TENNESSEE REGULATORY AUTHORITY

FROM THE OFFICE OF:
Ron Jones, Director
Julie Woodruff, Esq., Policy Advisor
Martha Tria, Executive Assistant

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

MEMORANDUM

TO: Paul A. Robinson, Jr., Counsel for GETCO, a Tennessee General Partnership, and W. Isaac Luboti
Melvin J. Malone, Counsel for Memphis Light Gas & Water
Mark W. Smith, Counsel for Memphis Light Gas & Water
Nathan A. Bicks, Counsel for Memphis Broadband
Junaid Odubeko, Counsel for Memphis Broadband
Docket File for Docket No. 05-00304, *In re: Petition of a Tennessee General Partnership, and W. Isaac Luboti, Individually for Enforcement of Operating Agreement and Sale of Financial Rights*

FROM: Julie Woodruff, Senior Policy Advisor to Chairman Ron Jones

DATE: February 21, 2006

RE: Communications with Mr. Paul A. Robinson

In accordance with Tennessee Code Annotated section 4-5-304(d) and (e), I provide the following summary of communications between me and Mr. Paul A. Robinson, Jr., counsel for GETCO, a Tennessee General Partnership and W. Isaac Luboti. Early August 2005, I received through the Authority's docket room a copy of a petition filed in the Shelby County Chancery Court titled *Petition for Sale of Financial Rights.* A copy of the petition and cover letter is attached hereto. The Docket Manager provided the file to the Chairman's office and inquired as to how she should treat the filing. Because I was unsure of the intent of the filing and because the document was drafted by Mr. Robinson, I contacted Mr. Robinson for clarification. I left a voicemail message for Mr. Robinson on the afternoon of August 25, 2005.

On August 29, 2005, Mr. Robinson and I spoke. Mr. Robinson explained that he represents a minority investor. He further explained that the operating agreement provision referenced in the petition involves minority investors and has a four year window. He stated that he did not want the four years to expire without letting the Authority know of his dispute and that he wants the Authority to acknowledge that if his lawsuit is successful, then Authority will allow additional time. In response, I informed Mr. Robinson that he needed to file a petition if he wanted the Authority to take any

action and referred him to the Docket Manager. Due to connection problems, our conversation was terminated. I immediately called Mr. Robinson again and left a voicemail message to call me if he had any further questions.

On November 15, 2005, I received a voicemail message from Mr. Robinson inquiring as to whether the Authority had received his petition. That same day, I sent the Docket Manager an electronic mail message asking her to contact Mr. Robinson because the Authority had received the filing and Chairman Jones was on the panel assigned to the docket.

Other than the communications summarized herein, no other communications have occurred between me and Mr. Robinson.

Attachment

Cc: Chairman Ron Jones
Director Pat Miller
Director Sara Kyle

Law Offices
Paul Robinson, Jr.
146 Jefferson Street, Suite 905
Memphis, Tennessee 38103

August 5, 2005

Chair Ron Jones
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: Docket No. 99-00909

Dear Chairman Jones:

I am an attorney representing W. Isaac Luboti and the GETCO Partnership. Mr. Luboti and his partners are seeking an investment participation in Memphis Networx, LLC as a minority group. Mr. Luboti and his partners sought investment participation in Memphis Networx, LLC as a minority group but were vigorously and unfairly impeded.

The members of the Memphis Networx, LLC did not adhere to the written terms of the operating agreement, as such Mr. Luboti and his partners are requesting an extension of the four (4) year period stated in section 3.4 of the operating agreement requiring the members of Memphis Networx, LLC to allow minority investment participation to occur.

A petition is being filed in the Chancery Court of Shelby County to compel the members of Memphis Networx, LLC to comply with section 3.4 of the operating agreement. A copy of the Chancery Petition is enclosed for your review.

Your involvement in this matter and your approval of the extension will enable Mr. Luboti and his partners to become minority investors as stipulated in the operating agreement.

If you have concerns or require additional information, please contact me at (901) 649-4053. Thank you for your assistance in this matter

Sincerely,

Paul A. Robinson, Jr.

IN THE CHANCERY COURT OF SHELBY COUNTY, TENNESSEE

GETCO,
A Tennessee General Partnership,

8/8/05

Plaintiff

Vs.

Case No.

PART

Memphis Light Gas & Water, and
Memphis Broadband LLC

Defendants.

PETITION FOR SALE OF FINANCIAL RIGHTS

TO THE HONORABLE CHANCELLORS OF THE CHANCERY COURT

Comes now your Petitioner GETCO, A Tennessee General Partnership consisting of W. Isaac Luboti and Leonard Ray Brown Jr., through counsel and would state and show unto the court as follows.

1. Memphis Light Gas and Water ("MLGW") is a Tennessee public utility, which may be served with process at its principal place of business located at 220 South Main Street in Memphis, Tennessee.

2. Memphis Broadband is a Delaware corporation which may be served with process by serving its registered agent in Tennessee, Mr. Warner B. Rodda at 130 North Court Ave. Memphis, Tennessee 38103.

JURISDICTION AND VENUE

3. This court may exercise personal jurisdiction over the Defendants because they transact business in Memphis Shelby County, Tennessee and have substantial business contacts in Shelby County.

FACTUAL ALLEGATIONS

4. On or about November 29, 2000, an operating agreement was executed whereby Memphis Broadband and MLGW clarified their mutual rights and obligations as members of Memphis Networx, LLC. A Copy of the operating agreement is attached hereto as Exhibit A. Section 3.4 "Community Participation" in the operating agreement provides that:

> To the extent permitted by law, MLGW and MB each shall negotiate in good faith to sell a portion of its Financial Rights to one or more Minority Businesses (as defined below) in a single sale or multiple sales, provided: (i.) each Minority Business shall submit a bona fide purchase proposal to MB and MLGW, (ii) the sale or sales shall be closed within four (4) years from the approval date (iii) the Minority Business or Minority businesses shall not purchase, in the aggregate, more than 7.1% of MB's respective Financial Rights and 12.6% of MLGWS respective financial rights, and each purchase of Financial Rights from MB and MLGW , respectively shall be in the ratio of one third from MB and two-thirds from MLGW,(iv) the purchase price in each sale shall be determined by an independent appraisal and shall be payable in cash at closing, two thirds to MLGW and one third to MB. For purposes of this Section 3.4 the term "Minority Business" means a corporation, partnership, limited liability company or other entity, provided at least fifty-one percent (51%) of the governance and economic rights of the entity are owned by an individual who personally manages and controls the daily operations of the entity and who is impeded from normal entry into the economic mainstream because of race, religion, sex or national origin.

5. Pursuant to the requirements of Section 3.4 of the operating agreement the

GETCO Partnership did submit to the members of Memphis Networx a bona fide purchase proposal seeking a direct investment opportunity in Memphis Networx, LLC that would require both Memphis Broadband and MLGW to sell and surrender a certain portion of their financial rights in Memphis Networx to W. Isaac Luboti and other members of the GETCO Partnership. Such a surrender and participation is precisely what was contemplated as the goal of the Community Participation Section 3.4 of the operating agreement. Even though Mr. Luboti and his business partners clearly met all the applicable standards for investment participation, the members of Memphis Networx through their representative Paradigm Capital Partners, LLC rejected their proposal. The response of the members through their representative "Paradigm Capital Partners, LLC" rejecting the bona fide purchase proposal is attached as Exhibit B. Instead, Paradigm Capital Partners, LLC on behalf of the members of Memphis Networx, LLC, vigorously impeded W. Isaac Luboti and his partners to purchase and secure financial rights directly in the Memphis Networx, LLC, thus, subrogating the intent, spirit and the Final Order of Tennessee Regulatory Authority as prescribed in Section 3.4, Community Participation of the Operating Agreement.

6. Even though W. Isaac Luboti and his partners were vigorously pursuing an investment opportunity and community participation in Memphis Networx, MLGW and Memphis Broadband, through their representative Paradigm Capital Partners, LLC attempted to divert the group's investments in other entities such as Memphis Telecom, refusing to allow participation in the Memphis Networx property. The preparation and focus of GETCO's investment proposal and the attempt at diversion by Paradigm Capital Partners, LLC, representing MLGW and Memphis Broadband are documented in the e-mails attached as Exhibit C.

6. Your Plaintiff GETCO seeks to purchase the percentage shares as described in Section 3.4 of the operating agreement and therefore requests that after an appraisal and valuation of Memphis Networx, LLC, the court would require the sale of the percentage to GETCO as set forth in the operating agreement. The appraisal and valuation costs will be paid by the GETCO partners, thus, W. Isaac Luboti and Leonard Ray Brown, Jr.

WHEREFORE PREMISES CONSIDERED YOUR PETITIONER PRAYS:

1. That the court would require the sale of a percentage of financial rights in the Memphis Networx, LLC to GETCO as set forth in Section 3.4 of the operating agreement.

Respectfully Submitted

Paul A. Robinson, Jr. 014464
147 Jefferson Ste. 1010
Memphis, Tennessee 38103
(901) 544-9336

Exhibit C

Subj:	Investment in Memphis Networx
Date:	6/5/2001 1:04:45 AM Central Daylight Time
From:	Aseamons@paradigmcp.com (Andrew Seamons)
To:	wlu7395392@aol.com

Isaac,

Thanks again for meeting with us on Wednesday. We appreciate your interest in Memphis Networx and look forward to working with you to complete your due diligence and an investment in the company. It appears that the Memphis Telecom investor group is going to complete an investment as well. For that reason, we need to think about your investment as incremental to there investment. The valuation would be the same as it was for the Paradigm Capital/Memphis Angels investment and for the Memphis Telecom investment. The resulting ownership percentage would depend on the amount of your investment and the final amount of the Memphis Telecom investment. Additionally, the current investor ownership will be diluted when we approach additional investors to raise the remaining amount of capital needed to implement the business plan. The structure of your investment will likely involve investing directly into Memphis Broadband along side the Memphis Angels, Memphis Telecom, and the Belz and Boyle investments.

I'm sorry that we were not able to talk in person this evening. I'm in California and we had a long series of meetings this today and this evening. I will try to reach you in the morning so we can discuss next steps. Have a good evening.

Andrew

Andrew Seamons
Vice President
Paradigm Capital Partners, LLC
6410 Poplar Avenue
Suite 395
Memphis, TN 38119

C cont.

Subj: **Memphis Networx: Direct Investment**
Date: 6/15/2001 2:50:46 PM Pacific Daylight Time
From: Wlu7395392
To: Aseamons@paradigmcp.com

June 15, 2001

Dear Mr. Seamons:

must be noted that the information we have was aimed at getting us to be involved with the ıemphis Telecom Group, LLC. Our aim has never been to invest in the Memphis Telecom Group, LLC. All along we have made this clear.

