

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 15, 2012

IN RE:

**PETITION FOR APPROVAL OF THE MUTUAL TRAFFIC
EXCHANGE AGREEMENT BY AND BETWEEN WEST
TENNESSEE TELEPHONE COMPANY, INC. AND BIRCH
COMMUNICATIONS, INC.**

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**DOCKET NO.
12-00008**

ORDER APPROVING THE MUTUAL TRAFFIC EXCHANGE AGREEMENT

This matter came before the Tennessee Regulatory Authority (the "Authority") at a regularly scheduled Authority Conference held on February 13, 2012 to consider, pursuant to 47 U.S.C. § 252, approval of the Mutual Traffic Exchange Agreement (the "Agreement") negotiated between West Tennessee Telephone Company, Inc. ("West Tennessee") and Birch Communications, Inc. filed on January 31, 2012.

Based upon a review of the Agreement, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted approval of the Agreement and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004) and over interconnections between telecommunications service providers pursuant to Tenn. Code Ann. § 65-4-124(a) and (b) (2004).
- 2) The Agreement is in the public interest as it provides consumers within West Tennessee's service area with alternative sources of telecommunications services.
- 3) The Agreement does not discriminate against telecommunications service providers that are not parties thereto.


4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only upon finding that it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. § 251 or § 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this Order should not be construed as finding that the Agreement is consistent with § 251, § 252(d) or, for that matter, previous Authority decisions.

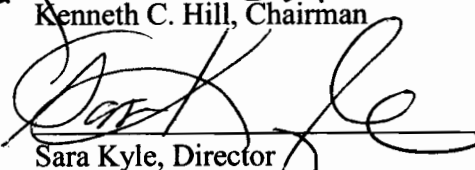
5) No person or entity has sought to intervene in this docket.

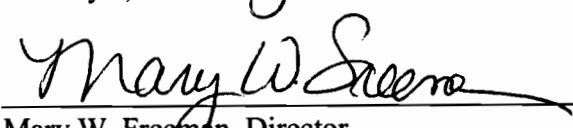
6) The Agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. §§ 65-4-104 (2004) and 65-4-124(a) and (b) (2004) or, in the alternative, pursuant to Tenn. Code Ann. § 65-5-109(m) (2009).

IT IS THEREFORE ORDERED THAT:

The Mutual Traffic Exchange Agreement negotiated between West Tennessee Telephone Company, Inc. and Birch Communications, Inc. is approved and is subject to review by the Authority as provided herein.


Kenneth C. Hill, Chairman


Sara Kyle, Director


Mary W. Freeman, Director

¹ See 47 U.S.C. § 252(e)(2)(B).