

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 6, 2005

IN RE:

**MEMPHIS NETWORKX, LLC
ANNUAL AUDIT**

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**DOCKET NO.
03-00071**

ORDER APPROVING INTERNAL AUDIT FILED BY MEMPHIS NETWORKX

This matter came before Chairman Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "TRA" or "Authority"), the Voting Panel assigned to this docket, at a regularly scheduled Authority Conference held on January 31, 2005, for consideration of the internal audit reports and supplemental information filed by Memphis Networkx, LLC ("Memphis Networkx" or the "Company") for the time period of August 1, 2001 through December 31, 2002.

On November 24, 1999, Memphis Light, Gas & Water Division, a Division of the City of Memphis, Tennessee ("MLGW"), A&L Networks-Tennessee, LLC ("A&L"), and Memphis Networkx, filed an *Application and Joint Petition* requesting that the Authority approve the Operating Agreement entered into by MLGW and A&L to create Memphis Networkx and grant a Certificate of Public Convenience and Necessity ("CCN") to Memphis Networkx to provide intrastate telecommunications services.

On December 21, 2000, MLGW, Memphis Broadband, LLC ("Memphis Broadband"), and Memphis Networkx filed their *Amendment to the Application of Memphis Networkx, LLC and Joint Petition of MLGW and A&L* ("Second Amended Application"). The *Second Amended*

Application stated that A&L had sold its membership interest in Memphis Neworx to Memphis Broadband and provided specific amendments to the *Application and Joint Petition*.

On August 9, 2001, the Authority issued its Order approving the *Application and Joint Petition* as amended by the *Second Amended Application* and granted Memphis Neworx a CCN in Docket No. 99-00909.¹ As a condition of the approval, the Authority directed Memphis Neworx and MLGW to submit to an annual audit to determine whether MLGW and Memphis Neworx are in compliance with Tennessee law and the Authority's rules and orders including specific requirements imposed in the Authority's August 9, 2001 Order.² The Authority directed that the audit should be conducted by an independent auditor chosen by Memphis Neworx and working under the direction and supervision of the Authority.³

The Accounting firm of Warren, Averett, Kimbrough, & Marion, LLC ("Warren-Averett") was engaged to serve as the independent auditor for the purpose of assisting MLGW and Memphis Neworx in complying with the requirements of the August 9, 2001 Order.⁴ The TRA received Warren-Averett's report, the *Independent Accountant's Report on Applying Agreed-Upon Procedures*, on March 15, 2004.

Based upon the reported information and supporting data filed by Memphis Neworx, including Warren-Averett's report, the Voting Panel found Memphis Neworx in compliance with applicable statutory requirements and the additional requirements contained in the Authority's August 9, 2001 Order entered in Docket No. 99-00909.

¹ See *In re Application of Memphis Neworx, L L C for a Certificate of Public convenience and Necessity to Provide Intrastate Telecommunication Services and Joint Petition of Memphis Light Gas & Water Division, a Division of the City of Memphis, Tennessee ("MLGW") and A&L Networks-Tennessee, L L C ("A&L") for Approval of Agreement Between MLGW and A&L Regarding Joint Ownership of Memphis Neworx, L L C*, Docket No. 99-00909, *Final Order Approving amended and Restated Operating Agreement and Granting Certificate of Public Convenience and Necessity*, pp. 39-40 (August 9, 2001)

² *Id*

³ *Id*

⁴ Letter from Michael D. Whitten, CPA, CIA, General Auditor & Data Security Officer, Memphis Light, Gas and Water Division, to David Foster, Tennessee Regulatory Authority (February 2, 2004)

IT IS THEREFORE ORDERED THAT:

1. Based upon reported information filed by Memphis Networkx including Warren-Averett's report, Memphis Networkx, L.L.C. is hereby determined to be in compliance with applicable statutory requirements and the additional requirements ordered by the Authority in its August 9, 2001 Order entered in Docket No. 09-00909 for the period August 1, 2001 through December 31, 2002.

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Pat Miller, Chairman

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director