ır aim has been to invest in Memphis Networx as minority partners with MLGW and anyone ɜlse. As par The Commercial Appeal article dated December 7, 2000; it was understood ɜt minority investment directly in Memphis Networx would not be hindered. We believe we are being hindered and yet our cash for investment is ready. Instead what we have is a prospectus for memphis Telecom Group, LLC.

Given the dynamics, we intend to seek a waiver for direct minority participation when on ɔnsiders the costs involved going through Memphis Telecom Group, LLC and to an extent ʻoadband. Our objective is 13.8% of Memphis Networx @$2,266,000 on the first round of ⁄estment and $2,642,500 on the second round of investment based on $9,000,000.00 as ıe projected need. As direct investors we would seek seats on Memphis Networx and not roadband. There is a community right that minorities invest in Memphis Netrworx. Waivers should be put in place for minority investment.

lease, I would be prepared to meet with you to discuss this matter if necessary. Because of the quarky nature of how a minority share of invesyment is expected we intend to do everything to protect our investment and make sure that our resources go directly into Memphis Networx, hence, expected returns subject to zero costs.

I believe with effort, we can achieve a waiver.

Yours,

W. Isaac Luboti

C Cont.

ubj: **Investment Obstacle-Memphis Networx**
ate: 6/18/2001 6.40:58 AM Pacific Daylight Time
rom: Wlu7395392
o: Aseamons@paradigmcp.com

June 18, 2001

Dear Mr. Andrew Seamons:

fter a thorough analysis of the Memphis Networx business situation, the following are fundamental issues that must be resolved for us to proceed:

We have made ourselves understood that our investment is to hold direct ownership of ACTUAL shares in the Memphis Nerworx as an investment opportunity for minority or people of color.

So far we do not have a clear clue to what the Memphis Networx is all about because the inf. provided to s was that of the Memphis Telecom Group, LLC. A COMPANY WHICH IS POORLY STRUCTURED AND AS SUCH WILL NOT BE ABLE TO RAISE THE MONEY.

We plan to push the issue for a waiver to invest in nothing other than the Memphis Networx. We strongly believe that you will appreciate our position given the level of cash infusion already suggested, Thus, approx. $2,266,000 on the first round of investment and $2,642,000 on the second (as projected) for 13.8% position in the Memphis Networx. We believe that should an opportunity for us to invest as a minority group exist as stipulated before the City Council and County Commission, then such an pportunity must be transparent. As such, we choose to maximize our risks BY DIRECTLY INVESTING IN THE MEMPHIS NETWORX.

: Our funds must go directly into the Memphis Networx's commercial operations in exchange for an assignment of shares in the company. The company being Memphis Networx.

: Should there be reasons why we as a minority group are not permitted to invest in the Memphis Networx, we would like to know.

Our group has been ready and on standby to invest in the Memphis Networx for direct ownership of shares in the Memphis Networx. The only hold up is a document that will serve as a vehicle for our restment. That document should be signed by both MLGW and BROADBAND, the only two entities that so far have invested. We as a minority group, will make the third.

f necessary that we develop a political approach to this issue, we intend to do so. From a commercial perspective, we are not getting anywhere. Should there be no room for us as a group of minority investors that can sustain the first and second round of cash infusion, we would like to be advised accordingly.

: The push for a waiver that will enable us invest in the Memphis Networx is underway.

ur belief is that we have been denied an opportunity to directly invest in the Memphis Networx and as uch by the end of the day, Memphis Networx will not have any minority group holding a significant mber of shares despite the fact that people in the minority category make up a large percentage of household utility payers within the city limits.

lly, was the City Council and County Commission lied to? If not, then, is it honorable for one state that

C Cont.

Subj:	Re: Investment in Memphis Networx
Date:	6/9/2001 10:09:07 AM Central Daylight Time
From:	Wlu7395392
To:	Aseamons@paradigmcp.com

Mr. Andrew Seamons:

The following comments are a result of having read your email that you sent to me.

a). It is clear that Memphis Telecom investment is unknown. Consequently, there is no determination of what they will do!

b). Apparently, there is no minimum investment set for the Memphis Telecom.

c). Memphis Telecom has all the time in the world to hold on their interest.

d). We are not in position to invest through the Memphis Telecom. We are familiar with some of the members in the investment group.

e). It is clear that in spite of the dollar amount of their investment, they are entitled to a seat on the management board and the Memphis Networx. If that is the case, then we will expect 2 seats on each board, given the level of our financial participation.

g). At the present time, we are waiting because there exists no concrete format for minority involvement.

h). Because we have no concrete transaction on hand, we can only do nothing other than look for other ways to be

C. Court.

involved as minority investors.

1). Whatever team approaches us with the appropriate and proper format for us as minorities to invest in the Memphis Networx, we will do so!

2). Our object is to bring about a viable investment vehicle now and in the near future. Should we not succeed with you on this particular project, we hope you can look at another project that we have been working on for the previous 12 years. Please advise Mr. Sklar and Mr. Horne of the same.

Yours,

Isaac

C. Cont.

Subj: **Memphis Networx: Direct Investment**
Date: 6/15/2001 2:50:46 PM Pacific Daylight Time
From: Wlu7395392
To: Aseamons@paradigmcp.com

June 15, 2001

Dear Mr. Seamons:

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I believe with effort, we can achieve a waiver.

Yours,

W. Isaac Luboti

C. Cont.

j: **Memphis Networx**
e: 6/18/2001 5:16:32 PM Pacific Daylight Time
n: Wlu7395392
Aseamons@paradigmcp.com

June 18, 2001

Dear Mr. Andrew Seamons:

ere are no intentions on my part to offend you or any of your associates. I am limiting he effort to the Memphis Networx business situation alone. So far we have not been furnished with any relevant information regarding the venture.

We felt insulted to be furnished with information that called upon us to invest in emphis Telecom Group, LLC after making it clear that our interest can be secured by investing directly in Memphis Networx given the level of participation we had suggested prior to the meeting.

ur interest in investing as a minority group is based upon the fact that a commitment r direct investment by a minority group was made to both the city council and county ommission. It is that opportunity to invest directly in Memphis Networx that we have been seeking, but to no avail.

We stand ready to invest in the Memphis Networx as shareholders in the company. iven the level of our involvement, our funds can be secured with a direct investment mechanism.

Again, we as a minority group are ready to move forward with the investment, however, it will not take place through telephone conversations, but written documents.

Yours:

W. Isaac Luboti

Exhibit B

PARADIGM
CAPITAL PARTNERS LLC

June 20, 2001

Mr. W. Isaac Luboti
Wlu7395392@aol.com

Dear Mr. Luboti,

Thank you for your recent emails. I feel like we've gotten off track during the last week. I apologize if I have confused any of the issues during our previous discussions.

We, the current investors in Memphis Networx, appreciate your interest in Memphis Networx and hope that we can work through the structural issues that you have raised. As we have memorialized in the operating agreement approved by the Tennessee Regulatory Authority (TRA), both MLGW and the private investors are committed to minority participation in Memphis Networx. That said, rather than forcing any particular investment, we would prefer to find an investor to be our partner who shares our vision and excitement about Memphis Networx and who is coincidentally a member of a minority group. I hope that you and your investor group can be that partner.

At our initial meeting, I shared with you the information about Memphis Telecom only because I did not know anything about your interest level or structural concerns. The Memphis Telecom information was what I had readily available and provides an overview of the tiered investment structure. If we can agree on a high-level structure through which you would be comfortable investing, we can provide you with much more information about the company and its plans. You will also want to meet the management team.

Your emails indicated your investor group's desire to invest directly in Memphis Networx. Unfortunately, a direct investment is not practical and is not in the best interest of your investment group. Memphis Networx is 53% owned by MLGW and 47% owned by Memphis Broadband via an operating agreement that took months to finalize and that was approved by the Tennessee Regulatory Authority (TRA) last week. Memphis Broadband was structured to be the vehicle through which all private investors would invest including Paradigm Capital Partners and the Memphis Angels. There are two primary reasons why your investor group would invest through Memphis Broadband. First, the operating agreement with MLGW includes a number of provisions that positively impact the private

investors that would not be included in a direct investment in Memphis Networx. More importantly, changing the operating agreement to include a third legal entity (i.e., your investor group) would force us to get the operating agreement approved again by the TRA. Given the expense and time involved in getting the current agreement approved, our investor group could not support anything that reopens the process. There are no other structural or economic differences between investing through Memphis Broadband versus directly into Memphis Networx.

I suggest that we meet early next week to discuss these issues and agree on how to proceed. [redacted] Let me know. I can be reached over the next several days via email or via my mobile phone at (901) 647-5549. You can also contact my assistant, Jennifer Kendrick, at (901) 328-3031. I look forward to working through these issues with you next week.

Sincerely,

Andrew Seamons

Andrew Seamons

Exhibit A

AMENDED AND RESTATED OPERATING AGREEMENT

OF

MEMPHIS NETWORX, LLC

A TENNESSEE LIMITED LIABILITY COMPANY

ARTICLE 1

THIS AMENDED AND RESTATED OPERATING AGREEMENT (the "Operating Agreement") of Memphis Networx, LLC (the "Company"), a limited liability company organized under the Tennessee Limited Liability Company Act, is hereby adopted and approved as of November 29, 2000, by the undersigned Members of the Company, who agree as follows:

W I T N E S S E T H:

WHEREAS, on November 8, 1999, Memphis Light, Gas, and Water Division, a division of the City of Memphis, Tennessee ("MLGW"), and A&L Networks-Tennessee, LLC, a Kansas limited liability company ("A&L"), formed the Company under and pursuant to the Tennessee Limited Liability Company Act; and

WHEREAS, as of November 29, 2000, Memphis Broadband, LLC, a Delaware limited liability company ("MB") acquired A&L's entire membership interest in the Company, and was admitted as a Member thereof; and

WHEREAS, MLGW and MB desire to amend and restate the Company's Operating Agreement dated as of November 8, 1999, as amended by Amendment No. 1 thereto dated as of October 18, 2000 (collectively, the "Original Operating Agreement"), in order to clarify their mutual rights and obligations.

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Members hereby agree as follows:

ARTICLE 1
DEFINITIONS

In addition to terms defined elsewhere in this Operating Agreement, the following terms used in this Operating Agreement shall have the following meanings:

1.1. "Act" means the Tennessee Limited Liability Company Act, Tennessee Code Annotated, Title 48, Chapters 201-248, as amended from time to time.

1.2. "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person.

1.3. "Approval Date" means the first date by which the Company and its Members have obtained, in form and substance reasonably satisfactory to the Members, all orders, certificates of public convenience and necessity and other regulatory approvals necessary for the Company to provide the services authorized by Tennessee Code Annotated Sections 7-52-401, *et seq.* in the State of Tennessee.

AMENDED AND RESTATED OPERATING AGREEMENT

OF

MEMPHIS NETWORX, LLC

A TENNESSEE LIMITED LIABILITY COMPANY

1.4. "Articles of Organization" means the Company's Articles of Organization, as amended from time to time.

