

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT**

**NASHVILLE, TENNESSEE**

**October 30, 2000**

**IN RE:**

**PETITION TO REVERT CERTIFICATE  
OF AUTHORITY TO ORIGINAL  
OPERATING STRUCTURE OF CONCERT  
COMMUNICATIONS SALES LLC**

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**DOCKET NO. 00-00763**

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**ORDER APPROVING TRANSFER OF AUTHORITY**

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This matter came before the Tennessee Regulatory Authority (the "Authority") at the regularly scheduled Authority Conference held on September 26, 2000 on the Petition (the "Petition") of Concert Communications Sales LLC ("CCS") to revert the certificate of authority transferred in Docket No. 00-00238 from CCS to Concert USA back to CCS.

**Background**

By Order dated July 18, 2000, in Authority Docket No. 00-00238, the Authority approved the Application of CSS, filed on March 21, 2000, for the transfer of the authority to provide utility services held at that time by CCS to Concert USA. The reason for this transfer stated in CCS's Application was a corporate reorganization in which CCS would be merged into Concert USA. Both companies are wholly-owned subsidiaries of Concert B.V., a holding company owned in equal parts by British Telecommunications plc ("BT") and AT&T Corporation ("AT&T").

As stated in the Authority's Order of July 18, 2000, CCS is a limited liability company organized under the law of Delaware, with its principal offices in Reston, Virginia. CCS was formed by BT as an indirect wholly-owned subsidiary in 1999 to enable BT to provide intrastate services to multinational customers of the managed voice, data, and Internet services that BT

provides on a global basis. CCS was granted authority in Tennessee to provide resold intrastate services on October 26, 1999 in Authority Docket No. 99-00419. As of the date of the Application, CCS had not commenced providing service in Tennessee and had no customers in Tennessee.

Concert USA is a general partnership organized under the laws of Delaware, with its principal offices in Reston, Virginia. Concert USA was formed by Concert, which is a global joint venture in which BT and AT&T each own a fifty percent (50%) controlling interest, to provide managed voice, data, and Internet services in the United States to Concert's multinational customers.

On August 30, 2000, CCS filed the present Petition, in which it states that

Since the [March 21, 2000] Application was filed, the issuance of the TRA's Order Approving Transfer of Authority dated July 18, 2000, and the TRA's subsequent closure of the docket, there have been additional changes within the Concert business plan. As a result, the proposed reorganization no longer achieves the beneficial ends originally envisioned, and Concert believes that the operating efficiencies anticipated via the consolidation of operations into Concert USA will be most fully achieved if CCS continues as the certificated provider of intrastate telecommunications.<sup>1</sup>

For these reasons, CCS requests that the Authority allow the certification transferred in the July 18, 2000 Order in Docket No. 00-00238 to revert to CCS, which will continue as the certificated provider of interexchange services in Tennessee.

#### **Requirement of and Standards for Authority Approval**

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain Authority approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113 provides as follows:

(a) 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.

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<sup>1</sup> Petition, August 30, 2000, at 1-2.

Tenn. Code Ann. § 65-4-113 also provides the standards by which the Authority shall consider an application for transfer of authority, as follows:

(b) 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. . . .

### **Transfer of Authority Back to CCS**

As a result of the Authority's decision in Docket No. 00-00238, Concert USA is currently the holder of a Certificate of Public Convenience and Necessity ("CCN") to provide telecommunications services in Tennessee, such certification having previously been held by CCS. Under the provisions of Tenn. Code Ann. § 65-4-113, Concert USA is required to obtain Authority approval for a transfer of its authority to provide utility services. Such approval further requires that the Authority consider, among other factors, 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 proposed transfer. In this instance, the proposed transfer involves a transfer of authority back to the original holder of the authority. The Authority finds, on the basis of the Petition, the March 21, 2000 Application filed in Docket No. 00-00238, and its findings in Docket No. 99-00419, that the requested transfer meets the requirements of Tenn. Code Ann. § 65-4-113 and is therefore approved.

### **Findings**

The Directors of the Authority considered this matter at a regularly scheduled Authority Conference held on September 26, 2000. Based upon careful consideration of the Petition, and of the entire record of this matter and the Authority's previous Orders in Docket Nos. 00-00238 and 99-00419, the Authority finds and concludes as follows:

1. That the Authority has jurisdiction over the subject matter of this Petition pursuant to Tenn. Code Ann. § 65-4-113;

2. That in Authority Docket No. 99-00419, CCS was granted authority to provide telecommunications service in Tennessee;

3. That in Authority Docket No. 00-00238, the authority originally granted CCS was transferred to Concert USA;

4. That CCS has now requested that the authority originally granted to CCS in Authority Docket No. 99-00419 and transferred to Concert USA in Docket No. 00-00238 be transferred back to CCS;

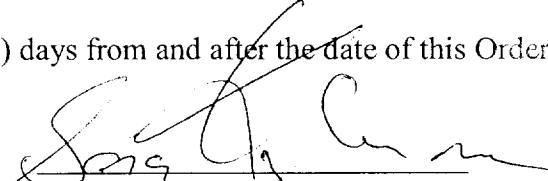
5. That CCS has the suitability, financial responsibility, and capability to perform efficiently the utility service to be transferred to it; and

6. That the transfer of authority will benefit the consuming public by allowing Concert most fully to achieve the operating efficiencies anticipated in its business plan.

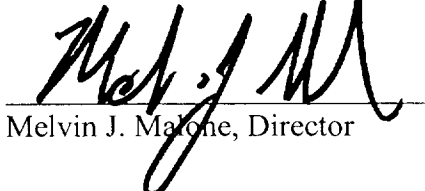
**IT IS THEREFORE ORDERED THAT:**

1. The Application of Concert Communication Sales LLC for approval of the transfer of authority described herein is granted; and

2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order.

  
Sara Kyle, Chairman

  
Hollynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary