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JOHN F. BEACH  
JOHN J. PRINGLE, JR.

October 16, 2000

REC'D TN  
REGULATORY AUTH.  
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AREA CODE 803  
TELEPHONE 779-0066  
FACSIMILE 799-8479

EXECUTIVE SECRETARY

**VIA UPS NEXT-DAY AIR**

Mr. David Waddell  
Executive Director  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: Application of 3RDWIRE, Inc. for a Certificate of Convenience and Necessity as a  
Competing Telecommunications Telecommunications Service Provider  
Docket No. 00-00429 Our File No. 00.84

Dear Mr. Waddell:

3RDWIRE, Inc. ("3RDWIRE" or "Applicant") hereby submits an original and thirteen (13) copies of the enclosed Application, seeking authority to operate as a provider of facilities-based and resold telecommunications services within the State of Tennessee. Filed under separate cover is Exhibit F to the Application, which contains proprietary information. Because this information is highly confidential and proprietary, 3RDWIRE requests that the Tennessee Regulatory Authority not disclose this financial information to the public or any of 3RDWIRE's competitors.

Enclosed please find a check in the amount of \$25.00 for filing fees. Notice of this filing has been served on interested parties, as evidenced by my certificate of service to that effect.

Please stamp "Received" the additional copy of this letter, and return in the enclosed envelope. If you have any questions or require additional information, please call me or contact me via electronic mail at [pringle@beachlaw.net](mailto:pringle@beachlaw.net).

With kind regards, I am

Yours truly,

*John J. Pringle, Jr.*  
John J. Pringle, Jr.

JJP/cr

Enclosures

cc: Mr. Kevin Mullin  
Mr. Brian Connelly

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<b>PAID T.R.A.</b>	
Chk #	<u>0434</u>
Amount	<u>25.00</u>
Rcvd By	<u>SC</u>
Date	<u>10/17/00</u>

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN THE MATTER OF THE APPLICATION OF  
3RDWIRE, INC. FOR A CERTIFICATE  
TO PROVIDE RESOLD AND FACILITIES BASED  
LOCAL EXCHANGE, EXCHANGE ACCESS,  
AND RESOLD AND FACILITIES-BASED INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES

APPLICATION

00-00929

Pursuant to applicable Tennessee Statutes and the Rules and Regulations of the Tennessee Regulatory Authority ("TRA") and Section 253 of the Federal Telecommunications Act of 1996 ("TA 96"), 3RDWIRE, Inc. ("3RDWIRE" or "Applicant") respectfully requests that the TRA grant to 3RDWIRE authority to provide resold and facilities-based local exchange, exchange access, and resold and facilities-based interexchange telecommunications services within the State of Tennessee. In support of its application, 3RDWIRE submits the following:

1. Name and Address of the Applicant:

3RDWIRE, Inc.  
148 E. Lancaster Avenue  
Wayne, PA 19087

Telephone: (610) 975-9666  
Facsimile: (610) 975-9744

Questions regarding this Application should be directed to:

John F. Beach  
John J. Pringle, Jr.  
**Beach Law Firm, P.A.**  
1321 Lady Street, Suite 310  
P.O. Box 11547  
Columbia, S.C. 29211-1547  
Telephone: (803) 779-0066  
Facsimile: (803) 799-8479  
E-mail: [pringle@beachlaw.net](mailto:pringle@beachlaw.net)

Contact name and Address at the Company:

Kevin Mullin, Executive Vice-President  
3RDWIRE, Inc.

148 E. Lancaster Avenue  
Wayne, PA 19087

Telephone: (610) 975-9666  
Facsimile: (610) 975-9744  
Email: [kmullin@3rdwire.com](mailto:kmullin@3rdwire.com)

2. Organizational Chart of Corporate Structure. Attached as **Exhibit A**.

3. Corporate Information:

3RDWIRE was incorporated in the State of Delaware on April 7, 2000. A copy of 3RDWIRE's Articles of Incorporation and amendments thereto are attached as **Exhibit B**. A copy of 3RDWIRE's Authority to transact business in the State of Tennessee is provided as **Exhibit C**. The names and addresses of the principal corporate officers of 3RDWIRE are attached as **Exhibit D**. The Applicant has no officers located in the State of Tennessee. The biographies of the principals of 3RDWIRE and other key technical staff are provided in **Exhibit E**.

4. 3RDWIRE possesses the financial, technical and managerial ability to provide local telecommunications services in the State of Tennessee, as demonstrated below:

A. Financial Qualifications:

In support of its financial qualifications, 3RDWIRE submits as **Exhibit F** financial statements. **Exhibit F** contains confidential and proprietary business plans and financial information and are being filed with the TRA in a separate envelope under seal as confidential information pursuant to TRA Rule 1220-1-1.02(8). Because 3RDWIRE is a privately held start-up company, public disclosure of **Exhibit F** would place 3RDWIRE at a competitive disadvantage with its competitors. Therefore, 3RDWIRE respectfully requests that the TRA protect the confidentiality of **Exhibit F**. **Exhibit F** includes income statements, balance sheets and a statement of cash flows as of August 31, 2000. **Exhibit F** also includes projections for 2001, 2002, 2003 and 2004, including income statements, balance sheets, and statements of cash flows. None of the financial statements contained in **Exhibit F** are related to reciprocal compensation for terminating Internet Service Provider ("ISP") traffic. Thus, 3RDWIRE asserts that it has the financial resources to operate as a competitive provider in Tennessee.

B. Managerial Ability:

As shown in **Exhibit E**, 3RDWIRE has the managerial expertise to successfully operate a telecommunications enterprise in Tennessee. As described in the biographical information included therein, 3RDWIRE's management team has extensive management and business experience in the telecommunications industry.

C. Technical Qualifications:

3RDWIRE's services will satisfy the minimum standards established by the TRA. The Company will file and maintain tariffs in the manner prescribed by the TRA and will meet minimum basic local standards, including quality of service and billing standards required of all LECs regulated by the TRA. Applicant will not require customers to purchase Customer Premises Equipment ("CPE") which cannot be used with the Incumbent LECs' systems. As noted in the biographies attached as **Exhibit E**, the Company has numerous officers, directors, and advisors with engineering backgrounds and years of telecommunications experience and expertise. Thus, 3RDWIRE is certainly technically qualified to provide telecommunications services in Tennessee.

5. Proposed Service Area:

3RDWIRE proposes to offer its services throughout the State of Tennessee with initial facilities located in Nashville. This area, which is currently being served by BellSouth, is designated open for competition. 3RDWIRE intends to offer a broad range of telecommunications services through the use of its own facilities, resold facilities, and through a combination of those provisioning methods.

6. Additional Authorizations:

3RDWIRE is preparing to seek applications for authority in the following states: Arkansas, Kentucky, Mississippi, North Carolina, and South Carolina. The Company plans to seek additional authorizations in the future.

7. Types of Services to be Provided:

3RDWIRE seeks authority to provide a full range of facilities-based and resold intrastate local exchange telecommunications services, exchange access telecommunications services, and a full range of facilities-based and resold intrastate, interexchange services. Such services may include, but not be limited to, Residence and Business Flat Rate, Residence and Business Measured Rate, Residence and Business Key Lines, PBX, Direct Inward Dial, Direct Outward Dial, Integrated Services Digital Network (Basic Rate Interface and Primary Rate Interface), Switched Access, CENTREX, Switched Data Services, Private Line, and Special Access

Services, as well as vertical services such as Custom Calling, Voice Mail, and CLASS services. 3RDWIRE also intends to construct and/or acquire fiber-optic networks so that it can provide these services as a facilities-based provider. 3RDWIRE either directly or through arrangements with other carriers or companies will provide those services required by TRA Rule 1220-4-8-.04(3)(b). 3RDWIRE will not require customers to purchase CPE that cannot be used with the ILEC's systems.

8. Contact Persons:

Customers can contact 3RDWIRE at its toll-free customer service number, 1-866-373-9473. In addition, customers may contact the company in writing at the headquarters address, as well as via email at [info@3rdwire.com](mailto:info@3rdwire.com). The toll-free number will be printed on the customer's monthly billing statements. Additional contact persons at 3RDWIRE include:

Customer Relations

Mr. Robert Dundon  
148 E. Lancaster Avenue  
Wayne, PA 19087  
(610) 975-9666  
[bdundon@3rdwire.com](mailto:bdundon@3rdwire.com)

Engineering Operations

Mr. Frank Pento  
15 Meridian Road  
Eatonton, NJ 07724  
(732) 831-9110  
[fpento@3rdwire.com](mailto:fpento@3rdwire.com)

Test and Repair

Mr. Frank Pento  
15 Meridian Road  
Eatonton, NJ 07724  
(732) 831-9110  
[fpento@3rdwire.com](mailto:fpento@3rdwire.com)

Mr. Chris Healy  
15 Meridian Road  
Eatonton, NJ 07724  
(732) 831-9110

chealy@3rdwire.com

Financial and Accounting

Ms. Christie Stengel  
148 E. Lancaster Avenue  
Wayne, PA 19087  
(610) 975-9666  
cstengel@3rdwire.com

9. Small and Minority-Owned Telecommunications Business Participation Plan:  
(Pursuant to 65-5-212) Attached as **Exhibit G**.
10. Toll-Dialing Parity Plan: Attached as **Exhibit H**.
11. Applicant has served notice of this application to the eighteen (18) incumbent local exchange telephone companies in Tennessee. The list is attached as **Exhibit I**.
12. Numbering Issues:  
  
3RDWIRE will monitor and efficiently administer assignment of telephone numbers ("NXXs") to Tennessee customers in an effort to conserve Tennessee numbering resources. 3RDWIRE expects that within a year of its approval demand for NXXs per numbering plan area ("NPA") will be less than five. 3RDWIRE expects to establish its initial footprint in the following NPA: 615. 3RDWIRE expects that it will sequentially assign telephone numbers within NXXs, to the extent commercially feasible. When ordering NXXs for growth, 3RDWIRE typically uses 80 percent fill of an existing NXX to determine when request for a new NXX will be initiated.
13. Tennessee-Specific Operational Issues:  
  
Through its engineering and billing departments, 3RDWIRE will take the steps necessary to ensure that it complies with TCA Section 65-21-114, which requires that any telephone call made between two points in the same county in Tennessee be classified as toll-free, and to provide for metro area toll-free calling ("MAC") around Memphis, Nashville, Knoxville and Chattanooga. 3RDWIRE is familiar with the policies and procedures of BellSouth and is generally aware and will work with BellSouth with respect to the Tennessee County-Wide Calling database maintained by BellSouth and the procedures to enter telephone numbers on the database and the MAC database maintained by BellSouth.
14. Regulatory Status:  
  
No complaints have been filed with state or federal authorities involving 3RDWIRE.

15. Sworn Pre-Filed Testimony: Attached as **Exhibit J**.
16. Tariffs: 3RDWIRE is currently negotiating agreements for interconnection with incumbent local exchange carriers. Further, 3RDWIRE is also in the process of negotiating agreements with underlying carriers of interexchange services. 3RDWIRE will file appropriate tariffs with the TRA upon certification and prior to providing service to Tennessee customers.
17. Surety Bond: Consistent with TCA § 65-4-125, 3RDWIRE will file with the TRA a corporate surety bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000) prior to offering or providing telecommunications services in the State of Tennessee.
18. Public Interest Considerations: Grant of the Application will further the goals of the Tennessee Legislature and further the public interest by expanding the availability of competitive telecommunications services in the State of Tennessee. In addition, intrastate offerings of these services is in the public interest because the services will provide Tennessee customers with increased efficiencies and cost savings. Authorizing 3RDWIRE to provide telecommunications services will enhance the telecommunications infrastructure in the State of Tennessee and will facilitate economic development.

In particular, the public will benefit both directly, through the use of the competitive services to be offered by 3RDWIRE and indirectly, because 3RDWIRE's presence in Tennessee will increase the incentives for other telecommunications providers to operate more efficiently, offer more innovative services, reduce their prices, and improve their quality of service. Grant of this Application will further enhance the service options available to Tennessee citizens for the reasons set forth above.


19. Statement of Compliance:

3RDWIRE agrees, without waiving any of its procedural or substantive rights, to adhere to all applicable TRA policies, rules and orders.

**CONCLUSION:**

3RDWIRE respectfully requests that the TRA enter an order granting it a certificate of convenience and necessity to operate as a competing telecommunications service provider and authority to provide a full range of local exchange, exchange access, and interexchange services on a facilities-based and resale basis throughout the State of Tennessee in the service areas of BellSouth, GTE, Sprint/United and any other ILEC that does not enjoy a rural exemption under Section 251(f) of TA 96. For the reasons stated above, 3RDWIRE's provision of these services would promote the public interest by providing high-quality services at competitive prices and by creating greater economic incentives for the development and improvement by all competing providers.

Respectfully submitted this \_\_\_\_ day of October, 2000.

A handwritten signature in dark ink, appearing to read 'Kevin Mullin', is written over a horizontal line.

Kevin Mullin  
Executive Vice President  
**3RDWIRE, INC.**  
148 E. Lancaster Avenue  
Wayne, PA 19087  
(610) 975-9666



**VERIFICATION**

**STATE OF PENNSYLVANIA**

**COUNTY OF DELAWARE**

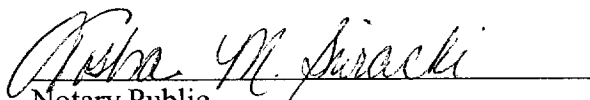
Kevin Mullin, being first duly sworn, deposes and says: That he is the Executive Vice President of 3RDWIRE, Inc., the applicant in the above proceeding, that he has read the foregoing application, and knows the contents thereof; and that he is authorized by 3RDWIRE, Inc. to verify that the contents of the application are true.



Kevin Mullin  
Executive Vice President  
**3RDWIRE, Inc.**  
148 E. Lancaster Avenue  
Wayne, PA 19087  
(610) 975-9666

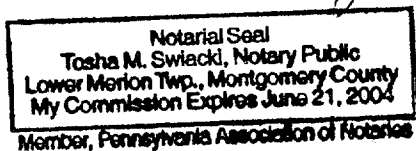
Subscribed and sworn to me this

12<sup>th</sup> day of October, 2000



Notary Public  
State of Pennsylvania

My Commission expires: June 21, 2004

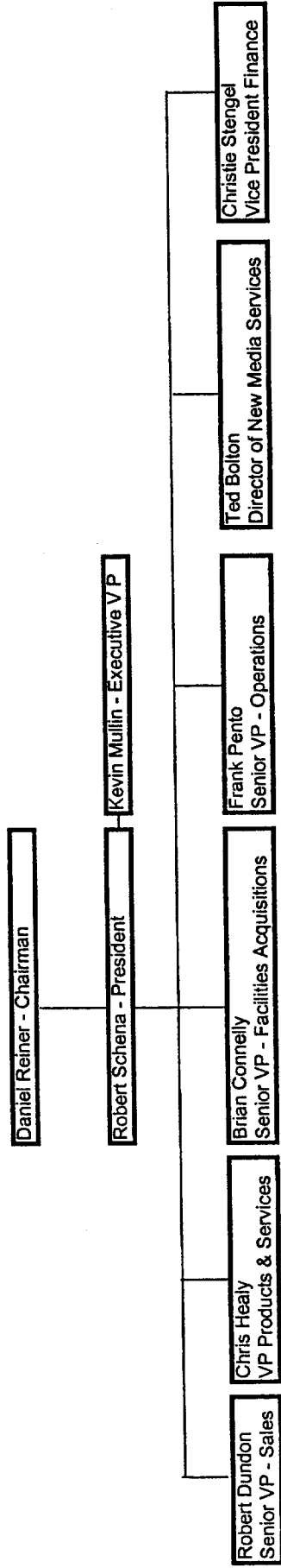


## **Exhibits to 3RDWIRE, Inc. Application**

<b>Exhibit A</b>	Organizational Chart of Corporate Structure
<b>Exhibit B</b>	Articles of Incorporation and Amendments
<b>Exhibit C</b>	Authorization to Transact Business in the State of Tennessee
<b>Exhibit D</b>	Names and Addresses of Principal Officers
<b>Exhibit E</b>	Biographies of Principals and Key Technical Staff
<b>Exhibit F</b>	Financial Statements
<b>Exhibit G</b>	Small and Minority-Owned Business Plan
<b>Exhibit H</b>	IntraLATA Toll Dialing Parity Plan
<b>Exhibit I</b>	List of LECs to Whom Notice of Application has been Sent
<b>Exhibit J</b>	Sworn Pre-Filed Testimony of Kevin Mullin

# EXHIBIT A

**3RDWIRE, INC.**  
**Organization Chart**



# EXHIBIT B

AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION

OF

3RDWIRE INC.

(Pursuant to Section 242 and 245 of the General Corporation Law of the State of Delaware)

3rdWire Inc., a corporation organized and existing under the laws of the State of Delaware, hereby states that the original name under which the corporation was originally incorporated was 3rdWire Inc. and the original date of incorporation was April 7, 2000 and does hereby further certify as follows:

FIRST: The name of the corporation is 3rdWire Inc. (the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 103 Springer Building, 3411 Silverside Road, in the City of Wilmington, County of New Castle, Delaware 19810. The name of the Corporation's registered agent at such address is Organization Services, Inc.

THIRD: The nature of the business or purposes to be conducted or promoted are to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is 100,000,000 shares, consisting of 95,000,000 shares of Common Stock, par value \$.00001 per share (the "Common Stock"), and 5,000,000 shares of Preferred Stock, par value \$.00001 per share, as more fully described below (the "Preferred Stock").

Preferred Stock. The shares of Preferred Stock may be divided and issued from time to time in one or more series as may be designated by the Board of Directors of the Corporation, each such series to be distinctly titled and to consist of the number of shares designated by the Board of Directors. All shares of any one series of Preferred Stock so designated by the Board of Directors shall be alike in every particular, except that shares of any one series issued at different times may differ as to the dates from which dividends thereon (if any) shall accrue or be cumulative (or both). The designations, preferences and relative, participating, optional or other special rights (if any), and the qualifications, limitations or restrictions thereof (if any), of any series of Preferred Stock may differ from those of any and all other series at any time outstanding. The Board of Directors of the Corporation is hereby expressly vested with authority to fix by resolution the powers, designations, preferences and relative, participating, optional or other special rights (if any), and the qualifications, limitations or restrictions (if any), of the Preferred Stock and each series thereof which may be designated by

the Board of Directors, including, but without limiting the generality of the foregoing, the following:

- (1) The voting rights and powers (if any) of the Preferred Stock and each series thereof;
- (2) The rates and times at which, and the terms and conditions on which, dividends (if any) on the Preferred Stock, and each series thereof, will be paid and any dividend preferences or rights of cumulation;
- (3) The rights (if any) of holders of the Preferred Stock, and each series thereof, to convert the same into, or exchange the same for, shares of other classes (or series of classes) of capital stock of the Corporation and the terms and conditions for such conversion or exchange, including provisions for adjustment of conversion or exchange prices or rates in such events as the Board of Directors shall determine;
- (4) The redemption rights (if any) of the Corporation and of the holders of the Preferred Stock, and each series thereof, and the times at which, and the terms and conditions on which, the Preferred Stock, and each series thereof, may be redeemed; and
- (5) The rights and preferences (if any) of the holders of the Preferred Stock, and each series thereof, upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

**FIFTH:** In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors of the Corporation is expressly authorized and empowered to make, alter or repeal the By-laws of the Corporation, subject to the power of the stockholders of the Corporation to alter or repeal any By-law made by the Board of Directors.

**SIXTH:** Elections of directors need not be by written ballot unless the By-laws of the Corporation shall so provide. Meetings of the stockholders may be held within or without the State of Delaware as the By-laws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-laws of the Corporation.

**SEVENTH:** Effective 60 days after the completion of the initial public offering of the Common Stock of the Corporation (the "IPO"), the Board of Directors shall be divided into three classes, as nearly equal in number as possible, known as Class 1, Class 2 and Class 3. The initial directors of Class 1 shall serve until the third annual meeting of the shareholders, the directors of Class 1 shall be elected for a term of three years and, after expiration of such term, shall thereafter be elected every three years for three year terms. The initial directors of Class 2 shall serve until the second annual meeting of the shareholders. At the second annual meeting of

the shareholders, the directors of Class 2 shall be elected for a term of three years and, after expiration of such term, shall thereafter be elected every three years for three year terms. The initial directors of Class 3 shall serve until the first annual meeting of the shareholders. At the first annual meeting of the shareholders, the directors of Class 3 shall be elected for a term of three years and, after expiration of such term, shall thereafter be elected every three years for three year terms. Each director shall serve until his successor shall have been elected and shall have qualified, even though his term of office as herein provided has otherwise expired, except in the event of his earlier death, resignation, removal or disqualification. This Article Seventh, or any portion thereof, may be changed by a by-law amendment which is adopted by all of the then members of the Board of Directors.