1.5. "Board" means the Company's board of governors.

1.6. "Capital Account" means, with respect to any Equity Owner, the account maintained by the Company in accordance with Section 9.2.

1.7. "Capital Contribution" means any contribution to the capital of the Company in cash or property by an Equity Owner, whenever made.

1.8. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

1.9. "Controlled Subsidiary" means, as to any Person, any other Person of which the first Person beneficially owns (directly or indirectly) securities entitling the holder to cast 50% or more of the votes in the election or removal of directors (or persons holding similar positions) of the second Person.

1.10. "Deficit Capital Account" means with respect to any Equity Owner, the deficit balance, if any, in such Equity Owner's Capital Account as of the end of the Fiscal Year, after giving effect to the following adjustments:

(a) credit to such Capital Account any amount which such Equity Owner is obligated to restore under Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations, as well as any addition thereto pursuant to the next to last sentence of Sections 1.704-2(g)(1) and (i)(5) of the Treasury Regulations, after taking into account thereunder any changes during such year in partnership minimum gain (as determined in accordance with Section 1.704-2(d) of the Treasury Regulations) and in the minimum gain attributable to any partner nonrecourse debt (as determined under Section 1.704-2(i)(3) of the Treasury Regulations); and

(b) debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations.

This definition of Deficit Capital Account is intended to comply with Sections 1.704-1(b)(2)(ii)(d) and 1.704-2 of the Treasury Regulations, and will be interpreted consistently with those provisions.

1.11. "Depreciation" means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation,

amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the chief manager.

1.12. "Economic Interest Owner" means the owner of Financial Rights who is not a Member.

1.13. "Entity" means any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association or any foreign trust or foreign business organization, and also includes local, municipal, state, United States, and foreign governments.

1.14. "Equity Owner" means an Economic Interest Owner or a Member.

1.15. "Extraordinary Net Losses" means Net Losses from (i) the sale or other disposition of all or substantially all of the assets of the Company, or of the assets of any line of business of the Company, or (ii) the liquidation and dissolution of the Company (including, without limitation, any Net Losses from adjusting the Gross Asset Values of the Company's assets).

1.16. "Extraordinary Net Profits" means Net Profits from (i) the sale or other disposition of all or substantially all of the assets of the Company, or of the assets of any line of business of the Company, or (ii) the liquidation and dissolution of the Company (including, without limitation, any Net Profits from adjusting the Gross Asset Values of the Company's assets).

1.17. "Extraordinary Net Profits Sharing Ratio" means:

Members	Extraordinary Net Profits Sharing Ratio
MLGW	50%
MB	50%

1.18. "Final Order" means the date the TRA Order with respect to the Amended Application and Joint Petition becomes final and non-appealable.

1.19. "Financial Rights" means an Equity Owner's rights as provided in the Act to share in profits and losses, to share in distributions, to receive interim distributions, and to receive liquidation distributions.

1.20. "Fiscal Year" means the Company's fiscal year, which shall be the calendar year.

1.21. "Governance Rights" means a right to vote on one or more matters and all of a Member's rights as a Member in the Company other than Financial Rights and the right to assign Financial Rights.

1.22. "Governor" means a natural person serving on the Board.

1.23. "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by an Equity Owner shall be the gross fair market value of such asset, as determined by the Members.

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as reasonably determined by the Members as of the following times: (a) the acquisition of an additional interest by any new or existing Equity Owner; (b) the distribution by the Company to an Equity Owner of more than a *de minimis* amount of property as consideration for an Ownership Interest; and (c) the liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations; provided, however, that adjustments pursuant to clause (a) above and this clause (b) shall be made only if the Members reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Equity Owners in the Company;

(c) The Gross Asset Value of any Company asset distributed to any Equity Owner shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the Members; and

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation Section 1.704-1(b)(2)(iv)(m) and Section 9.2 and subparagraph (d) under the definition of Net Profits and Net Losses; provided, however, that Gross Asset Values shall not be adjusted pursuant to this definition to the extent the Members determine that an adjustment pursuant to subparagraph (b) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraphs (a), (b) or (d) of this definition, then such Gross Asset Value shall thereafter be

adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Profits and Net Losses.

1.24. "Interim Contributions" means, between the date of the Original Umbrella Agreement and the date of the Final TRA Order, additional Capital Contributions to the Company by MLGW and MB, if and to the extent necessary to pay obligations reasonably incurred by the Company and to seek the approval of the TRA.

1.25. "MB" means Memphis Broadband, LLC, a Delaware limited liability company.

1.26. "MB Governors" means the two Governors elected by MB.

1.27. "Member" means a person who owns some Governance Rights of a Membership Interest, as reflected in the Company's records.

1.28. "Membership Interest" means a Member's interest in the Company consisting of the Member's Financial Rights, the Member's right to assign Financial Rights, the Member's Governance Rights, and the Member's right to assign Governance Rights. If a Member has assigned some or all of its Financial Rights, then, with respect to that Member, "Membership Interest" means the Member's Governance Rights, the Member's right to assign Governance Rights, any remaining Financial rights of the Member, and the Member's right to assign any remaining Financial Rights.

1.29. "MLGW" means Memphis Light, Gas, and Water Division, a division of the City of Memphis, Tennessee.

1.30. "MLGW Governors" means the two Governors elected by MLGW.

1.31. "Net Profits" and "Net Losses" means for each Fiscal Year of the Company an amount equal to the Company's net taxable income or loss for such year as determined for federal income tax purposes (including separately stated items) in accordance with the accounting method and rules used by the Company and in accordance with Section 703 of the Code with the following adjustments:

(a) Any items of income, gain, loss and deduction allocated to Equity Owners pursuant to Section 10.3 or Section 10.8 shall not be taken into account in computing Net Profits or Net Losses;

(b) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profits and Net Losses (pursuant to this definition) shall be added to such taxable income or loss;

(c) Any expenditure of the Company described in Section 705(a)(2)(B) of the Code and not otherwise taken into account in computing Net Profits and Net Losses (pursuant to this definition) shall be subtracted from such taxable income or loss;

(d) In the event the Gross Asset Value of any Company asset is adjusted pursuant to clause (b) or (c) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Profits and Net Losses;

(e) Gain or loss resulting from any disposition of any Company asset with respect to which gain or loss is recognized for federal income tax purposes shall be computed with reference to the Gross Asset Value of the asset disposed of, notwithstanding that the adjusted tax basis of such asset differs from its Gross Asset Value;

(f) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year; and

(g) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) of the Code or Section 743(b) of the Code is required pursuant to Section 1.704-1(b)(2)(iv)(m)(4) of the Treasury Regulations to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Ownership Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Profits or Net Losses.

1.32. "Operating Agreement" means this Amended and Restated Operating Agreement as originally executed and as it may be further amended or restated from time to time.

1.33. "Operating Net Losses" means all Net Losses other than Extraordinary Net Losses.

1.34. "Operating Net Profits" means all Net Profits other than Extraordinary Net Profits.

1.35. "Original Umbrella Agreement" means that certain Agreement dated November 8, 1999, between MLGW and A&L.

1.36. "Ownership Interest" means, in the case of a Member, the Member's Membership Interest, and, in the case of an Economic Interest Owner, the Economic Interest Owner's Financial Rights.

1.37. "Person" means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such "Person," where the context so permits.

1.38. "Prime Rate" means the base rate of interest on corporate loans posted by at least seventy-five percent (75%) of the thirty (30) largest U.S. banks as reported in *The Wall Street Journal.*

1.39. "Prior Costs" means certain costs incurred by A&L to provide consulting and other services to MLGW, and costs incurred by MLGW to decide whether and how to provide telecom services.

1.40. "Sharing Ratio" means:

Members	Sharing Ratio
MLGW	53%
MB	47%

1.41. "Subsequent Costs" means, between the date of the Original Umbrella Agreement and the date of the Final Order, additional costs incurred by MLGW and MB to seek and obtain the relief requested in the Application and Joint Petition, as amended.

1.42. "Treasury Regulations" shall include proposed, temporary and final regulations promulgated under the Code in effect as of the date of filing the Articles and the corresponding sections of any regulations subsequently issued that amend or supersede such regulations.

1.43. "Umbrella Agreement" means that certain Amended and Restated Agreement dated as of November 29, 2000, between MLGW and MB.

1.44. "Voting Interest" means:

Member	Voting Interest
MLGW	50%
MB	50%

ARTICLE 2
ORGANIZATION

2.1. Formation. The Company was formed on November 8, 1999, by the filing of the Articles with the Tennessee Secretary of State.

2.2. Principal Executive Office. The Company's principal executive office is located

at 7555 Appling Center Drive, Memphis, Shelby County, Tennessee 38133. At any time the Board may change the Company's principal executive office to another location within Shelby County, Tennessee.

2.3. Registered Office and Registered Agent. The Articles set forth the street address and zip code of the Company's initial registered office in Tennessee, the county in which the office is located, and the name of its initial registered agent at that address. At any time the Board may change the Company's registered office or its registered agent in Tennessee.

2.4. Term. The term of the Company shall commence as of the effective date set forth in Section 2.1 and continue until the Company is wound up and liquidated.

2.5. Business.

(a) Initially, the sole business purpose of the Company shall be to do or cause to be done such acts or things as reasonably necessary to seek and obtain regulatory approval for the Company to provide the services authorized by Tennessee Code Annotated Sections 7-52-401, *et seq.*

(b) Subject to obtaining, and only to the extent permitted by, the necessary regulatory approvals, the business of the Company shall be to (i) provide the services authorized by Tennessee Code Annotated Sections 7-52-401, *et seq.*, (ii) acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge, and otherwise deal and trade in, any related system, plant, equipment or other property, and (iii) exercise all rights and powers and engage in all activities related to the foregoing and legally permissible under the Act.

(c) In furtherance of its business, and not by way of limitation, the Company intends (i) within two years from the Approval Date, to install telecommunication fibers at certain locations in and near St. Jude Hospital and the housing developments known as Jefferson Square, R.Q. Venson and Barry Holmes, and (ii) in Fiscal Years the Company has Net Operating Profits, to commit 1% of its Net Operating Profits (not to exceed $1 million per Fiscal Year) to the development and enhancement of telecommunication services in the low-income areas of Shelby County, Tennessee.

ARTICLE 3
MEMBERS AND MEMBERSHIP INTERESTS

3.1. Current Members. The Members of the Company shall be MLGW and MB.

3.2. Nature of Membership Interest. A Membership Interest is personal property. No Member has an interest in specific property of the Company. All property transferred to or acquired by the Company is property of the Company itself.

3.3. Additional Members. Except as provided in Article 11, the Company shall not admit additional Members without the consent of all the Members.

3.4. Community Participation. To the extent permitted by law, MLGW and MB each shall negotiate in good faith to sell a portion of its Financial Rights to one or more Minority Businesses (as defined below), in a single sale or in multiple sales, provided: (i) each Minority Business shall submit a bona fide purchase proposal to MB and MLGW, (ii) the sale or sales shall be closed within four (4) years from the Approval Date, (iii) the Minority Business or Minority Businesses shall not purchase, in the aggregate, more than 7.1% of MB's respective Financial Rights and 12.6% of MLGW's respective Financial Rights, and each purchase of Financial Rights from MB and MLGW, respectively, shall be in the ratio of one-third from MB and two-thirds from MLGW, (iv) the purchase price in each sale shall be determined by an independent appraisal and shall be payable in cash at the closing, two-thirds to MLGW and one-third to MB. For purposes of this Section 3.4, the term "Minority Business" means a corporation, partnership, limited liability company or other entity, provided at least fifty-one percent (51%) of the governance and economic rights of the entity are owned by an individual who personally manages and controls the daily operations of the entity and who is impeded from normal entry into the economic mainstream because of race, religion, sex, or national origin.

ARTICLE 4
MEETINGS OF MEMBERS

4.1. Annual Meeting. Beginning in the year 2001, the annual meeting of the Members shall be held at 10:00 a.m. on the second Tuesday of November of each year, or if the second Tuesday of November falls on a legal holiday, then at the same hour on the first succeeding business day, for the purpose of electing Governors and transacting such other business as may properly come before the meeting.

4.2. Special Meetings. Special meetings of the Members may be called at any time by any one (1) or more of the following persons: (i) any Member, (ii) the Board, or (iii) the chief manager. A person who has authority to call a meeting may call the meeting by giving written notice of demand to the Members in accordance with the Act, or by giving written notice of demand to the secretary of the Company, who shall give such notice to the Members in accordance with the Act, at the expense of the Company, within seven (7) days after receipt of the demand. If the secretary fails to cause a meeting to be called and held as properly demanded, the person making the demand may call the meeting by giving notice as required by the Act, all at the expense of the Company. In any case, the notice of a meeting of Members must be given no fewer than ten (10) days nor more than two (2) months before the meeting date.

4.3. Time and Place of Meetings. Meetings must be held on the date and at the time and place fixed by the person properly calling the meeting. Unless otherwise approved by the Members, all called meetings must be held in Shelby County, Tennessee. A meeting may take place by telephone conference call or any other form of electronic communication through which the Members participating may simultaneously hear each other. A meeting by electronic conference will be deemed to be held at the principal executive office or registered office of the Company, if required by the Act, or at the place properly named in the notice calling the meeting.

4.4. Record Date. Unless otherwise fixed by the Board, the record date for the determination of the owners of Membership Interests entitled to notice of and to vote at any meeting of Members shall be the close of business on the date before the first notice is sent to the Members.

4.5. Notice.

(a) Except as otherwise provided in the Act or in the Articles, written notice of all meetings of Members must be given to every member entitled to vote on the matters to be considered, unless (i) the meeting is an adjourned meeting and the date, time, and place of the meeting were announced at the time of adjournment; or (ii) the following have been mailed by first class, certified mail to the Member at the address in the Company's records and returned undeliverable: (A) two (2) consecutive meeting notices, and (B) all payments of distributions for the greater of a twelve-month period or two (2) distributions. The notice must contain the date, time, and place of the meeting, and any other information required by the Act. In the case of a special meeting, the notice must contain a statement of the purposes of the meeting. The notice may also contain any other information required by the Articles or this Operating Agreement or considered necessary or desirable by the person or persons calling the meeting.

(b) A Member may waive any required notice of the meeting. Except as otherwise provided in the Act, a waiver of notice is effective, whether given before or after the meeting or other balloting, if such waiver is given in writing. If a written waiver is given, the secretary shall place such written waiver in the records of the Company. Attendance by a Member at a meeting is a waiver of notice of that meeting, except where the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at the meeting. The secretary is required to note the objection in the minutes of the meeting.

(c) Notice may be delivered in person; by facsimile, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier. Written notice to the Members is effective when mailed, if mailed postpaid and correctly

addressed to the Member's address shown in the Company's current record of Members. Otherwise, written notice is effective when received.

4.6. Proxies. At all meetings of Members, a Member may vote in person or by a proxy executed in writing by the Member or the Member's duly authorized attorney-in-fact. The proxy shall be filed with the secretary of the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

4.7. Quorum. The Members holding all of the Voting Interests shall constitute a quorum for the transaction of business. Once a Membership Interest is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting. In the absence of a quorum at any such meeting, a majority of the Voting Interests represented may adjourn the meeting from time to time for a period not to exceed thirty (30) days without further notice. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting. 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.

4.8. Manner of Acting. The affirmative vote of Members holding all of the Voting Interests shall be the act of the Members, unless the vote of a lesser proportion or number is otherwise required by the Act, the Articles, or this Operating Agreement.

4.9. Conference Meeting. A conference among Members by any means of communication through which the participants may simultaneously hear each other during the conference constitutes attendance at the meeting in person or by proxy if all the other requirements for a meeting are met.

4.10. Action on Written Consent. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting by action on written consent. Any action on written consent has the effect of a meeting and vote and may be described as such in any document. To take action on written consent, a written waiver of acting at a meeting and a written consent must be signed by all Members. The action must be evidenced by one (1) or more instruments evidencing the waiver and consent, which shall be delivered to the secretary for inclusion in the records of the Company. All such instruments may be signed in counterparts. If not otherwise determined under Section 4.5 above, the record date for determining Members entitled to take action without a meeting is the date the first Member signs the consent. The action on written consent is effective when the last required Member signs the waiver and written consent, unless a different effective time is provided in the instrument evidencing the written consent itself.

4.11. No Action on Recommendation of the Board or Chief Manager. Action on recommendation of the Board or chief manager under Section 48-223-103 of the Act is prohibited.

4.12. Authorized Representatives. Each Member shall cause an officer, employee or other representative of the Member to be duly authorized and empowered to act on behalf of the Member with respect to the Company. The MLGW representative shall be the President of MLGW, and in the event of a vacancy in this position, such interim appointments as MLGW may make from time to time.

ARTICLE 5
BOARD OF GOVERNORS

5.1. Management. Except as otherwise required in this Operating Agreement or by applicable law, all powers shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed by or under the direction of, the Board. Each Governor shall have equal voting power per capita with each other Governor.

5.2. Number. The number of Governors shall be five (5), and the number shall not be changed without the consent of all the Members.

5.3. Election and Qualifications. Governors need not be residents of the State of Tennessee nor hold Membership Interests, but must be natural persons. Effective as of the date of this Operating Agreement, the MLGW Governors shall be Herman Morris and Larry Thompson, the initial MB Governors shall be Frank A. McGrew, IV and Andrew Seamons, and the initial Fifth Governor shall be designated jointly by MLGW and MB. At each annual meeting of Members, beginning with the annual meeting of Members to be held in November, 2001, (i) MLGW shall elect two Governors (the "MLGW Governors"), (ii) MB shall elect two (2) Governors (the "MB Governors"), and (iii) MLGW and MB jointly shall elect the fifth Governor (the "Fifth Governor"). Each Governor elected by MLGW shall be either the President, the Secretary/Treasurer, the Chief Operating Officer or the General Counsel of MLGW, or, if one or more of these offices become vacant, preventing MLGW from electing as a Governor an individual who is serving in one of these three officer positions, MLGW may elect such other individual or individuals as it chooses. Each Governor shall serve until the next annual meeting of the Members and until the Governor's successor is elected and qualified, or until the earlier death, resignation, removal or disqualification of the Governor, except that in no event shall the term of the Fifth Governor extend beyond the next annual meeting of the Members.

5.4. Resignation, Removal and Vacancies. A Governor may resign at any time by giving a written resignation to the secretary or chief manager of the Company. The resignation is effective without acceptance when it is actually received by the secretary or chief manager, unless a later effective time is specified in the resignation. MLGW, and only MLGW, may

remove one or both MLGW Governors at any time, and the removal may be with or without cause. MB, and only MB, may remove one or both MB Governors at any time, and the removal may be with or without cause. The Fifth Governor may be removed at any time, but only through the joint action of MLGW and MB, and the removal may be with or without cause. A Governor may be removed by MLGW or MB (or both), whichever is applicable, only at a meeting called for the purpose of removing the Governor, and the meeting notice must state that the purpose, or one (1) of the purposes, of the meeting is to remove one (1) or more Governors. If a vacancy occurs on the Board, it may be filled only at a meeting of the Members by the Member who elected the Governor whose position has been vacated.

5.5. Committees. A resolution approved by the affirmative vote of a majority of the Board may establish committees having the authority of the Board in the management of the business of the Company to the extent provided in the resolution, including special litigation committees to consider legal rights or remedies of the Company and whether those rights and remedies should be pursued. Committees other than special litigation committees are subject at all times to the direction and control and serve at the pleasure of the Board. Each member of a committee shall be a member of the Board. Each committee shall have two Governors, one a MLGW Governor, and the other an MB Governor. Minutes, if any, of committee meetings must be made available upon request to members of the committee and to any Governor. Unless otherwise authorized by all of the Governors, the only authority of any committee shall be to make recommendations to the Board. In no event, however, shall a committee (i) authorize distributions, except according to a formula or method prescribed by the Board; (ii) approve or propose to Members actions requiring approval by Members; (iii) fill vacancies on the Board or on any of its committees; (iv) adopt a plan of merger not requiring Member approval; (v) authorize or approve reacquisition of a Membership Interest, except according to a formula or method prescribed by the Board; or (vi) authorize or approve the issuance or sale or contract for the sale of a Membership Interest, or determine the designation and relative rights, preferences, and limitations of a class or series of Membership Interests.

5.6. Restrictions on Authority of the Board. Notwithstanding the provisions of Section 5.1, the affirmative vote of all the Members shall be necessary to effect any of the following actions:

(a) Any act in contravention of this Operating Agreement;

(b) Any merger, consolidation, acquisition or joint venture, partnership, or business combination of the Company or any Controlled Subsidiary of the Company with or into any other Person;

(c) Any sale, lease, assignment or other disposition by the Company or any Controlled Subsidiary of the Company, in any single transaction or series of related transactions, (i) of all or substantially all of its assets, or (ii) of a capital asset having a

(m) Any issuance or redemption of Membership Interests, or any requirement of additional capital contributions from the Members not otherwise required by this Operating Agreement;

(n) Confession of a judgment against the Company; or

(o) Liquidation or dissolution of the Company.

ARTICLE 6
MEETINGS OF THE BOARD OF GOVERNORS

6.1. Time of Meetings. An annual meeting of the Board shall be held immediately after the annual meeting of the Members, except that if a quorum of the Board cannot then be assembled, the meeting shall be adjourned until a quorum is present, but in no event later than thirty (30) days after the annual meeting of Members. Regular meetings of the Board may be held at such times as determined by the Board. Special meetings of the Board may be held at any time upon the call of the chief manager or two (2) Governors by giving two (2) days' notice to all Governors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless required by the Act, the Articles or this Operating Agreement.

6.2. Place of Meetings. The annual meeting of the Board shall be held at the same place as the annual meeting of Members, except that any adjournment thereof may be held at any place within Shelby County, Tennessee, as may be designated by the Governors adjourning the meeting. Regular meetings of the Board shall be held at such place as determined by the Board. Special meetings of the Board shall be held at such place within Shelby County, Tennessee, as fixed by the person or persons properly calling the meeting.

6.3. Notice. If a regular meeting date, time and place have been established by the Board, no notice of the meeting is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken; provided, that the period of adjournment does not exceed one (1) month for any one (1) adjournment. A Governor may waive any notice required by this Act, the Articles or this Operating Agreement before or after the date and time stated in the notice. The waiver must be in writing, signed by the Governor entitled to the notice, and filed with the minutes or other records of the Company, provided that a Governor's attendance at or participation in a meeting waives any required notice to the Governor of the meeting, unless the Governor at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

6.4. Quorum and Manner of Acting. A majority of Governors then in office shall constitute a quorum at any meeting of the Board except for any matter that requires the approval of a greater proportion of the Governors pursuant to the Act, the Articles or this Operating Agreement. If a quorum is present, the affirmative vote of a majority of the Governors present at

the meeting shall be the act of the Board, except as to matters which the consent of a greater proportion of the Governors is otherwise required by the Act, the Articles or this Operating Agreement. Each Governor shall be entitled to one (1) vote on any matter entitled to be voted on by the Board. If a quorum is present when a duly called or held meeting is convened, the Governors present may continue to transact business until adjournment, even though the withdrawal of a number of Governors originally present leaves less than the number otherwise required for a quorum. A Governor who is present at a meeting of the Board when Company action is taken is deemed to have assented to the action taken unless: (i) the Governor objects at the beginning of the meeting (or promptly upon the Governor's arrival) to holding it or transacting business at the meeting; (ii) the Governor's dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) the Governor delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Company immediately after adjournment of the meeting. The right of dissent or abstention is not available to a Governor who votes in favor of the action taken.

6.5. Conference Meeting. The Board may permit any or all Governors to participate by or conduct the meeting through the use of any means of communication by which all Governors participating may simultaneously hear each other during the meeting. A Governor participating in a meeting by this means is deemed to be present in person at the meeting, which may be reflected in the minutes.

6.6. Action without a Meeting. An action required or permitted to be taken at a meeting of the Board may be taken with the consent of all the Members. The action must be evidenced by one (1) or more written consents describing the action taken, signed by each Governor in one (1) or more counterparts, indicating the signing Governor's vote or abstention on the action, and shall be included in the minutes or filed with the Company's records reflecting the action taken. The written action shall be effective when the last required Governor signs the action, unless a different effective time is provided in the written action. A properly signed consent has the effect of a meeting vote and may be described as such in any document. Any action requiring a meeting by the board is satisfied by a properly signed consent.

ARTICLE 7
MANAGERS

7.1. Managers. The managers of the Company shall be the chief manager, the secretary, and any other managers or agents the Board considers necessary or desirable for the operation and management of the Company. Managers need not be residents of Tennessee or Members of the Company. Any number of managerial positions (or functions of those positions) other than those of chief manager and secretary may be held or exercised by the same person. If a document must be signed by persons holding different positions or functions and a person holds or exercises more than one (1) of those positions or functions, that person may sign the document in more than one (1) capacity, but only if the document indicates each capacity in which the person signs.

7.2. Election and Term. The managers of the Company shall be elected at the annual meeting of the Board. Each manager shall hold office at the pleasure of the Board or for such other period as the Board may specify at the time of electing the manager, or until the death, resignation or removal of the manager, whichever first occurs. Nothing in this Section 7.2 shall preclude the Board from exercising such other rights to terminate a manager as may be provided in this Operating Agreement or in any contract with the manager.

7.3. Removal. The Board may remove a manager at any time with or without cause. The Board may eliminate any manager position other than chief manager or secretary at any time.

7.4. Vacancies. A vacancy in an office of manager because of death, resignation, removal, disqualification, or other cause may (or, in the case of a vacancy in the office of chief manager or secretary, must) be filled for the unexpired portion of the term by the Board. If a vacancy is created by a resignation which is made effective at a later date and the Company accepts the future effective date, the Board may fill the pending vacancy before the effective date, if the action provides that the successor does not take office until the effective date.

7.5. Delegation. Unless prohibited by the Articles, this Operating Agreement, or by a resolution adopted by the Board, a manager, without further approval, may delegate some or all of the duties and powers of an office to other persons. A manager who delegates the duties or powers of an office remains subject to the standard of conduct for a manager with respect to the discharge of all duties and powers so delegated.

7.6. Duties.

(a) The chief manager shall perform the duties prescribed by the Board or the Members; other managers shall perform the duties prescribed by the Board, the Members or the chief manager.

(b) Unless otherwise provided by the Board or the Members, and subject to the other provisions of this Operating Agreement, the chief manager shall have the general executive powers and duties of supervision and management as are usually vested in the president of a corporation, including, without limitation: (i) seeing that all orders and resolutions of the Board or Members are carried into effect; (ii) signing and delivering in the name of the Company any deeds, mortgages, bonds, contracts or other instruments pertaining to the business of the Company (unless another signature is required by law, or by the Articles, this Operating Agreement or the Board), except that, without the approval of the Board or the Members, the chief manager shall not enter into a contract in the name of the Company with a term of more than one year; (iii) if the Company has a vacancy in the office of secretary, accepting delivery of any notices, documents or other matters otherwise required to go to the secretary; (iv) authorizing and making expenditures in accordance with periodic budgets approved by the Board; and (v) authorizing and making unbudgeted expenditures in the ordinary course of business, not

to exceed $50,000 per expenditure, or series of related expenditures, or $100,000 per year in the aggregate.

(c) Unless the Board, the Members, or the chief manager otherwise provide, the secretary shall (i) keep accurate membership records for the Company, (ii) maintain records of and, whenever necessary, certify all proceedings of, the Board, the Members or committees of the Company; (iii) receive notices required to be sent to the secretary and keep a record of such notices in the records of the Company.

ARTICLE 8
LIMITATIONS ON LIABILITIES AND DUTIES

8.1. Limited Liability. A Member, Economic Interest Owner, Governor, manager, employee or other agent of the Company does not have any personal obligation and is not otherwise personally liable for (i) the acts, debts, liabilities, or obligations of the Company, whether arising in contract, tort or otherwise, or (ii) the acts or omissions of any other Member, Economic Interest Owner, manager, Governor, employee or other agent of the Company. The limited liability described in this Section 8.1 shall continue in full force regardless of any dissolution, winding up, and termination of the Company.

8.2. Other Business Activities.

(a) Any Member, Governor or Affiliate of a Member or Governor may engage in, or possess an interest in, other business ventures of every nature and description, independently or with others, whether or not similar to or in competition with the Company, and neither the Company nor any Member shall have any right by virtue of this Operating Agreement in or to such other business ventures, or to the income or profits derived from such other business ventures, except that, during the period a Person is a Member or Governor of the Company, neither such Person nor any Affiliate of such Person, directly or indirectly, shall engage in, or possess an interest in, another business venture which provides telecommunication services on a wholesale basis in Shelby County, Tennessee in competition with the Company. Each Member may, independently, and on its own account, provide retail telecommunication services to the general public in Shelby County, Tennessee, including without limitation, automatic meter reading, Internet services, video on demand, and local prepay telephone services.

(b) Neither the Members or the Governors shall be required to devote all of their time or business efforts to the affairs of the Company, but shall devote so much of their time and business efforts as is reasonably necessary and advisable to manage the affairs of the Company to the best advantage of the Company.

8.3. Transactions with Members, Governors, Managers, and their Affiliates. No contract or other transaction between the Company and any Member, Governor or manager of the

Company, or any Affiliate of a Member, Governor, or manager of the Company, shall be void or voidable because of the relationship of the parties, and neither the Member, Governor, manager nor Affiliate shall be obligated to account to the Company for any profit or benefit derived from such contract or other transaction, provided (i) the terms and conditions of the contract or other transaction are not materially less favorable to the Company than generally would be available in an arms' length transaction, or (ii) the contract or other transaction is otherwise valid under Section 48-239-116 or Section 48-240-103 of the Act, or other applicable law.

ARTICLE 9
CONTRIBUTIONS AND CAPITAL ACCOUNTS

9.1. Capital Contributions.

(a) As of the date hereof, MLGW has made Capital Contributions to the Company of $2,795,185.00 (excluding contributions made or to be made by MLGW for the cost of any cable purchased by the Company), and MB has made Capital Contributions to the Company (including credit for Capital Contributions made by A&L) of $2,789,359.60. The difference between the foregoing shall be referred to hereinafter as the "Expense True Up." In addition, MLGW has made Capital Contributions for the cost of cable purchased by the Company in the amount of $1,422,186.00, and anticipates making additional Capital Contributions for such purpose in the approximate amount of $637,847.85 (the "Cable Costs"). The Cable Costs referred to above, and any Capital Contributions made by MB with respect to the purchase of cable by the Company prior to, at and after the TRA Order (as defined below) in order to satisfy MB's obligation hereunder to match Capital Contributions of MLGW for such costs, shall be treated as Interim Contributions for Capital Account purposes hereunder, notwithstanding the date such contributions are actually made.

(b) Between the date hereof and the earlier of (i) the order from the Tennessee Regulatory Authority ("TRA") granting in all material respects the relief requested in the Amended and Restated Application and Joint Petition of the Company, MLGW and MB (the "TRA Order"), or (ii) the exercise by MB of the Regulatory Put Rights under Section 11.6(a) hereof, MLGW and MB shall make equal and simultaneous Capital Contributions to the Company, to the extent necessary to pay obligations reasonably incurred by the Company, including, without limitation, expenses incurred to seek and obtain regulatory approval and to obtain the relief requested in the Company's regulatory filings, up to a total aggregate capital contributions of $600,000 per Member, in addition to liabilities of the Company as of the date hereof, and determined to be due and payable.

(c) From and after the date hereof, MLGW and MB also shall make Capital Contributions to the Company as follows:

(i) Within ten (10) days of the date hereof, MB will make a Capital contribution to the Company in the amount of the Expense True-Up. The Expense True-Up shall be treated as an Interim Contribution of MB, and for purposes of Capital Account treatment hereunder, this contribution shall be treated as a Capital Contribution occurring prior to the Approval Date.

