	P. O. Box 38	Chapel Hill	TN	37034-0000
3	United Telephone Southeast, LLC	400 W. 15th Street	Austin	TX	78701-0000
19	West Tennessee Telephone Co.	C/O TSI Payment Processing Center	Jackson	MS	39225-0000

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**CERTIFICATE OF SERVICE**

I, Henry M. Walker, attorney for DukeNet Communications, LLC, do hereby certify that I have this day served the foregoing Application for Certificate Transfer upon the parties on the attached service list by placing a copy in the United States Mail, postage prepaid.

This the 9<sup>th</sup> day of July, 2010.

  
\_\_\_\_\_  
Henry M. Walker  
*Attorney for DukeNet Communications, LLC*