

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 15, 2010

IN RE:

**APPLICATION FOR APPROVAL OF THE
TRANSFER OF DUKENET COMMUNICATIONS,
LLC'S CCN TO PROVIDE LOCAL EXCHANGE
AND INTERCHANGE TELECOMMUNICATIONS
SERVICES AS A COMPETITIVE LOCAL
EXCHANGE CARRIER TO DUKENET OPCO, LLC**

**DOCKET NO.
10-00137**

ORDER APPROVING *APPLICATION*

This matter came before Chairman Mary W. Freeman, Director Kenneth C. Hill and Director Sara Kyle 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 25, 2010 for consideration of the *Application for Transfer of Certificate* ("*Application*") filed on July 8, 2010 by 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"), 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"). The *Application* seeks approval of the transfer of DukeNet's certificate to provide local exchange and interexchange services as a competitive local exchange carrier to OpCo.

Duke Energy is a Fortune 500 Delaware corporation. No one person or entity directly or indirectly owns ten percent or more of the equity of Duke Energy. Duke Energy, through its

affiliates, is one of the largest electric power companies in the United States, supplying and delivering energy to approximately four million U.S. customers.

DukeNet is a Delaware limited liability company and a wholly owned, direct subsidiary of DES. In Tennessee, DukeNet is authorized to provide local exchange and interexchange telecommunications services pursuant to Authority Order in Docket No. 09-00051 issued on August 5, 2009.

DES is a Delaware corporation and is a wholly owned, indirect subsidiary of Duke Energy. Seller is a Delaware corporation and a wholly owned, direct subsidiary of DES. HoldCo is a Delaware limited liability company and a wholly owned, direct subsidiary of Seller. OpCo is an anticipated limited liability company organized in Delaware and a wholly owned, direct subsidiary of HoldCo. Alinda I and Alinda II are Delaware limited partnerships organized for the purpose of making investments in communications service providers.

THE APPLICATION

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 *Application* asserts 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 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.

FINDINGS AND CONCLUSIONS

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

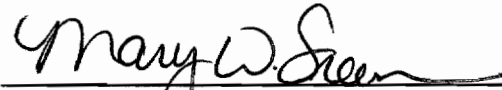
Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, which in pertinent part, states as follows:

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 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.

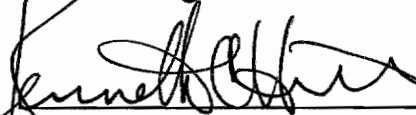
The panel found that the transfer is in the public interest, and according to the *Application*, it will be transparent to customers and they will not experience any change in their service, rates, or in the name of their service provider. Based on these findings, the panel voted unanimously to approve the transaction described in the *Application* pursuant to Tenn. Code Ann. § 65-4-113, contingent upon approval by the Federal Communications Commission (“FCC”). The Applicants should file with the Authority any documentation from the FCC regarding subsequent action on the transfer.

IT IS THEREFORE ORDERED THAT:

The *Application for Transfer of Certificate* is approved, contingent upon approval by the Federal Communications Commission. The Applicants shall file with the Tennessee Regulatory Authority any documentation from the Federal Communications Commission regarding subsequent action on the transfer.



Mary W. Freeman, Chairman



Kenneth C. Hill, Director



Sara Kyle, Director