(ii) If the parties obtain the TRA Order, then, within ninety (90) days after the date of the TRA Order, (A) MB shall contribute to the capital of the Company $4,666,200, minus an amount equal to its share of the Prior Costs, the Subsequent Costs, and the Interim Contributions, and, concurrently therewith (B) MLGW shall contribute to the capital of the Company $5,332,800, minus an amount equal to its share of the Prior Costs, the Subsequent Costs and the Interim Contributions. MLGW's obligation to contribute to the Company under this Section 9.1(c)(ii) shall be subject to the condition precedent that, on or before the date of contribution, the Tennessee Valley Authority and the Tennessee Director of Local Finance shall have approved an inter-divisional loan of $20 million from the Electric Division of MLGW to the Telecommunication Division of the Electric Division of MLGW. MB's obligation to contribute to the Company under this Section 9.1(c)(ii) shall be subject to the condition precedent that, on or before the date of its contribution, MB shall have raised total equity funding of at least $5,500,000. For purposes of Capital Account treatment hereunder, such Capital Contributions shall be treated as having occurred after the Approval Date.

(d) The Capital Contributions of each Member shall be conditioned upon the concurrent Capital Contribution required of the other Member. Except as specified in Sections 9.1(b) and (c), no Member shall be obligated to make any additional Capital Contributions to the Company without the unanimous approval of the Members. The Members shall be permitted, but not required, to make loans to the Company. Loans shall not be treated as a Capital Contribution unless such is approved by all the Members. Loans shall bear interest from the date advanced until repaid at the fluctuating Prime Rate.

(e) After all of the Capital Contributions required under subsections (a) – (d) of this Section 9.1 have been made (with or without dilution under Section 9.1(f)), at any time between the date of the TRA Order and the date of the Final TRA Order, the Board of Governors can require that the Members make additional Capital Contributions in proportion to their respective Sharing Ratios, up to a total additional aggregate amount of $15,000,000. Each Member shall, within thirty (30) days of receipt of notice of the required Capital Contribution, make the required Capital Contribution to the Company.

(f) In the event that one Member (the "Non-Contributing Member") fails to contribute all of such Member's share of the additional Capital Contributions required pursuant to this Section 9.1 (the "Non-Contributing Member Shortfall") within the time

specified, and the other Member (the "Contributing Member") is willing to contribute to the capital of the Company all of such Contributing Member's share of the additional Capital Contribution required pursuant to this Section 9.1 along with the Non-Contributing Member Shortfall, the Contributing Member may contribute its required Capital Contribution along with the Non-Contributing Member Shortfall. Subject to Section 9.1(g), the Contributing Member's Capital Contribution shall cause the Sharing Ratio and the Extraordinary Net Profits Ratio of the Contributing Member to be increased, and the Sharing Ratio and the Extraordinary Net Profits Ratio of the Non-Contributing Member to be correspondingly decreased (as of the date of such Capital Contribution), to equal the percentage derived from the ratio (i) the numerator of which shall be the sum of the aggregate amount of such Contributing Member's Capital Contributions as of the date of such Capital Contribution (including the amount of the Contributing Member's contribution under this Section 9.1(f)), and (ii) the denominator of which shall be the aggregate amount of the Capital Contributions for all Members as of the date of such Capital Contribution (including the amount of the Contributing Member's contribution under this Section 9.1(f)).

(g) At any time prior to ninety (90) days after the date of the Final TRA Order, a Member (the "Reconciling Member") whose Capital Contributions to the Company have been less than the amount of (i) the Reconciling Member's original Sharing Ratio under this Operating Agreement multiplied by (ii) the aggregate amount of all Capital Contributions made as of such date (the "Aggregate Shortfall"), shall have the option but not the requirement to reimburse the other Member for the Aggregate Shortfall, plus an amount of interest calculated at 6% per annum from the date of each such Capital Contribution which created the Aggregate Shortfall. Upon such payment, the original Sharing Ratios and the Extraordinary Net Profits Ratios of the Members shall be restored. Any such restoration shall be made without reduction in the aggregate Capital Contributions to the Company and without regard to prior Company profits, losses and distributions.

9.2. Capital Accounts.

(a) The Company shall maintain a separate Capital Account for each Equity Owner in conformity with the requirements under Section 1.704-1(b)(2)(iv) of the Treasury Regulations. Consistent with such Treasury Regulations, each Equity Owner's Capital Account will be increased by (i) the amount of money contributed by such Equity Owner to the Company; (ii) the fair market value of property contributed by such Equity Owner to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Code); (iii) allocations to such Equity Owner of Net Profits; (iv) any items in the nature of income and gain which are specially allocated to the Equity Owner pursuant to subsections (a) through (f) of Section 10.3; and (v) allocations to such Equity Owner of income described in Section 705(a)(1)(B) of the Code. Each Equity Owner's Capital

Account will be decreased by (i) the amount of money distributed to such Equity Owner by the Company; (ii) the fair market value of property distributed to such Equity Owner by the Company (net of liabilities secured by such distributed property that such Equity Owner is considered to assume or take subject to under Section 752 of the Code); (iii) allocations to such Equity Owner of expenditures described in Section 705(a)(2)(B) of the Code; (iv) any items in the nature of deduction and loss that are specially allocated to the Equity Owner pursuant to subsections (a) through (f) of section 10.3; and (v) allocations to such Equity Owner of Net Losses.

(b) In the event of a permitted sale or exchange of a Ownership Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the transferee to the extent it relates to the transferred Ownership Interest in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(c) Upon liquidation of the Company, liquidating distributions will be made in accordance with the positive Capital Account balances of the Equity Owners, as determined after taking into account all Capital Account adjustments for the Company's Fiscal Year during which the liquidation occurs. Liquidation proceeds will be paid in accordance with Article 12.

ARTICLE 10
ALLOCATIONS AND DISTRIBUTIONS

10.1. Allocation of Operating Net Profits and Operating Net Losses. Subject to Section 10.3 below, the Operating Net Losses and Operating Net Profits for each Fiscal Year shall be allocated among the Equity Owners as follows:

(a) If the Company has Operating Net Losses, as follows:

(i) First, to MB, to the extent that MB's Capital Contributions (including for this purpose, Capital Contributions made to the Company by A&L) exceed [A] the cumulative Net Losses allocated to MB in prior Fiscal Years under this Section 10.1(a)(i) and under Section 10.2(a)(i), minus [B] the cumulative Net Profits allocated to MB in prior Fiscal Years under Sections 10.1(b)(iii) and 10.2(b)(iii);

(ii) Then, to MLGW, to the extent that MLGW's Capital Contributions exceed [A] the cumulative Net Losses allocated to MLGW in prior Fiscal Years under this Section 10.1(a)(ii) and under Section 10.2(a)(ii) below, minus [B] the cumulative Net Profits allocated to MLGW in prior Fiscal Years under Sections 10.1(b)(ii) and 10.2(b)(ii); and

(iii) Then, to MB and MLGW in accordance with their Sharing Ratios.

(b) If the Company has Operating Net Profits, as follows:

(i) First, to MB and MLGW, respectively, in accordance with their Sharing Ratios, to the extent that [A] the cumulative Net Losses allocated in prior Fiscal Years to MB and MLGW, respectively, under Sections 10.1(a)(iii) and 10.2(a)(iii), exceed [B] the cumulative Net Profits allocated in prior Fiscal Years to MB and MLGW, respectively, under this Section 10.1(b)(i) and under Section 10.2(b)(i);

(ii) Then, to MLGW, to the extent that [A] the cumulative Net Losses allocated to MLGW in prior Fiscal Years under Sections 10.1(a)(ii) and 10.2(a)(ii), exceed [B] the cumulative Net Profits allocated to MLGW in prior Fiscal Years under this Section 10.1(b)(ii) and under Section 10.2(b)(ii);

(iii) Then, to MB to the extent that [A] the cumulative Net Losses allocated to MB in prior Fiscal Years under Sections 10.1(a)(i) and 10.2(a)(i), exceed [B] the cumulative Net Profits allocated to MB in prior Fiscal Years under this Section 10.1(b)(iii) and under Section 10.2(b)(iii); and

(iv) Then, to MB and MLGW in accordance with their Sharing Ratios.

10.2. Allocation of Extraordinary Net Losses and Extraordinary Net Profits. Subject to Section 10.3 below, the Extraordinary Net Losses and Extraordinary Net Profits for each Fiscal Year shall be allocated among the Equity Owners as follows, after first taking into account any allocations under Section 10.1 for such Fiscal Year:

(a) If the Company has Extraordinary Net Losses, as follows:

(i) First, to MB to the extent that MB's Capital Contributions (including for this purpose, Capital Contributions made to the Company by A&L) exceed [A] the cumulative Net Losses allocated to MB in the current and prior Fiscal Years under Section 10.1(a)(i), and in prior Fiscal Years under this Section 10.2(a)(i), minus [B] the cumulative Net Profits allocated to MB in the current and prior Fiscal Years under Section 10.1(b)(iii), and in prior Fiscal Years under Section 10.2(b)(iii);

(ii) Then, to MLGW to the extent that MLGW's Capital Contributions exceed [A] the cumulative Net Losses allocated to MLGW in the current and prior Fiscal Years under Section 10.1(a)(ii) above, and in prior Fiscal Years under this Section 10.2(a)(ii), minus [B] the cumulative Net Profits allocated to MLGW in

the current and prior Fiscal Years under Section 10.1(b)(ii) and in prior Fiscal Years under Section 10.2(b)(ii); and

(iii) Then, to MB and MLGW in accordance with their Sharing Ratios.

(b) If the Company has Extraordinary Net Profits, as follows:

(i) First, to MB and MLGW, respectively, in accordance with their Sharing Ratios, to the extent that [A] the cumulative Net Losses allocated to MB and MLGW, respectively, in the current and prior Fiscal Years under Section 10.1(a)(iii) and in prior Fiscal Years under 10.2(a)(iii), exceed [B] the cumulative Net Profits allocated to MB and MLGW, respectively, in the current and prior Fiscal Years under 10.1(b)(i) and in prior Fiscal Years under this Section 10.2(b)(i);

(ii) Then, to MLGW to the extent that [A] the cumulative Net Losses allocated to MLGW in the current and prior Fiscal Years under Section 10.1(a)(ii) and in prior Fiscal Years under Section 10.2(a)(ii), exceed [B] the cumulative Net Profits allocated to MLGW in the current and prior Fiscal Years under Section 10.1(b)(ii) and in prior Fiscal Years under this Section 10.2(b)(ii);

(iii) Then, to MB to the extent that [A] the cumulative Net Losses allocated to MB in the current and prior Fiscal Years under Section 10.1(a)(i) and in prior Fiscal Years under Section 10.2(a)(i), exceed [B] the cumulative Net Profits allocated to MB in the current and prior Fiscal Years under Section 10.1(b)(iii) and in prior Fiscal Years under this Section 10.2(b)(iii); and

(iv) Then, to MB and MLGW in accordance with their Extraordinary Net Profits Ratios.