EIGHTH: The Corporation reserves the right at any time and from time to time to amend, alter, change or repeal any provisions contained in this Certificate of Incorporation; and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article.

NINTH: No director of the Corporation shall be personally liable to the Corporation or its stockholders except for (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law (or any successor provision of Delaware law), or (iv) any transaction from which the director derived any improper personal benefit; and the directors of the Corporation shall be entitled, to the full extent permitted by Delaware law, as amended from time to time, to the benefits of provisions limiting the personal liability of directors.

TENTH: The Corporation shall indemnify its officers, directors, employees and agents to the full extent permitted by Section 145 of the Delaware General Corporation Law, as amended from time to time, or any successor provision of Delaware law.

IN WITNESS WHEREOF, said 3rdWire Inc. has caused this certificate to be signed by its Chairman, President and Chief Executive Officer, this 17<sup>th</sup> day of April, 2000.

3rdWire Inc.

By: 

Name: Robert J. Scheria

Title: Chairman, President & CEO



BY-LAWS  
OF  
3RDWIRE INC.

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ARTICLE I - OFFICES

Section 1. The registered office of the corporation in the State of Delaware shall be at 103 Springer Building, 3411 Silverside Road, Wilmington, Delaware 19810.

The name of the registered agent of the corporation shall be Organization Services, Inc.

Section 2. The corporation may also have offices at such other places as the Board of Directors may from time to time appoint or the business of the corporation may require.

ARTICLE II - SEAL

The corporate seal shall have inscribed thereon the name of the corporation, the year of its organization and the words "Corporate Seal, Delaware".

ARTICLE III - STOCKHOLDERS' MEETINGS

Section 1. Place of Meetings: Meetings of stockholders shall be held at the registered office of the corporation in this state or at such place, either within or without this state, as may be selected from time to time by the Board of Directors.

Section 2. Annual Meetings: The annual meeting of the stockholders shall be held on such date and at such time and place as may be determined by the Board of Directors. The stockholders shall elect a Board of Directors and transact such other business as may properly be brought before the meeting. If the annual meeting for election of directors is not held on the date designated therefor, the directors shall cause the meeting to be held as soon thereafter as convenient.

Section 3. Election of Directors: Elections of the directors of the corporation need not be by written ballot.

Section 4. Special Meetings: Special meetings of the stockholders may be called at any time by the President, or the Board of Directors, or stockholders entitled to cast at least 25% of the votes which all stockholders are entitled to cast at the particular meeting. At any time, upon written request of any person or persons who have duly called a special meeting, it shall be the duty of the Secretary to fix the date of the meeting, to be held not more than sixty days after receipt of the request, and to give due notice thereof. If the Secretary shall neglect or refuse to fix the date of the meeting and give notice thereof, the person or persons calling the meeting may do so.

Business transacted at all special meetings shall be confined to the objects stated in the call and matters germane thereto, unless all stockholders entitled to vote are present and consent.

Written notice of a special meeting of stockholders stating the time and place and purpose or purposes thereof, shall be given to each stockholder entitled to vote thereat in accordance with Article III, Section 7 hereof.

Section 5. Quorum and Voting: A majority of the outstanding shares of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders. If less than a majority of the outstanding shares entitled to vote is represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Every stockholder of record who is entitled to vote shall at every meeting of the stockholders be entitled to one vote for each share of stock held by him on the record date. At all meetings of the stockholders at which a quorum is present, all matters shall be decided by a majority vote of the shares of stock present in person or by proxy and entitled to vote thereon, except as otherwise required by law or the Certificate of Incorporation.

Section 6. Proxies: Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the corporation generally. All proxies shall be filed with the Secretary of the meeting before being voted upon.

Section 7. Notice of Meetings: Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

Unless otherwise provided by law, written notice of any meeting shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting.

Section 8. Consent in Lieu of Meetings: Any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in this State, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this Section to the corporation, written consents signed by a sufficient number of holders to take action are delivered to the corporation by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

Section 9. List of Stockholders: The officer who has charge of the stock ledger of the corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. No share of stock upon which any installment is due and unpaid shall be voted at any meeting. The list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

## ARTICLE IV - DIRECTORS

Section 1. Powers: The business and affairs of this corporation shall be managed by its Board of Directors.

Section 2. Election and Term: The directors shall be elected by the stockholders at the annual meeting of stockholders of the corporation, and the directors shall be elected for a term as consistent with Article Seventh of the Amended and Restated Certificate of Incorporation of the corporation.

Section 3. Number: The Board of Directors shall consist of no less than one and no more than nine directors. The number of directors to be elected, subject to the foregoing limits, shall be determined by resolution of the Board of Directors. The directors shall be elected by the stockholders at the annual meeting of stockholders to serve until the next annual meeting of stockholders. Each director shall serve until his successor shall have been elected and shall qualify, even though his term of office as herein provided has otherwise expired, except in the event of his earlier resignation or removal.

Section 4. Regular Meetings: Regular meetings of the Board of Directors shall be held without notice at the registered office of the corporation, or at such other time and place as shall be determined by the Board of Directors.

Section 5. Special Meetings: Special Meetings of the Board of Directors may be called by the President on not less than two business days notice to each director, either personally, by mail, by telegram or by telecopy; special meetings shall be called by the President or Secretary in like manner and on like notice on the written request of a majority of the directors in office.

Section 6. Quorum and Manner of Acting: A majority of the total number of directors shall constitute a quorum for the transaction of business. At all meetings of directors at which a quorum is present, all matters shall be decided by the affirmative vote of a majority of the directors present, except as otherwise required by law.

Section 7. Consent in Lieu of Meeting: Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or the committee. The Board of Directors may hold its meetings, and have an office or offices, outside of this State.

Section 8. Conference Telephone: One or more directors may participate in a meeting of the Board of Directors, of a committee of the Board of Directors or of the stockholders, by means of conference telephone or similar communications equipment by means of which all persons

participating in the meeting can hear each other; participation in this manner shall constitute presence in person at such meeting.

Section 9. Compensation: Directors as such, shall not receive any stated salary for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board of Directors; provided that nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 10. Removal: Any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except as otherwise required by law.

Section 11. Nominations: Nominations for directors to be elected at an annual meeting of stockholders shall be made exclusively by the Board of Directors or the Nominating Committee, if any, of the Board of Directors. At any time prior to the election of directors at a meeting of stockholders, the Board of Directors may designate a substitute nominee for another nominee who was nominated as set forth above and who, for any reason, becomes unavailable for election as a director.

## ARTICLE V - COMMITTEES

Section 1. Committees: The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate one or more committees, each committee to consist of one or more of the directors of the corporation, which, to the extent provided in the resolution and permitted by law, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. The Board of Directors may designate one or more directors as alternate members at any meeting of the committee. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

Section 2. Appointment of Additional Members to Committees: In the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another director to act at the meeting in the place of any such absent or disqualified member.

## ARTICLE VI - OFFICERS

Section 1. Officers: The executive officers of the corporation shall be chosen by the Board of Directors and shall be a President, Secretary and Treasurer. The Board of Directors may also choose a Chairman, one or more Vice Presidents and such other officers as it shall deem necessary. Any number of offices may be held by the same person.

Section 2. Salaries: The salaries and compensation of all officers and agents of the corporation, except the Chairman of the Board and President, elected by the Board of Directors shall be fixed by the Compensation Committee of the Board of Directors, and in the absence of a Compensation Committee, by the President of the corporation.

Section 3. Term of Office: The officers of the corporation shall hold office for one year and until their successors are chosen and have qualified. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the Board of Directors with or without cause.

Section 4. President: Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, the President shall be the Chief Executive Officer of the corporation; he or she shall preside at all meetings of the stockholders and directors; he shall have general and active management of the business of the corporation, shall see that all orders and resolutions of the Board of Directors are carried into effect, subject, however, to the right of the directors to delegate any specific powers, except such as may be by statute exclusively conferred on the President, to any other officer or officers of the corporation. He or she shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the corporation. He or she shall be ex-officio a member of all committees, and shall have the general power and duties of supervision and management usually vested in the office of President of a corporation.

Section 5. Vice President: A Vice President, if there be one, shall have the powers and duties as may be delegated to him or her by the Board of Directors. One Vice President shall be designated by the Board of Directors to perform the duties and exercise the powers of the President in the event of the President's absence or disability.

Section 6. Secretary: The Secretary shall attend all sessions of the Board and all meetings of the stockholders and act as clerk thereof, and record all the votes of the corporation and the minutes of all its transactions in a book to be kept for that purpose, and shall perform like duties for all committees of the Board of Directors when required. He or she shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or President, and under whose supervision he or she shall be. He or she shall keep in safe custody the corporate seal of the corporation, and when authorized by the Board of Directors, affix the same to any instrument requiring it.

Section 7. Treasurer: The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall keep the moneys of the corporation in a separate account to the credit of the corporation. He or she shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and directors, at the regular meetings of the Board of Directors, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the corporation.

Section 8. Assistant Officers: Any assistant officers elected by the Board of Directors shall have such duties as may be prescribed by the Board of Directors, the Chairman of the Board, the President, or the officer to whom they are an assistant. Assistant officers shall perform the duties and have the power of the officer to whom they are an assistant in the event of such officer's absence or disability.

## ARTICLE VII - VACANCIES

Section 1. Vacancies: Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise, shall be filled by the Board of Directors. Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. If at any time, by reason of death or resignation or other cause, the corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of these By-Laws.

