

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

December 1, 2011

IN RE:

**JOINT APPLICATION FOR EXPEDITED
APPROVAL OF TRANSFER OF CONTROL
BETWEEN TWIN LAKES TELEPHONE
COOPERATIVE CORPORATION AND ONWAV,
INC.**

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**DOCKET NO.
11-00161**

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Chairman Kenneth C. Hill, Director Sara Kyle and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”) at a regularly scheduled Authority Conference held on October 17, 2011 for consideration of the *Joint Application for Expedited Approval of Transfer of Control* (“*Joint Application*”) filed on September 14, 2011 by Twin Lakes Telephone Cooperative Corporation (“TL Cooperative”) and OnWav, Inc. (“OnWav”)(together, the “Applicants”).

TL Cooperative is a Tennessee telephone cooperative.¹ TL Cooperative currently provides a full array of telecommunications and broadband services within eight Tennessee counties, serving fifteen exchanges.²

OnWav provides a broad variety of local exchange services to both commercial and residential customers in Cookeville, Tennessee.³ OnWav was recently awarded a National Telecommunications Information Administration Broadband Technology Opportunities Program

¹ *Joint Application*, p. 2 (September 14, 2011).

² *Id.*

³ *Id.*

grant.⁴ In Tennessee, OnWav is authorized to provide service pursuant to an Authority Order in Docket No. 08-00046 issued on July 3, 2008.⁵

The Joint Application

TL Cooperative and OnWav entered into a Stock Purchase Agreement (the “Agreement”) on July 29, 2011.⁶ Pursuant to the Agreement, TL Cooperative will purchase 100% of the stock of OnWav.⁷ Following the consummation of the proposed transfer, OnWav will continue to offer service with no immediate change in its rates, terms, or conditions of service to its customers.⁸ The transfer will not involve a change in OnWav’s operating authority in Tennessee, and will be virtually transparent to Tennessee consumers.⁹

The *Joint Application* asserts that following the consummation of the transaction, OnWav will continue to have the requisite managerial, technical, and financial capabilities to continue to operate its business as currently conducted and provide the same, if not improved, level of service and options to its current customers.¹⁰ The *Joint Application* states the proposed transfer serves the public interest because it will increase broadband internet access for consumers and improve the financial positions of the Applicants.¹¹ The transfer of control will allow OnWav to expand its wireless broadband offering to six additional towns outside its existing service area.¹² According to Applicants, this technology investment will allow anchor institutions, such as hospitals, schools, and government offices, to have a redundant link to the internet and will provide additional connectivity for the communities served, thereby enhancing their ability to

⁴ *Id.*, p. 4.

⁵ *Id.*, p. 2.

⁶ *Id.*, p. 4.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*, p. 5.

¹¹ *Id.*, pp. 5-6.

¹² *Id.*, p. 4.

attract industry and to connect to the global marketplace.¹³

Findings and Conclusions

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) reads as follows:

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 petition 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.

At the regularly scheduled Authority Conference held on October 17, 2011, the Directors considered the transfer of authority requested in the *Joint Application*. Based on assertions in the *Joint Application*, the Directors found that Tenn. Code Ann. § 65-4-113 (2004) applies to this transaction because it results in the transfer of control of a certificated carrier to a company that does not hold a Certificate of Public Convenience and Necessity. Further, the Directors found that OnWav's customers will continue to receive service under the same rates, terms, and conditions of service as before the transfer and the transfer is in the public interest and complies with applicable law.


Based on the administrative record and findings, the panel voted unanimously to approve

¹³ *Id.*

the transfer contingent on approval by the Federal Communications Commission.

IT IS THEREFORE ORDERED THAT:

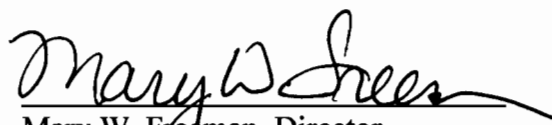
The transfer of authority as described in the *Joint Application for Expedited Approval of Transfer of Control* and discussed herein is approved pursuant to Tenn. Code Ann. §65-4-113 (2004), contingent on approval by the Federal Communications Commission.



Kenneth C. Hill, Chairman



Sara Kyle, Director



Mary W. Freeman, Director