10.3. Special Allocations to Capital Accounts. Notwithstanding Sections 10.1 and 10.2 hereof:

(a) In the event any Equity Owner unexpectedly receives any adjustments, allocations, or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), (5), or (6) of the Treasury Regulations, which create or increase a Deficit Capital Account of such Equity Owner, then items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for such year and, if necessary, for subsequent years) shall be specially allocated to such Equity Owner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Deficit Capital Account so created as quickly as possible. It is the intent that this Section 10.3(a) be interpreted to comply with the alternate test for economic effect set forth in Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations.

(b) In the event any Equity Owner would have a Deficit Capital Account at the end of any Company taxable year which is in excess of the sum of any amount that such Equity Owner is obligated to restore to the Company under Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations and such Equity Owner's share of minimum gain as defined in Section 1.704-2(g)(1) of the Treasury Regulations (which is also treated as an obligation to restore in accordance with Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations), the Capital Account of such Equity Owner shall be specially credited with items of Company income (including gross income) and gain in the amount of such excess as quickly as possible.

(c) Notwithstanding any other provision of this Section 10.3, if there is a net decrease in the Company's minimum gain as defined in Treasury Regulation Section 1.704-2(d) during a taxable year of the Company, then, the Capital Accounts of each Equity Owner shall be allocated items of income (including gross income) and gain for such year (and if necessary for subsequent years) equal to that Equity Owner's share of the net decrease in Company minimum gain. This Section 10.3(c) is intended to comply with the minimum gain charge back requirement of Section 1.704-2 of the Treasury Regulations and shall be interpreted consistently therewith. If in any taxable year that the Company has a net decrease in the Company's minimum gain, if the minimum gain charge back requirement would cause a distortion in the economic arrangement among the Equity Owners and it is not expected that the Company will have sufficient other income to correct that distortion, the Members may in their discretion cause the Company to seek to have the Internal Revenue Service waive the minimum gain charge back requirement in accordance with Treasury Regulation Section 1.704-2(f)(4).

(d) Notwithstanding any other provision of this Section 10.3 except Section 10.3(c), if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Company Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt (determined in accordance with Regulation § 1.704-2(i)(5)) as of the beginning of the year shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt. A Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain shall be determined in accordance with Regulation § 1.704-2(i)(4); provided that a Member shall not be subject to this provision to the extent that an exception is provided by Regulation § 1.704-2(i)(4) and any Revenue Rulings issued with respect thereto. Any Member Nonrecourse Debt Minimum Gain allocated pursuant to this provision shall consist of first, gains recognized from the disposition of Company property subject to the Member Nonrecourse Debt, and, second, if necessary, a pro rata portion of the Company's other items of income or gain for that year. This Section 10.3(d) is intended to comply with the minimum gain charge back requirement in Regulation § 1.704-2(i)(4) and shall be interpreted consistently therewith.

(e) Items of Company loss, deduction and expenditures described in Section 705(a)(2)(B) which are attributable to any nonrecourse debt of the Company and are characterized as partner (Member) nonrecourse deductions under Section 1.704-2(i) of the Treasury Regulations shall be allocated to the Equity Owners' Capital Accounts in accordance with said Section 1.704-2(i) of the Treasury Regulations.

(f) Beginning in the first taxable year in which there are allocations of "nonrecourse deductions" (as described in Section 1.704-2(b) of the Treasury Regulations), such deductions shall be allocated to the Equity Owners in the same manner as Net Loss is allocated for such period.

10.4. Application of Credits and Charges. Any credit or charge to the Capital Accounts of the Equity Owners pursuant to subsections (a) through (f) of Section 10.3 shall be taken into account in computing subsequent allocations of Net Profits and Net Losses pursuant to Sections 10.1 and 10.2, so that the net amount of any items charged or credited to Capital Accounts pursuant to subsections (a) through (f) of Section 10.3 hereof shall to the extent possible, be equal to the net amount that would have been allocated to the Capital Account of each Equity Owner pursuant to the provisions of this Article 10 if the special allocations required by Sections 10.3(a) through 10.3(f) had not occurred.

10.5. Distributions.

(a) Within sixty (60) days after the end of each Fiscal Year, unless otherwise agreed by the Members, the Company shall distribute to the Equity Owners, in accordance with their Sharing Ratios, an amount equal to forty-five percent (45%) of the Net Profits allocated to the Equity Owners with respect to such Fiscal Year to the extent of cash available therefore.

(b) By mutual agreement, the Members may from time to time authorize additional distributions of cash or other property to Equity Owners, provided that no distribution shall be declared and paid unless, after the distribution is made, the assets of the Company exceed its liabilities, and the Company satisfies such other requirements as may apply under the Act. Except as provided in Article 12, all distributions made by the Company with respect to Ownership Interests (excluding distributions in redemption of all or part of an Equity Owner's Ownership Interest) shall be allocated among the Equity Owners in accordance with their Sharing Ratios.

10.6. Interest On and Return of Capital Contributions. No Member shall be entitled to interest on, or to a return of, the Member's Capital Contribution, except as otherwise specifically provided in this Operating Agreement.

10.7. Tax Matters Partner. MB shall be the Tax Matters Partner as defined in Section 6231(a)(7) of the Code for so long as MB is a Member of the Company.

10.8. Certain Allocations for Income Tax (But Not Book Capital Account) Purposes.

(a) In accordance with Section 704(c)(1)(A) of the Code and Section 1.704-1(b)(2)(i)-(iv) of the Treasury Regulations, if a Member contributes property with a initial Gross Asset Value that differs from its adjusted basis at the time of contribution, income, gain, loss and deductions with respect to the property shall, solely for federal income tax purposes (and not for Capital Account purposes), be allocated among the Equity Owners so as to take account of any variation between the adjusted basis of such property to the Company and its Gross Asset Value at the time of contribution pursuant to such method as determined by the Manager.

(b) Pursuant to Section 704(c)(1)(B) of the Code, if any contributed property is distributed by the Company other than to the contributing Equity Owner within seven years of being contributed, then, except as provided in Section 704(c)(2) of the Code, the contributing Equity Owner shall, solely for federal income tax purposes (and not for Capital Account purposes), be treated as recognizing gain or loss from the sale of such property in an amount equal to the gain or loss that would have been allocated to such Equity Owner under Section 704(c)(1)(A) of the Code if the property had been sold at its fair market value at the time of the distribution.

(c) In the case of any distribution by the Company to a Equity Owner, such Equity Owner shall, solely for federal income tax purposes (and not for Capital Account purposes), be treated as recognizing gain in an amount equal to the lesser of:

(1) the excess (if any) of (A) the fair market value of the property (other than money) received in the distribution over (B) the adjusted basis of such Equity Owner's Ownership Interest immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

(2) the Net Precontribution Gain (as defined in Section 737(b) of the Code) of the Equity Owner. The Net Precontribution Gain means the net gain (if any) which would have been recognized by the distributee Equity Owner under Section 704(c)(1)(B) of the Code if all property which (1) had been contributed to the Company within seven years of the distribution, and (2) is held by the Company immediately before the distribution, had been distributed by the Company to another Equity Owner. If any portion of the property distributed consists of property which had been contributed by the distributee Equity Owner to the Company, then such property shall not be taken into account under this Section 10.8(c)(2) and shall not be taken into account in determining the amount of the Net Precontribution Gain. If the property distributed consists of an interest in an Entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to the property contributed to such Entity after such interest had been contributed to the Company.

(d) All recapture of income tax deductions resulting from sale or disposition of Company property shall be allocated to the Equity Owners to whom the deduction that gave rise to such recapture was allocated hereunder to the extent that such Equity Owner is allocated any gain from the sale or other disposition of such property.

ARTICLE 11
TRANSFER OF MEMBERSHIP INTERESTS

11.1. Restrictions on Transfer of Ownership Interests. An Equity Owner shall not sell, assign, transfer, give away or otherwise dispose of all or any part of the Equity Owner's Ownership Interest without the prior written consent of the other Members, except as permitted in this Article 11 or in Section 3.4.

11.2. Permitted Transfers. Each Member may grant a security interest in any or all of its Financial Rights and in its right to assign its Financial Rights (the "Collateral"), but no Member may grant a security interest in its Governance Rights or its right to assign its Governance Rights. If the secured party forecloses on its security interest in the Collateral, the foreclosure shall constitute an Involuntary Transfer under Section 11.7 below. If the Company and the other Members elect not to purchase the Collateral under Section 11.7, the Involuntary Transfer shall be effected, but the Involuntary Transfer shall not result in the secured party becoming a Member.

11.3. Prohibited Transfers. Except as provided in Sections 3.4, 11.2 and 11.6 hereof, for a period of four years following the Approval Date (the "First Period"), neither Member shall directly or indirectly transfer all or part of its Ownership Interest without the prior written consent of the other Member, which consent may be withheld for any reason.

11.4. Right of First Refusal and Come Along.

(a) From and after the expiration of the First Period, subject to the provisions of Section 11.6, if a Member (the "Offering Member") proposes to sell all of its Ownership Interest in the Company ("Offered Interest") pursuant to a bona fide written offer ("Offer"), it shall give written notice (the "Purchase Notice") to the Company and the other Member (the "Offeree Member"), fully describing the offeror (the "Third Party Offeror") and the terms and conditions of the Offer. An Offer shall not be treated as being bona fide unless the full purchase price is payable in cash at the closing.

(b) The Offeree Member shall have an option to purchase all of the Offered Interest at the purchase price and upon the other terms specified in the Offer, exercisable by giving written notice thereof to the Offering Member and the Company within sixty (60) days after the date of the Purchase Notice.

(c) If the Offeree Member fails to exercise its option, the Company shall have an option to purchase all of the Offered Interest at the purchase price and upon the other terms specified in Offer, exercisable by giving written notice thereof to the Members within seventy (70) days after the date of the Purchase Notice.

(d) If either of the options granted in subsections (b) and (c) of this Section 11.4 is exercised, the closing shall be held at the principal executive office of the Company within thirty (30) days after the applicable option is exercised. At such closing, the Offering Member shall deliver to the Offeree Member or the Company, whichever is applicable, a bill of sale and assignment effecting the transfer of the Offered Interest, together with such other documents which the Offeree Member or the Company reasonably requests to effect the purposes of this Operating Agreement.

(e) If neither the Offeree Member nor the Company elects to purchase all of the Offered Interest, the Offering Member may sell all of the Offered Interest to the Third Party Offeror, except that if the Purchase Notice was given within three (3) years after the expiration of the First Period (the "Second Period"), and if, within seventy-five (75) days after the date of the Purchase Notice, the Offeree Member notifies the Offering Member of its desire to participate in the sale to the Third Party Offeror, the Offering Member shall not sell the Offered Interest to the Third Party Offeror, unless the Third Party Offeror concurrently purchases all of the Offeree Member's Ownership Interest. The purchase price for the Offeree Member's Ownership Interest shall be payable in upon the same terms and conditions set forth in the Offer, and shall be an amount which is proportionate to the amount otherwise payable with respect to the Offered Interest. The sale by the Offering Member (or by the Offering Member and the Offeree Member, if the Offeree Member exercises its right to participate in the sale) to the Third Party Offeror shall be closed within one hundred and eighty (180) days of the date of the Purchase Notice, or else the Offered Interest shall once again be subject to the provisions of this Section 11.4.