Section 2. Resignations Effective at Future Date: When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

## ARTICLE VIII - INDEMNIFICATION

Section 1. General: Every person who was or is a director, officer, employee or agent of the corporation or of any other corporation, partnership, joint venture, trust or other enterprise, in which he served as such at the request of the corporation, and in which the corporation owned or owns stocks or other beneficial or legal interests or of which the corporation is a creditor, may be indemnified by the corporation to the fullest extent allowed by the Delaware General Corporation Law, as amended from time to time, against any and all liability and reasonable expense (which terms include, but are not limited to, counsel fees, disbursements and the amount of judgments, fines and penalties against, and amounts paid in settlement by, such person) incurred by him in connection with or resulting from any civil or criminal claim, action, suit or

proceeding, whether brought by or in the right of the corporation or such other Corporation, partnership, joint venture, trust or enterprise, in which he may be involved as a party or otherwise by reason of his being or having been such director, officer or employee if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and, in a criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation or that he had reasonable cause to believe his conduct was unlawful. Indemnification as provided by this Section shall be made by the corporation only as authorized in the specific case, and only upon a determination that the person claiming indemnification met the applicable standards of conduct set forth herein. Such determination shall be made in the manner provided by the Delaware General Corporation Law.

Section 2. Advancing Expenses: Expenses incurred in connection with a claim, suit or proceeding may be paid by the corporation in advance of the final disposition thereof if authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of a person who may be entitled to indemnification to repay such expenses unless he is ultimately determined to be entitled to indemnification.

Section 3. Benefit to Survive: The rights of indemnification provided herein shall survive the death of the person otherwise entitled thereto and shall extend to his legal representatives and heirs.

Section 4. General Provisions:

(a) The term "to the fullest extent permitted by applicable law," as used in this Article, shall mean the maximum extent permitted by public policy, common law or statute. Any person covered by Section 1 hereof may, to the fullest extent permitted by applicable law, elect to have the right to indemnification or to advancement or reimbursement of expenses, interpreted, at such person's option, (i) on the basis of the applicable law on the date this Article was approved by stockholders, or (ii) on the basis of the applicable law in effect at the time of the occurrence of the event or events giving rise to the action, suit or proceeding, or (iii) on the basis of the applicable law in effect at the time indemnification is sought.

(b) The indemnification and advancement or reimbursement of expenses provided by, or granted pursuant to, this Article shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement or reimbursement of expenses may be entitled under any By-law, agreement, vote of stockholders or directors or otherwise, both as to action in such official capacity and as to action in another capacity while holding that office.



(c) The provisions of this Article may, at any time (and whether before or after there is any basis for a claim for indemnification or for the advancement or reimbursement of expenses pursuant hereto), be amended, supplemented, waived, or terminated, in whole or in part, with respect to any person covered by Section 1 hereof by a written agreement signed by the corporation and such person.

(d) The corporation shall have the right to appoint the attorney for a person covered by Section 1 hereof, provided such appointment is not unreasonable under the circumstances.

Section 5. Optional Indemnification: The corporation may, to the fullest extent permitted by applicable law, indemnify, and advance or reimburse expenses for, persons in all situations other than that covered by this Article.

## ARTICLE IX - CORPORATE RECORDS

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation's stock ledger, a list of its stockholders, and its other books and records, and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent shall be the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the corporation at its registered office in this state or at its principal place of business.

## ARTICLE X - STOCK CERTIFICATES, DIVIDENDS, ETC.

Section 1. Stock Certificates: The stock certificates of the corporation shall be numbered and registered in the share ledger and transfer books of the corporation as they are issued. They shall bear the corporate seal and shall be signed by the President and Secretary.

Section 2. Transfers: Transfers of shares shall be made on the books of the corporation upon surrender of the certificates therefor, endorsed by the person named in the certificate or by attorney, lawfully constituted in writing. No transfer shall be made which is inconsistent with law. The corporation may appoint, or authorize any principal officer or officers to appoint, one or more transfer clerks or one or more transfer agents and one or more registrars, and may require all certificates of stock to bear the signature or signatures of any of them.

Section 3. Lost Certificate: The corporation may issue a new certificate of stock in the place of any certificate theretofore signed by it, alleged to have been lost, stolen, mutilated or destroyed, and the corporation may require the owner of the lost, stolen, mutilated or destroyed certificate, or his legal representative to give the corporation a bond sufficient to indemnify it

against any claim that may be made against it on account of the alleged loss, theft, mutilation or destruction of any such certificate or the issuance of such new certificate.

Section 4. Record Date: In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders, or to receive payment of any dividend or other distribution or allotment of any rights or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty nor less than ten days before the date of any meeting of stockholders, nor more than sixty days prior to the time for such other action as hereinbefore described; provided, however, that if no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and, for determining stockholders entitled to receive payment of any dividend or other distribution or allotment of rights or to exercise any rights of change, conversion or exchange of stock or for any other purpose, the record date shall be at the close of business on the day on which the Board of Directors adopts a resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall be not more than ten days after the date upon which the resolution fixing the record date is adopted. If no record date has been fixed by the Board of Directors and no prior action by the Board of Directors is required by the Delaware General Corporation Law, the record date shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation in the manner prescribed by Article III, Section 8 hereof. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by the Delaware General Corporation Law with respect to the proposed action by written consent of the stockholders, the record date for determining stockholders entitled to consent to corporate action in writing shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 5. Dividends: The Board of Directors may declare and pay dividends upon the outstanding shares of the corporation, from time to time and to such extent as they deem advisable, in the manner and upon the terms and conditions provided by statute and the Certificate of Incorporation.

## ARTICLE XI - MISCELLANEOUS PROVISIONS

Section 1. Checks: All checks or demands for money and notes of the corporation shall be signed by such officer or officers as the Board of Directors may from time to time designate.

Section 2. Fiscal Year: The fiscal year of the corporation shall begin on January 1 of each year.

Section 3. Resignations: Any director or other officer may resign at anytime, such resignation to be in writing, and to take effect from the time of its receipt by the corporation, unless some time be fixed in the resignation and then from that date. The acceptance of a resignation shall not be required to make it effective.

Section 4. Emergency By-laws: In the event of any emergency resulting from an attack on the United States or on a locality in which the corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster, or during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors or a standing committee thereof cannot readily be convened for action, the Board of Directors may adopt emergency by-laws subject to repeal or change by action of the stockholders. The emergency by-laws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

(a) A meeting of the Board of Directors or of any committee thereof may be called by any officer or director in such manner and under such condition as shall be prescribed in the emergency by-laws and notice of any meeting of the Board of Directors during an emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio;

(b) The director or directors in attendance at the meeting of the Board of Directors or of any committee thereof, or any greater number fixed by the emergency by-laws, shall constitute a quorum;

(c) The officers or other persons designated on a list approved by the Board of Directors before the emergency, all in such order of priority and subject to such conditions and for such period of time (not longer than reasonably necessary after the termination of the emergency) as may be provided in the emergency by-laws or in the resolution approving the list, shall, to the extent required to provide a quorum at any meeting of the Board of Directors, be deemed directors for such meeting;

(d) The Board of Directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such

emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties;

(e) The Board of Directors, either before or during any such emergency, may, effective in the emergency, change the head office or designate several alternative head offices or regional offices, or authorize the officers so to do;

(f) No officer, director or employee acting in accordance with any emergency by-laws shall be liable except for wilful misconduct; and

(g) To the extent not inconsistent with any emergency by-laws so adopted, these By-laws of the corporation shall remain in effect during any emergency and upon its termination the emergency by-laws shall cease to be operative.

Section 5. Severability: If any provision of these By-laws is illegal or unenforceable as such, such illegality or unenforceability shall not affect any other provision of these By-laws and such other provisions shall continue in full force and effect.

## ARTICLE XII - AMENDMENTS

These By-Laws may be amended or repealed, in whole or in part, by the Board of Directors at any regular or special meeting of the Board of Directors or by the vote of stockholders of record entitled to cast at least a majority of the votes which all stockholders are entitled to cast thereon, at any regular or special meeting of the stockholders, duly convened after notice to the stockholders of that purpose. By-laws, whether made or altered by the stockholders or the Board of Directors, shall be subject to amendment or repeal by the stockholders as provided in this Article XII. The text of all amendments and repeals to these By-laws shall be attached to the By-laws with a notation of the date of each such amendment or repeal and a notation of whether such amendment or repeal was adopted by the Board of Directors or the stockholders.

## ARTICLE XIII

### APPROVAL OF BY-LAWS AND RECORD OF AMENDMENTS AND REPEALS

Section 1. Approval and Effective Date: These By-laws have been approved as the By-laws of the corporation as of the 7<sup>th</sup> day of April, 2000, and shall be effective as of said date.

Section 2. Amendments or Repeals:

<u>Section Involved</u>	<u>Date Amended or Repealed</u>	<u>Approved By</u>
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# EXHIBIT C

**Secretary of State**  
**Division of Business Services**  
**312 Eighth Avenue North**  
**6th Floor, William R. Snodgrass Tower**  
**Nashville, Tennessee 37243**

DATE: 10/04/00  
REQUEST NUMBER: 4019-1339  
TELEPHONE CONTACT: (615) 741-2286  
FILE DATE/TIME: 10/03/00 1108  
EFFECTIVE DATE/TIME: 10/03/00 1108  
CONTROL NUMBER: 0396697

TO:  
CT CORP SYSTEM  
1201 PEACHTREE ST  
N.E. STE 1240  
ATLANTA, GA 30361

RE:  
3RDWIRE, INC.  
APPLICATION FOR CERTIFICATE OF AUTHORITY -  
FOR PROFIT

WELCOME TO THE STATE OF TENNESSEE. THE ATTACHED CERTIFICATE OF  
AUTHORITY HAS BEEN FILED WITH AN EFFECTIVE DATE AS INDICATED ABOVE.

A CORPORATION ANNUAL REPORT MUST BE FILED WITH THE SECRETARY OF STATE  
ON OR BEFORE THE FIRST DATE OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE  
CORPORATION'S FISCAL YEAR. PLEASE PROVIDE THIS OFFICE WITH WRITTEN  
NOTIFICATION OF THE CORPORATION'S FISCAL YEAR. THIS OFFICE WILL MAIL THE  
REPORT DURING THE LAST MONTH OF SAID FISCAL YEAR TO THE CORPORATION AT THE  
ADDRESS OF ITS PRINCIPAL OFFICE OR TO A MAILING ADDRESS PROVIDED TO THIS  
OFFICE IN WRITING. FAILURE TO FILE THIS REPORT OR TO MAINTAIN A REGISTERED  
AGENT AND OFFICE WILL SUBJECT THE CORPORATION TO ADMINISTRATIVE REVOCATION  
OF ITS CERTIFICATE OF AUTHORITY.

WHEN CORRESPONDING WITH THIS OFFICE OR SUBMITTING DOCUMENTS FOR  
FILING, PLEASE REFER TO THE CORPORATION CONTROL NUMBER GIVEN ABOVE.

-----  
FOR: APPLICATION FOR CERTIFICATE OF AUTHORITY -  
FOR PROFIT

ON DATE: 10/03/00

FROM:  
C T CORPORATION SYSTEM (ATLANTA, GA.)  
1201 PEACHTREE ST.,  
N.E. STE 1240  
ATLANTA, GA 30361-0000

	FEE	
RECEIVED:	\$600.00	\$0.00
TOTAL PAYMENT RECEIVED:		\$600.00

RECEIPT NUMBER: 00002748300  
ACCOUNT NUMBER: 00000009




*Riley C. Darnell*

RILEY C. DARNELL  
SECRETARY OF STATE

6

4131.3 1.8.03

<div style="text-align: center;"> <b>State of Tennessee</b> <b>Department of State</b> Corporate Filings 312 Eighth Avenue North 6th Floor, William R. Snodgrass Tower Nashville, TN 37243</div>	<i>For Office Use Only</i>
<b>APPLICATION FOR CERTIFICATE OF AUTHORITY (FOR PROFIT)</b>	
<p>Pursuant to the provisions of Section 48-25-103 of the Tennessee Business Corporation Act, the undersigned corporation hereby applies for a certificate of authority to transact business in the State of Tennessee, and for that purpose sets forth:</p>	
<p>1. The name of the corporation is <u>3rdwire, Inc.</u> *If different, the name under which the certificate of authority is to be obtained is _____</p>	
<p><b>[NOTES: The Secretary of State of the State of Tennessee may not issue a certificate of authority to a foreign corporation for profit if its name does not comply with the requirements of Section 48-14-101 of the Tennessee Business Corporation Act. *If obtaining a certificate of authority under a different corporate name, an application for registration of an assumed corporate name must be filed pursuant to Section 48-14-101(d) with an additional \$20.00 fee.]</b></p>	
<p>2. The state or country under whose law it is incorporated is <u>Delaware</u></p>	
<p>3. The date of its incorporation is <u>04/07/2000</u> (must be month, day, and year), and the period of duration, if other than perpetual, is <u>Perpetual</u></p>	
<p>4. The complete street address (including zip code) of its principal office is <u>148 East Lancaster Avenue</u>      <u>Wayne</u>      <u>PA</u>      <u>19087</u> Street                                      City                                      State/Country                                      Zip Code</p>	
<p>5. The complete street address (including the county and the zip code) of its registered office in Tennessee and the name of its registered agent is <u>530 Gay Street</u>      <u>Knoxville</u>      <u>Tennessee (Knox County)</u>      <u>37902</u> Street                                      City                                      State/Country                                      Zip Code Registered Agent <u>C T Corporation System</u></p>	
<p>6. The names and complete business addresses (including zip code) of its current officers are: (Attach separate sheet if necessary.) <u>see attached</u></p>	
<p>7. The names and complete business addresses (including zip code) of its current board of directors are: (Attach separate sheet if necessary.)</p>	
<p>8. If the corporation commenced doing business in Tennessee prior to the approval of this application, the date of commencement (month, day and year) <u>N/A</u></p>	
<p>9. The corporation is a corporation for profit.</p>	
<p>10. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is _____ (date), _____ (time). <b>[NOTE: A delayed effective date shall not be later than the 90th day after the date this document is filed by the Secretary of State.]</b></p>	
<p><b>[NOTE: This application must be accompanied by a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated. The certificate shall not bear a date of more than two (2) months prior to the date the application is filed in this state.]</b></p>	
<p style="text-align: center; font-size: 1.2em;">9-26-00</p> <hr/> <p>Signature Date</p> <p style="text-align: center; font-size: 1.2em;">VP Finance</p> <hr/> <p>Signer's Capacity</p>	<p style="text-align: center; font-size: 1.2em;">3rdWire, Inc</p> <hr/> <p>Name of Corporation</p> <p style="text-align: center; font-size: 1.2em;">Christie M. Stengel</p> <hr/> <p>Signature</p> <p style="text-align: center; font-size: 1.2em;">Christie M. Stengel</p> <hr/> <p>Name (typed or printed)</p>
<p>SS-4431 (Rev. 7/00) <span style="float: right;">RDA 1678</span></p>	

413413 1.8413

EXHIBIT ONE - DIRECTORS AND OFFICERS OF 3RDWIRE, INC.DIRECTORS OF 3RDWIRE, INC.

Daniel Reiner  
3561 Fertile Valley Road  
Newport, WA 99156

Dennis Carey  
c/o Donna Gregor  
Spencer Stuart  
2005 Market Street  
Suite 2350  
Philadelphia, PA 19103-7023

Bernard Daines  
WorldWide Packets  
115 N. Sullivan  
Veradale, WA 99037

Nolan Daines  
5305 S. Best Lane  
Spokane, WA 99069

RECEIVED  
STATE OF TENNESSEE  
00 OCT -3 AM 11:08  
RILEY DARNELL  
SECRETARY OF STATE

OFFICERS OF 3RDWIRE, INC.

Robert J. Schena (President)  
148 East Lancaster Avenue  
Wayne, PA 19087

Kevin E. Mullin, (Treasurer and Secretary)  
148 East Lancaster Avenue  
Wayne, PA 19087



Office of the Secretary of State

---

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "3RDWIRE INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-SEVENTH DAY OF SEPTEMBER, A.D. 2000.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE NOT BEEN ASSESSED TO DATE.

RECEIVED  
STATE OF TENNESSEE  
00 OCT -3 AM 11:08  
RILEY DARNELL  
SECRETARY OF STATE



*Edward J. Freel*

Edward J. Freel, Secretary of State

3208223 8300

AUTHENTICATION: 0701472

001488248

DATE: 09-27-00

# EXHIBIT D

OFFICERS OF 3RDWIRE INC.

<u>Office</u>	<u>Name</u>
Chairman	Robert J. Schena
Chief Executive Officer	Robert J. Schena
President	Robert J. Schena
Treasurer	Kevin Mullin
Secretary	Kevin Mullin

Officers of 3rdWire Inc.

Chairman	Robert J. Schena	205-46-3337
Chief Executive Officer	424 General Washington Lane	
President	Wayne, PA 19087	
Treasurer	Kevin E. Mullin	159-52-4133
Secretary	5030 Brittany Lane	
	Bryn Mawr, PA 19010	

# EXHIBIT E

**Bob Schena – *Chief Executive Officer and President***

Prior to co-founding 3rdWire, Mr. Schena co-founded Airclic, Inc., a wireless applications and scanning company which will allow wireless shopping directly from print media. A group led by the Goldman Sachs Group and Blue Capital Management, LLC funded Airclic, Inc.. Recently Motorola and Symbol Technologies have forged a partnership and announced their intent to acquire Airclic. Prior to founding Airclic, Mr. Schena was the Founder and President of FutureVision of America (FVA) (later renamed Digital Broadband Applications Corp.) since its inception in April 1992. While at FVA, he negotiated and obtained local, state, and federal approvals, along with a Bell Atlantic partnership, to commercially launch FVA as the first video dial tone and digital TV provider. The network was a \$100 million broadband fiber-to-the-curb architecture. While capturing over 50 percent of the market share from the incumbent cable provider, under his direction, FVA was also the first company to commercially deploy digital set-top boxes, MPEG2 encoders, and two-way electronic messaging over television. In late 1996, Mr. Schena negotiated and completed the sale of FVA's video assets to Bell Atlantic. From January 1991 until joining FVA, Mr. Schena served as the CFO, Treasurer, Vice President of Finance and Vice President of Marketing for Harron Communications, one of the top 50 U.S. multi-system cable TV operators. While at Harron, Mr. Schena directed Harron's advertising arm, Metrobase Cable Advertising, growing its revenues by 50 percent and profitability by 300 percent in one year. From 1983, Mr. Schena served as Vice President in various marketing and management positions for Prudential-Bache Securities in the Mid-Atlantic region. In 1990, he took an office from 320<sup>th</sup> in profitability per salesperson to 10<sup>th</sup> in a six month period.

Mr. Schena holds an MBA from the *Wharton School of the University of Pennsylvania* and a Bachelors degree in Business Administration from *Temple University*. He has lectured extensively on broadband communications to professional and corporate organizations.

## **Kevin E. Mullin – *Executive Vice President***

Mr. Mullin co-founded 3rdwire, Inc. in April 2000. Prior to co-founding 3rdWire, Inc., Mr. Mullin co-founded Airclic, Inc., a wireless applications and scanning technology company which will allow wireless shopping directly from print media. A group led by the Goldman Sachs Group and Blue Capital Management, LLC funded Airclic, Inc.. Motorola and Symbol Technologies have forged a partnership and announced their intent to acquire Airclic. Prior to his involvement at Airclic, Mr. Mullin was the Director of Acquisitions for CRW Financial (NASDAQ:CRWF) and then Acquisition Director for Telespectrum Worldwide (TLSP). There his talents were utilized to identify, negotiate and complete the acquisitions leading to the initial public offering (IPO) of *TeleSpectrum Worldwide Inc.* (NASDAQ:TLSP). Within four months, TLSP acquired six teleservices businesses for approximately \$150 million in cash and stock concurrent with a \$190 million IPO, which closed in August 1996 and generated a \$378 million market capitalization. Mr. Mullin was instrumental in the acquisition of four additional strategic companies by TLSP. He was also responsible for the identification of strategic buyers and spearheaded the auction process for the disposition of two companies, which resulted in a significant appreciation to Telespectrum Worldwide. Prior to joining CRW, Mr. Mullin was an Associate Director of Julien J. Studley, Inc., a New York based consulting firm that advised clients on complex real estate issues. Mr. Mullin started with the Regional Investment Banking firm Butcher & Singer, which merged with Wheat First Union. He later served as President of a boutique investment-banking firm which specialized in real estate limited partnerships.

Mr. Mullin received a Bachelor of Science in Finance from *Pennsylvania State University*.

**Robert C. Dundon – *Senior Vice President, Business Development***

Mr. Dundon has more than 20 years of sales, marketing and operational experience in local, long distance and international telecommunications services and networks. Mr. Dundon is responsible for the sales and marketing plans as well as initial phases of network development. Mr. Dundon joined 3rdWire from Metromedia Fiber Network. Most recently, he served as MFN's Director of Sales for the Philadelphia region, where he led a team of sales and engineering personnel in a start-up role leasing dark fiber to commercial and GEM accounts in the Philadelphia Region. Prior to his work at MFN, Dundon served in various management positions with Teleport Communications Group (TCG), Eastern Telelogic Corporation, MCI, IBM's Satellite Business Systems and Bell of Pennsylvania.

He received a Bachelor of Science in business administration, with honors, from *Saint Joseph's University* in Philadelphia, PA.



## **Frank L. Pento – *Senior Vice President, Operations***

Frank is responsible for the engineering, construction, surveillance and maintenance of 3rdWire's national network. He will leverage a diverse 17-year background in telecommunications with Bell Atlantic Corp, including voice, data and video network design and implementation. He started his career as a Central Office Engineer with New Jersey Bell Telephone in 1983. There he wrote specifications for digital central office switching systems including the AT&T #5ESS, Nortel DMS, CCS7-STP, and ISDN. Later, he was a Network Design Engineer, where he was responsible for detailed capacity engineering for traffic sensitive components of switching systems. In 1990, he held a position in Switching Operations, where he was responsible for replacing large electromechanical switching systems with digital systems.

From 1991-1994, Frank's engineering design experience with Bell Atlantic includes the following video and data systems delivered to Bell's large business customers: Interactive Distance Learning; Video Dial Tone; Switched Multi-megabit Data Service; Frame Relay; ISDN; Fiber Distributed Data Interface; SONET; and Local Area Networks. Frank was the designer of a digital, 2-way interactive video network, which was sold to the education and government market in the state of New Jersey. He partnered with FutureVision of America to develop and deliver customized operational support software.

In 1994 he was promoted to Director, Strategic Initiatives, where he headed a team responsible to secure buy-in and approval from 77 municipal officials for Bell Atlantic-New Jersey's planned Video Dial Tone deployment. The team achieved 100% approval from municipalities. He also helped develop strategic area selection criteria for deployment of broadband video and data transport systems for Bell.

In 1997 he took over all Operations Compliance for New Jersey, including service quality assurance for Installation and Maintenance, Call Center Access, Network and Switching Congestion, and network disaster investigations and remediation. He was chief spokesperson for Bell during any network disaster or outage and has made several appearances on TV representing the interests of the company.

## **Chris R. Healy - *Vice President of Products & Services***

Prior to joining 3rdWire, Mr. Healy served as Information Systems Architect for Naval Air Warfare Center responsible for research and development of product introduction or enhancement for the enterprise network since 1998.

In 1997, Mr. Healy provided network engineering and operations support for Analysts International Corp., an industry leading consulting and managed services firm.

From 1995 to 1997, Mr. Healy served as Director of the Advanced Technology Center for FutureVision and Bell Atlantic Video. While there, he integrated and operated the industry's first production switched digital (SDH) video data center providing MPEG-2 cable TV services to multiple markets. Mr. Healy also successfully designed and operated test environments to support DBS satellite video and MMDS wireless operations. Additionally, he managed technology operations in the NJ sales office.

From 1991 to 1995, Mr. Healy held positions at Commodities Corporation and Computer Sciences Corporation conducting risk and financial analysis as well as regional technology support.

Mr. Healy is a Microsoft Certified Systems Engineer and a member of IEEE. He holds a degree in Business Studies from Richard Stockton State College of New Jersey.

## **Ted Bolton Ph.D. – *Director of Media Services***

As the founder and CEO of Bolton Research Corporation, Mr. Bolton became a leading authority on the development and deployment of media content for broadband technologies. He developed programming and marketing strategies for numerous companies, including CBS, NBC, ABC, AMFM, Infinity, Clear Channel, Time Warner, Cox, The New York Times, and Safeguard Scientific, developing strategies for the realities of broadband services into the home and workplace. He is a recognized leader in the field of interactive television programming, computer assisted learning, and the diffusion of technological innovations. Dr. Bolton was also a founding partner of Liberty Broadcasting in 1990, which became a nationwide chain of 19 broadcast stations that were sold for a substantial profit in just three years. Dr. Bolton's background in new media technologies extends back to 1979 when he completed pioneering work in interactive television and electronic banking for Warner Cable, Bank One, and OCLC. Dr. Bolton has taught courses at the *University of Massachusetts, Ohio State University, and Temple University*.

Dr. Bolton received a B.A. from *Ohio Wesleyan University*, a Master of Arts from *Temple University*, and a Ph.D. from *Ohio State University*.

**Daniel T. Reiner – *Chairman of the Board***

Mr. Reiner is a partner in INVEMED Associates, a large private equity fund co-founded by Ken Langone. Mr. Reiner is General Partner and owner of Pebble Beach Golf Resort, and is General Partner in Club Corp of America (owner of over 250 golf courses in the U.S.) Reiner co-founded Duckworth Boat Works, an acquirer of leading welded aluminum boat manufacturers in the Northwestern U.S. Mr. Reiner is Director of Co-Star, Inc., a privately held manufacturer of computer driven specialty label printers and software. Mr. Reiner was Chairman/CEO of Optical Devices Inc., which was purchased in a leveraged buy out from Hoechst AG in 1985. In 1992 he took the Company public as Enhanced Imaging Technologies, Inc. (EITI), which became Cardiac Cath Lab., later sold to Marquette Electronics.

**Dennis C. Carey - *Director***

Mr. Carey is Vice Chairman of Spencer Stuart, U.S., and the Firm's Co-Managing Director of the U.S. Board Services Practice. He specializes in the recruitment of Corporate Directors and CEOs of major U.S. corporations. Mr. Carey is a member of the Firm's High Technology Practice and has been appointed by Spencer Stuart to lead its Internet strategy. Dennis also founded the M&A Group, co-chaired by the CEOs of Tyco International Ltd. And SmithKline Beecham PLC. Mr. Carey is co-Founder of The Director's Institute at The Wharton School and serves on its Board.

**Bernard Daines – *Director***

Mr. Daines has over 20 years of experience in the networking industry, and is widely recognized as an expert in Ethernet technology. Currently, he is Chairman of the Board and founder of World Wide Packets, a manufacturer of optical Ethernet solutions. Prior to World Wide Packets, Mr. Daines founded Packet Engines, later sold to Paris-based Alcatel in 1998 for \$325 million. In 1992, Daines founded Grand Junction Networks, a Fast Ethernet switch manufacturer that was sold to Cisco Systems in 1995 for \$350 million. His technical leadership and vision have contributed to great advancements in the networking industry.

## **Nolan Daines – Director**

Mr. Daines has earned a solid reputation as a successful entrepreneur, exceptional manager and skilled negotiator. Prior to joining the 3rdWire Board, Mr. Daines, along with a hand picked team of compression experts, founded DiviCom. Daines served as the Chairman, President and CEO of DiviCom. Under his leadership, the company's growth has surpassed its original business plan many times over. His entrepreneurial ventures have led to the development of several industry "firsts", including the 1994 delivery of the world's first integrated MPEG-2 encoding system for digital video compression. In August 1996, Mr. Daines successfully negotiated a corporate merger with C-Cube Microsystems, the world leader in digital video silicon solutions for the consumer, communications and convergence markets. In October of 1999, the DiviCom division of C-Cube was sold to Harmonic, Inc. (Nasdaq: HLIT) for \$1.7 Billion. Before founding DiviCom, Mr. Daines served as Executive Director of Engineering and System Architecture at Compression Labs Inc. (CLI), where he led the development of digital video products and communications systems. Mr. Daines is currently a member of the Board of Directors of EchoStar Communications Corporation (Nasdaq: DISH, DISHP).

## **Nick Lippis – Advisor**

Nicholas J. Lippis, III is the founder of Strategic Networks, a well respected and influential computer networking industry-consulting concern purchased by Softbank in 1996. Mr. Lippis is a world renowned authority on advanced IP networking and its benefits to business profit drivers. He has advised numerous national and international service providers and Global 2000 firms on network strategy, service development and deployment including Barclays Bank, Kaiser Permanente, Sprint, Worldcom, Cigitel, Cisco Systems, Nortel Networks, Lucent Technologies, 3Com, Eastman Kodak Company, Federal Deposit Insurance Corporation (FDIC), Hughes Areospace, Liberty Mutual and Schering-Plough. Mr. Lippis offers a unique perspective on market forces occurring within the computer networking industry due to his experience with both the enterprise and service provider markets. His advice greatly reduces network cost of ownership and creates new e-business revenue opportunities.

Mr. Lippis was named one of the top 40 most powerful and influential people in the networking industry by Network World. For nine years Mr. Lippis reached over 120,000 purchasers of networking equipment and services monthly through his column "Lippis on Internetworking" published in Data Communications magazine. He is a contributing editor and columnist for Tele.Com magazine reaching over 80,000 service provider professionals monthly.

Mr. Lippis currently serves on the advisory boards of Internet related companies leveraging the powerful combination of his business skills, industry perspective and business contacts. Such firms include: TransMedia Networks, acquired by Cisco Systems; Berkley Networks, acquired by Fore Systems; NetCore Systems, acquired by Tellabs; NetScout Networks, now public; Softcom Microsystems, acquired by Intel; Shoreline Telesis; Promatory Communications, acquired by Nortel. Mr. Lippis also participated in early round/seed investing in Internet based companies. He has invested in Sahara Networks, which have recently gone public. In addition, Mr. Lippis is an investor in C-port which was recently acquired by Motorola, Pluris Networks, Terawave, Spring Tide, AccessLAN and Bizland.com. Mr. Lippis is a limited partner of TechVantage Qualified Partners, L.P.

He is a member of the Institute of Electrical and Electronics Engineers and received his Bachelor of Science in electrical engineering and his Master of Science in systems engineering from Boston University. His masters' thesis on optical networking included technical courses and advisors from the Massachusetts Institute of Technology.

### **James Schwartzman – Advisor**

For the past 8 years Mr. Schwartzman has managed the Law Offices of James C. Schwartzman & Associates, engaged in the general practice of law with emphasis on litigation, ethics, and professional responsibility matters. Previously he was a senior shareholder in the law firm of Schwartzman & Hepps for 15 years. He has served as an Assistant United States Attorney, Eastern District of Pennsylvania and as a law clerk to the Honorable J. William Ditter, Jr. Mr. Schwartzman is admitted to practice in the Supreme Court of the United States, has served as Chairman of the Disciplinary Board of the Supreme Court of Pennsylvania and is presently Chairman of the Continuing Legal Education Board of the Supreme Court of Pennsylvania. He is Vice-Chairman of the Southeastern Pennsylvania Transportation Authority (SEPTA) Board of Directors and a member of the Board of Independence Blue Cross. He is also Ethics Director for American Electronics Laboratories, Inc. a subsidiary of AEL Industries, Inc. He holds an A.B. in Psychology from Washington University and a Juris Doctor (cum laude) from Villanova University, where he was the Associate Editor of the Villanova Law Rev

# **EXHIBIT F**

**This Exhibit is confidential and proprietary and has been filed under Seal with the Tennessee Regulatory Authority only.**



# **EXHIBIT G**

## **3RDWIRE, INC.**

### **SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN**

Pursuant to T.C.A. §65-5-212, as amended, 3RDWIRE, Inc. ("3RDWIRE") submits this small and minority-owned telecommunications business participation plan (the "Plan") as part of its Application for a Certificate of Convenience and Necessity to provide competitive telecommunications services in Tennessee.

#### **I. PURPOSE**

The purpose of §65-5-212 is to provide opportunities for small and minority-owned businesses to provide goods and services to telecommunications service providers. 3RDWIRE is committed to the goals of §65-5-212 and to take steps to support the participation of small and minority-owned telecommunications businesses in the telecommunications industry. 3RDWIRE will endeavor to provide opportunities for small and minority-owned telecommunications businesses to compete for contracts and subcontracts for goods and services. As part of its procurement process, 3RDWIRE will make efforts to identify and inform small and minority-owned businesses that are qualified and capable of providing goods and services to 3RDWIRE of such opportunities. 3RDWIRE's representatives will contact the Department of Economic and Community Development, the administrator of the small and minority-owned telecommunications assistance program, to obtain a list of qualified vendors. Moreover, 3RDWIRE will seek to increase awareness of such opportunities so that companies not otherwise identified will have sufficient information to participate in the procurement process.

#### **II. DEFINITIONS**

As defined in §65-5-212.

*Minority-Owned Business.* Minority-owned business shall mean a business which is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex or national origin and such business has annual gross receipts of less than four million dollars (\$4,000,000).

*Small Business.* Small business shall mean a business with annual gross receipts of less than four million dollars (\$4,000,000).

#### **III. ADMINISTRATION**

3RDWIRE's Plan will be overseen and administered by the individual named below, hereinafter referred to as the Administrator, who will be responsible for carrying out and promoting 3RDWIRE's full efforts to provide equal opportunities for small and minority-owned businesses. The Administrator of the Plan will be:

Christie Stengel  
3RDWIRE, Inc.  
148 E. Lancaster Avenue  
Wayne, PA 19087

Telephone: (610) 975-9666  
Facsimile: (610) 975-9744  
Email: [Cstengel@3rdwire.com](mailto:Cstengel@3rdwire.com)

The Administrator's responsibilities will include:

- (1) Maintaining an updated Plan in full compliance with §65-5-212 and the rules and orders of the Tennessee Regulatory Authority;
- (2) Establishing and developing policies and procedures necessary for the successful implementation of the Plan;
- (3) Preparing and submitting such forms as may be required by the Tennessee Regulatory Authority, including the filing of required annual updates;
- (4) Serving as the primary liaison to working in cooperation with the Tennessee Regulatory Authority, other agencies of the State of Tennessee, and small and minority-owned businesses to locate and use qualified small and minority-owned businesses as defined above.
- (5) Searching for and developing opportunities to use small and minority-owned businesses and encouraging such businesses to participate in and bid on contracts and subcontracts;
- (6) Providing records and reports and cooperating in any authorized surveys as required by the Tennessee Regulatory Authority;
- (7) Establishing a record-keeping system to track qualified small and minority-owned businesses and efforts to use such businesses;
- (8) Providing information and educational activities to persons within 3RDWIRE and training such persons to seek out, encourage, and promote the use of small and minority-owned businesses;

In performance of these duties, the Administrator will use a number of resources, including:

Chambers of Commerce  
The Tennessee Department of Economic and Community Development  
The United States Department of Commerce  
Small Business Administration

Office of Minority Business  
The National Minority Supplier Development Counsel  
The National Association of Women Business Owners  
The National Association of Minority Contractors  
Historically Black Colleges, Universities, and Minority Institutions

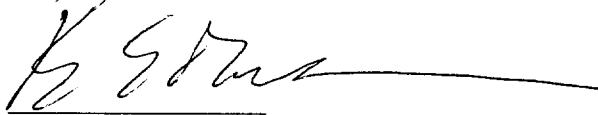
The efforts to promote and ensure equal opportunities for small and minority-owned businesses are primarily spelled out in the Administrator's duties above. Additional efforts to provide opportunities to small and minority-owned businesses will include offering, where appropriate and feasible, small and minority-owned businesses assistance with technical, insurance, bonding, licensing, production, and deadline requirements.

#### **IV. RECORDS AND COMPLIANCE REPORTS**

3RDWIRE will maintain records of qualified small and minority-owned businesses and efforts to use the goods and services of such businesses. In addition, 3RDWIRE will maintain records of educational and training activities conducted or attended and of the internal procurement procedures adopted to support this plan.

3RDWIRE will submit records and reports required by the Tennessee Regulatory Authority concerning the Plan. Moreover, 3RDWIRE will cooperate fully with any surveys and studies required by the Tennessee Regulatory Authority.

3RDWIRE, Inc.

By:   
Kevin Mullin

October 11, 2000

# EXHIBIT H

## **IntraLATA Dialing Parity Plan for 3<sup>rd</sup> Wire, Inc.**

### **I. Purpose**

In compliance with the Federal Communications Commission ("FCC") rules set out in 47 C.F.R. §§ 51.207 through 51.215, 3<sup>rd</sup> Wire, Inc. ("Company") files its plan for implementing IntraLATA Toll Dialing Parity ("Plan") in areas and LATAs in the State of Tennessee in which the Company provides service.

The intent of this Plan is to permit customers to select and subsequently route IntraLATA toll calls automatically without the use of access codes, to the interexchange carriers ("IXCs") that have established themselves as Access Customers of the Company ("Participating Carriers").

### **II. Implementation Schedule**

The Company will offer dialing parity for intraLATA toll in all of its Tennessee exchanges concurrent with its market entry into Tennessee exchanges.

### **III. Carrier Selection Procedures**

The Company will implement the full 2-PIC carrier selection methodology. With the full 2-PIC method, customers will be able to subscribe to one Participating Carrier for their interLATA toll calls and subscribe to the same or a different Participating Carrier for their intraLATA toll calls.

Company employees who communicate with the public, accept service orders and serve in customer service capacities will be trained to explain the availability of 2-PIC equal access, and to assist customers in making the initial PIC selection or in changing a PIC selection.

### **IV. Carrier Notification**

An IXC that desires to become an Access Customer and a Participating Carrier shall notify the Company by requesting and completing the Carrier Participation Form. The request for this Form may be made by telephone or electronic mail to the designated Company carrier relations contact. Once the Carrier Participation Form has been returned to the Company and an Access Service Request has been processed, the carrier will be added to the alphabetical list of Participating Carriers maintained in each business office.

### **V. New Customers**

Customers contacting the Company to request new local exchange service will be informed of the opportunity to select both an intraLATA and interLATA PIC at no charge. If requested by the customer, the Company will provide an alphabetical list

of Participating Carriers. New customers who do not make an affirmative selection of an intraLATA toll service provider will be identified in the Company records as a "no-PIC" and will not be defaulted to a toll service provider. New customers identified in the Company records as a "no-PIC" will be required to dial the access code 10-1XXXX where XXXX represents the identification code of the carrier they desire to use. The use of the access code will be required for placement of each intraLATA toll call until they make an affirmative selection.

VI. Existing Customers

IntraLATA presubscription will be available from the date of the Company's market entry, so there will not be any existing customers for which presubscription was not available prior to the Company's market entry.

VII. Initial PIC Request

A customer's initial PIC request will be made at no charge for the first six (6) months after IntraLATA presubscription services become available. After the first six (6) months, the Company will charge customers an IntraLATA PIC Change Charge at tariffed rates. An initial application of "no-PIC" will, for purposes of applying the PIC Change Charge, be viewed as an affirmative PIC selection.

VIII. PIC Change Request from a Customer

A customer's request to change his/her current IntraLATA PIC will be accepted and processed by the Company in accordance with FCC PIC change procedures. The customer will incur the tariffed non-recurring PIC change charge.

IX. PIC Change Request from a Participating Carrier

A customer's request to change his/her current IntraLATA PIC received by the Company from a Participating Carrier on behalf of said customer will be accepted and processed by the Company in accordance with current FCC PIC change procedures. The customer will incur the tariffed non-recurring PIC Change Charge.

X. Cost Recovery

As stated in FCC Order 96-33 in Common Carrier Docket No. 96-98, "a LEC may recover the incremental costs necessary for the implementation of toll dialing parity. Some carriers have imposed these costs through an increase in the Carrier Common Line charge." The Company does not plan to recover the costs for intraLATA dialing parity. The switches the Company purchases are dialing parity-capable at the time of market entry, so there is no special cost investment necessary to permit the Company to provide this service.

# EXHIBIT I



### **NOTICE OF FILING**

3<sup>rd</sup> Wire Communications, Inc. has filed an Application with the Tennessee Regulatory Authority for a Certificate of Convenience and Necessity as a Competing Telecommunications Service Provider. The undersigned hereby certifies that a copy of this notice and a copy of the Application has been served on the following persons via U. S. Mail this 16th day of October, 2000:

Guy M. Hicks  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, TN 37201-3300

T. G. Pappas, Esq.  
Bass, Berry & Sims  
2700 First American Center  
313 Deaderick Street  
Nashville, Tennessee 37238-2700

James B. Wright, Esq.  
United Telephone-Southeast, Inc.  
14111 Capital Boulevard  
Wake Forest, NC 27587-5900

Ardmore Telephone Company, Inc.  
Terry Wales, General Manager  
P.O. Box 549  
517 Ardmore Avenue  
Ardmore, TN 38449

Century Telephone of Adamsville  
David Dickey, Division Manager  
P.O. Box 405  
116 N. Oak Street  
Adamsville, TN 38310

Century Telephone of Claiborne  
Don Ray Fannon, Division Manager  
P.O. Box 100  
57 Main Street  
New Tazewell, TN 37825

Century Telephone of Ooltewah-Collegedale, Inc.  
Terry Crutchfield, Division Manager  
P.O. Box 782  
5616 Main Street  
Ooltewah, TN 37363

Citizens Telephone Company of Tennessee  
Citizens Telecommunications Company of the Volunteer State  
Mike Swatts, State Regulatory Director, South  
P.O. Box 770  
300 Bland Street  
Bluefield, WV 24701

TDS Telecom- Tellico Telephone Company, Inc.  
P.O. Box 9  
102 Spence Street  
Tellico Plains, TN 37385-0009

Loretto Telephone Company, Inc.  
Louise Brown, President  
P.O. Box 130  
Loretto, TN 38469

Millington Telephone Company, Inc.  
w. S. Howard, President  
4880 Navy Road  
Millington, TN 38053

Sprint-United  
Steve Parrott  
Director-Regulatory Affairs  
112 Sixth Street  
Bristol, TN 37620

TDS Telecom-Concord Telephone Exchange, Inc.  
Jerry R. Parkerson, Manager  
P.O. Box 22610  
701 Concord Road  
Knoxville, TN 37933-0610

TDS Telecom-Humphreys County Telephone Company  
Bernard R. Arnold, Manager  
P .O. Box 552  
203 Long Street  
New Johnsonville, TN 37134-0552

TDS Telecom- Tennessee Telephone Company  
P .O. Box 18139  
Knoxville, TN 37928-2139

TEC-Crockett Telephone Company, Inc.  
P.O. Box 7  
Friendship, TN 38034

TEC-People's Telephone Company, Inc.  
P.O. Box 310  
Erin, TN 37061

TEC-West Tennessee Telephone Company, Inc.  
P.O. Box 10  
244 E. Main Street  
Bradford, TN 38316

United Telephone Company  
P.O. Box 38  
120 Taylor Street  
Chapel Hill, TN 37034



Carol Roof

# EXHIBIT J

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**IN THE MATTER OF THE APPLICATION OF  
3RDWIRE, INC. FOR A CERTIFICATE  
TO PROVIDE RESOLD AND FACILITIES BASED  
LOCAL EXCHANGE, EXCHANGE ACCESS,  
AND RESOLD AND FACILITIES-BASED INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES**

**VERIFIED TESTIMONY OF KEVIN MULLIN**

I, Kevin Mullin, do hereby testify as follows in support of the application of 3RDWIRE, INC. ("3RDWIRE") for a Certificate of Convenience and Necessity to be a competing telecommunications services provider to provide telecommunications services throughout the State of Tennessee.

**Q: Please state your full name, business address, and title.**

A: My name is Kevin Mullin and my business address is 148 East Lancaster Avenue, Wayne, Pennsylvania 19087. I am 3RDWIRE's Executive Vice President, as well as its Secretary/Treasurer.

**Q: Please briefly describe your duties.**

A: I am responsible for corporate development at 3RDWIRE, including securing strategic partnerships and coordinating major relationships for the Company.

**Q: Please describe your business experience and educational background.**

A: Prior to co-founding 3RDWIRE, I co-founded Airclac, Inc., a wireless applications and scanning technology company. Prior to my involvement with Airclac, I was Director of Acquisitions for CRW Financial ("CRW"). Prior to joining CRW, I was an Associate Director of Julien J. Studley, Inc., a New York-based consulting firm that advised clients on

complex real estate issues. I also have been associated with the investment banking firm Butcher and Singer (which merged with Wheat First Union), and have served as President of a boutique investment-banking firm specializing in real estate limited partnerships. I received a Bachelor of Science in Finance from Pennsylvania State University.

**Q: Are all statements in 3RDWIRE's Application and in this Testimony true and correct to the best of your knowledge, information and belief?**

A: Yes.

**Q: Please describe the current corporate structure of 3RDWIRE.**

A: 3RDWIRE was incorporated on April 7, 2000 as a Delaware corporation.

**Q: Does 3RDWIRE possess the requisite financial, managerial and technical abilities to provide the services for which it seeks authority?**

A: Yes.

**Q: Please describe 3RDWIRE's financial qualifications.**

A: 3RDWIRE has raised sufficient capital to deploy facilities and provide service in Tennessee and in other markets. In addition, 3RDWIRE will raise additional capital as necessary to fund its ongoing operations. Exhibit F to 3RDWIRE's application demonstrates the financial ability of the Company. 3RDWIRE has never been in default of any material financial obligation. 3RDWIRE has provided the TRA with financial statements as of August 31, 2000, and has also provided the TRA with projected financial statements in order to demonstrate its financial fitness and viability.

**Q: Please describe 3RDWIRE's managerial and technical qualifications.**

A: As described in the biographical information accompanying its application, 3RDWIRE has put together a management team with extensive telecommunications and business experience. The Company will seek to recruit and retain additional technical, operational and sales personnel with experience in the local exchange and long distance businesses. Bob Schena, Chief Executive Officer and President of 3RDWIRE, has been involved in the telecommunications industry for almost ten years, serving in a management capacity for both wireless and cable concerns. Robert C. Dundon, Senior Vice President for Business Development, has over twenty years of sales, marketing and operational experience with respect to local, long distance and international telecommunications services and networks. Frank L. Pento, Senior Vice President of Operations, who will be responsible for the engineering, construction, surveillance and maintenance of 3RDWIRE's national network, possesses over 17 years of telecommunications experience with Bell Atlantic (now Verizon).

**Q: What services will 3RDWIRE offer?**

A: 3RDWIRE seeks authority to provide a full range of local exchange, exchange access, interexchange (including interLATA and intraLATA) and switched and special access telecommunications services throughout the State of Tennessee. 3RDWIRE intends to offer these telecommunications services through the use of its own switching facilities, combined with facilities leased from incumbent local exchange carriers ("ILECs") or other facilities-based carriers, resold services and through a combination of these provisioning approaches. Consequently, 3RDWIRE seeks certification to provide all services that can be provided by a local exchange carrier pursuant to the TRA's rules. 3RDWIRE also seeks certification to

provide all services that can be provided by facilities-based interexchange carriers and long distance resellers in Tennessee. 3RDWIRE intends to provide access services as well as flat-rate local exchange service, EAS service, toll restriction, call control options, tone dialing, custom calling services, caller ID and other services. 3RDWIRE will provide all those services required by TRA Rule 1220-4-8-.04(3)(b).

**Q: Does 3RDWIRE plan to offer local exchange telecommunications services in areas served by rural telecommunications carriers or telephone cooperatives?**

A: 3RDWIRE seeks statewide authority to the extent permitted by law. Unless otherwise permitted by federal or state law, 3RDWIRE does not plan to offer local exchange telecommunications services in areas served by any ILEC with fewer than 100,000 access lines, except for those that have voluntarily entered into an agreement with a competing telecommunications service provider or that have applied to provide telecommunications services in an area outside its service area existing as of June 6, 1995. 3RDWIRE also does not plan to provide such services in any area served by a telephone cooperative unless otherwise permitted by applicable federal or state law. 3RDWIRE reserves the right to expand its services into these areas should any rulings of the TRA or any court or administrative agency allow the provision of service in such areas.

**Q: Is 3RDWIRE seeking authorization to provide telecommunications services in any other jurisdiction?**

A: 3RDWIRE has filed, or is preparing to file, applications for authorization in the following states: Arkansas, Kentucky, Mississippi, North Carolina, and South Carolina.



**Q: Will the grant of a Certificate of Convenience and Necessity to 3RDWIRE, Inc. serve the public interest?**

A: Yes. The grant of a certificate of public convenience and necessity to 3RDWIRE to provide facilities-based and resold services within Tennessee will benefit the public because it will increase competition and customer choice for users of interexchange, exchange access, and local exchange services. 3RDWIRE's provision of service is expected to improve the price and quality of telephone service in Tennessee. Additionally, 3RDWIRE's entry into the market will neither prejudice nor disadvantage any class of telephone customers or providers. On the contrary, the presence of another authorized carrier will provide additional consumer choice, promote competition, lower prices, and stimulate development of additional telecommunications services.

**Q: Has 3RDWIRE filed its small and minority-owned business participation plan?**

A: Yes.

**Q: Has 3RDWIRE filed its toll dialing parity plan?**

A: Yes.

**Q: Does 3RDWIRE intend to comply with all TRA rules, statutes and orders pertaining to the provision of telecommunications services in Tennessee, including those for disconnection and reconnection of service?**

A: Yes.

**Q: Has any state ever denied 3RDWIRE, or one of its affiliates, authorization to provide intrastate services?**

A: No.

**Q: Has any state ever revoked the certification of 3RDWIRE, or one of its affiliates?**

**A: No.**

**Q: Has 3RDWIRE or one of its affiliates ever been investigated or sanctioned by any regulatory authority for service or billing irregularities?**

**A: No.**

**Q: Who is knowledgeable about 3RDWIRE's operations and will serve as the Company's regulatory and customer service contact?**

**A: Robert Dundon is knowledgeable about 3RDWIRE's operations and will serve as the responsible regulatory officer for the TRA to contact regarding 3RDWIRE's filing requirements subsequent to certificate approval. I am also responsible for customer relations.**

**Q: Has 3RDWIRE been involved in any pertinent mergers or acquisitions?**

**A: No.**

**Q: Please explain 3RDWIRE's proposed procedures for responding to information requests from the TRA and its Staff.**

**A: 3RDWIRE can assure the TRA and its Staff that it will respond promptly and completely to all information requests it receives.**

**Q: Will 3RDWIRE comply with all applicable statutes, rules and orders pertaining to the provision of telecommunications services in Tennessee?**

**A: Yes.**

**Q: Does this conclude your testimony?**

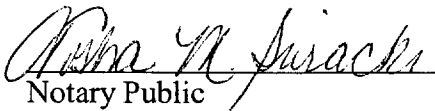
**A: Yes.**

I swear that the foregoing testimony is true and correct to the best of my knowledge.



Kevin Mullin  
Executive Vice President and Secretary/Treasurer  
3RDWIRE, Inc.

Subscribed and sworn to me this 12<sup>th</sup> day of October, 2000.



Notary Public  
State of Pennsylvania  
County of Delaware

My Commission expires June 21, 2004