(f) The Third Party Offeror shall be bound by all of the terms and conditions of this Operating Agreement with respect to the Ownership Interests it purchases under this Section 11.4.

11.5. Change in Control of MB. MB shall not permit a Change in Control of MB, without the prior written consent of MLGW, which consent will not be unreasonably withheld, conditioned or delayed. For purposes of this Section 11.5, the term "Change in Control of MB" means that (a) owners of MB on the date hereof for any reason (other than death or a transaction under Section 11.6) cease to own at least 51% of the voting rights of MB, either directly, or indirectly through one or more Entities, and (b) as a result of or related to such 51% change, each of the MB Governors who have been appointed by MB are (or have been) replaced.

11.6. MB Put Options. The parties shall have the following put option and other rights and obligations:

(a) Regulatory Put. MB shall have the option to sell and MLGW shall have the obligation to purchase MB's Ownership Interest at the applicable purchase price ("Purchase Price") set forth herein (the "Regulatory Put Option") upon the occurrence of any of the events described in Sections 11.6(a)(i) through (iv) below (each, a "Regulatory Put Option Event"):

(i) at any time after the TRA denies in any material respect the Amended Application and Joint Petition, or the City of Memphis denies or rejects approval of a franchise to the Company on terms and conditions acceptable to MB, unless the denial of the requested relief or franchise results primarily from a material breach of a contractual obligation of MB to MLGW after the date hereof;

(ii) at any time on or after June 30, 2001, if a TRA Order has not been obtained approving in all material respects the Amended Application and Joint Petition, unless the denial of the requested relief results primarily from a material breach of a contractual obligation of MB to MLGW after the date hereof;

(iii) the City of Memphis shall fail to grant a franchise to the Company on terms and conditions acceptable to MB at any time on or after the earlier of (A) June 30, 2001, or (B) sixty (60) days after the TRA Order; or

(iv) MB determines that any of the regulatory proceedings related to obtaining a Final TRA Order, approval of the City of Memphis or any other regulatory approval becomes unduly burdensome or untenable.

The Purchase Price payable under Sections 11.6(a) (i), (ii), (iii) or (iv) above shall be an amount equal to the sum of (A) $2,789,359.60, (B) the Prior Costs, the Subsequent Costs, the Interim Contributions or other amounts, however designated, paid by MB to the Company, (C) the lesser of (x) 50% of the costs and expenses incurred by MB in connection with the acquisition of A&L's Ownership Interest in the Company (the "Acquisition") and any equity raising and (y) $50,000, and (D) a rate of return calculated at MLGW's cost of funds (6%) on the amounts described in (A) and (B) paid by MB, calculated from the date(s) paid by MB to the closing of the sale of the Ownership Interest pursuant to the exercise of the Regulatory Put Option.

(b) Fair Market Value Put. MB shall have the option to sell and MLGW shall have the option (and, if applicable, the obligation as provided in Section 11.6(e) under the circumstances set forth therein) to purchase MB's Ownership Interest at the applicable Purchase Price set forth herein (the "FMV Put Option" and, together with the Regulatory Put Option, the "Put Options") upon the occurrence of any of the events described in

Sections 11.6(b)(i) and (ii) below (each, a "FMV Put Option Event" and, together with any Regulatory Put Option Event, a "Put Option Event"):

(i) if more than 10% of MLGW (measured as a whole) is sold, assigned or transferred to any person or entity other than an Affiliate, or MLGW sells, assigns or transfers all or any part of its Ownership Interest in the Company to any person or entity other than an Affiliate; or

(ii) at any time after thirty (30) months from the date of the TRA Order.

The Purchase Price with respect to a FMV Put Option under Sections 11.6(b)(i) or (ii) shall be 90% of the fair market value of the Ownership Interest of MB, determined as provided in Section 11.8 below.

(c) The applicable Purchase Price set forth in this Section 11.6 shall be payable on the Put Option Closing Date in cash or by wire transfer of immediately available funds in lawful money of the United States of America to the account designated by MB. If MB has the right to exercise its Put Option under more than one of the Put Option Events, MB shall be deemed to have exercised (or to have changed its election to) whichever Put Option Event will result in a higher Purchase Price.

(d) The exercise of a Put Option by MB shall be deemed to be, and shall constitute without any further action on the part of MB, an irrevocable offer by MB to sell, and (x) as to a Regulatory Put Option, an obligation, or (y) as to a FMV Put Option, an option (or, if applicable under the circumstances described in Section 11.6(e) below, an obligation), of MLGW to purchase, the Ownership Interest of MB in the Company on the terms described herein. If pursuant to such option, MLGW does not give MB notice of its election to purchase the Ownership Interest of MB in the Company within thirty (30) days after the determination of fair market value in the case of the exercise of the FMV Put Option by MB, MLGW shall be deemed to have elected not to purchase MB's Ownership Interest in the Company. The closing (the "Applicable Closing Date") of the sale of the Ownership Interest of MB pursuant to the exercise of the applicable Put Option (the "Put Option Closing"), shall occur no later than ninety (90) days after the exercise of the Regulatory Put Option by MB, and, in the case of a FMV Put Option, no later than the later of (i) ninety (90) days after the determination of fair market value as provided in Section 11.8, and (ii) one hundred twenty (120) days after the exercise of a FMV Put Option by MB. At the Put Option Closing, MB shall assign, transfer and convey its entire Ownership Interest in the Company to MLGW free and clear of all liens, claims, debts or other encumbrances. The closing of any transfer of the Ownership Interest pursuant to this Operating Agreement shall occur at the principal office of the Company. At such closing, MB shall do all other things and execute and deliver all such

documents as may be necessary or reasonably requested by MLGW in order to consummate the transfer of such Ownership Interest.

(e) If MLGW fails for any reason to purchase MB's Ownership Interest pursuant to the exercise of the Put Option by MB on or before the Applicable Closing Date, or, if applicable, MLGW elects not to purchase MB's Ownership Interest pursuant to the exercise of the FMV Put Option by MB, then MLGW and MB shall, as soon as practicable, engage an investment banking firm or another nationally recognized firm with substantial experience in the marketing and sale of telecommunications companies, and use their best efforts to sell (including obtaining all applicable regulatory approvals) the Company (or with the mutual agreement of the parties their respective Ownership Interests in the Company) to one or more third parties (the "Memphis Networx Sale"). In the event of a Memphis Networx Sale, the amounts payable to the Members shall be determined in accordance with this Operating Agreement and not based on the Purchase Price of the Ownership Interest pursuant to the exercise of the Put Option. If MLGW fails or refuses to consummate the Memphis Networx Sale, or fails to cooperate and act in good faith, in the sale and negotiation of the Memphis Networx Sale, to a bona fide purchaser on terms reasonably acceptable to MB, MB shall have the right to sell the Ownership Interest to MLGW, and MLGW shall be deemed to have accepted and shall be obligated to purchase the Ownership Interest within thirty (30) days thereafter, and in such case the Purchase Price shall be at 100% of the fair market value redetermined, as provided in Section 11.8, as of a date not less than sixty (60) days prior to the closing. Notwithstanding the foregoing, if the purchase price offered in connection with the Memphis Networx Sale is 85% or less than the fair market value, as determined in Section 11.8 (the "Offered Price"), MLGW shall have the option ("MLGW Option"), for a period of thirty (30) days after the receipt of such offer, to purchase, and, if exercised, MB shall sell the Ownership Interest to MLGW within thirty (30) days thereafter at the amount which would be payable to MB, determined in accordance with this Operating Agreement, if the Company were sold in a Memphis Networx Sale at the Offered Price. In the event MLGW fails to exercise the MLGW Option within the time period set forth above, MB shall have the right and MLGW shall be deemed to have agreed to, and shall enter into and consummate, the Memphis Networx Sale at a price not less than the Offered Price.

11.7. Involuntary Transfers.

(a) Upon the occurrence of an Involuntary Transfer with respect to a Member (the "Affected Member"), the Company or the other Member shall have an option to purchase all (but not less than all) of the Ownership Interest of the Affected Member with respect to which the Involuntary Transfer has occurred (the "Affected Interest"). An "Involuntary Transfer" means any purported involuntary transfer, sale or other disposition of all or any part of an Ownership Interest in the Company, whether by operation of law, pursuant to court order, execution of a judgment or other legal process or otherwise, and

including a purported transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors.

(b) Upon the occurrence of an Involuntary Transfer, the Affected Member shall promptly notify the Company and the other Members thereof, stating when and why the Involuntary Transfer occurred, the percentage of the Affected Member's Ownership Interest which is involved, and the name, address and capacity of the transferee, if a purported transfer has occurred. If no such notice is given, the Company or any other Member may institute purchase proceedings under this Section 11.7 by giving written notice thereof to the Affected Member.

(c) The Company shall have the first option, exercisable by giving notice thereof to the Members within thirty (30) days after the date of the notice of Involuntary Transfer, to purchase all or any part of such Affected Interest at the price and terms provided below, and the other Member shall then have a second option, exercisable by giving notice thereof to the Company and the Affected Member within sixty (60) days after the date of the notice of Involuntary Transfer, to purchase all or any part of the Affected Interest which the Company elects not to purchase, upon the same terms and conditions as exist in favor of the Company. If the Company and the other Member do not together purchase all of the Affected Interest, the options granted in this Section 11.7 shall be inapplicable, and the Involuntary Transfer may be effected without regard to this Section 11.7.

(d) The purchase price for an Affected Interest shall be its fair market value, as determined in accordance with Section 11.8 below, as of the end of the calendar quarter immediately preceding the earlier of the date of the Affected Member's notice of Involuntary Transfer, if any, or the date the Company or any Member notifies the Affected Member that purchase proceedings have been instituted under this Section 11.7. The purchase price shall be payable entirely in cash at the closing.

(e) The closing of any sale under this Section 11.7 shall be held at the principal executive office of the Company within fifteen (15) days after the determination of the fair market value of the Affected Interest pursuant to Section to 11.8. At the closing, the Affected Member shall deliver to the Company and/or the purchasing Member a bill of sale and assignment effecting the transfer of the Ownership Interest, together with such other documents which the Company and/or purchasing Member reasonably requests to effect the purposes of this Operating Agreement.

(f) Upon the occurrence of an Involuntary Transfer with respect to an Affected Member, the remaining Member may continue the existence of the Company and its business.

11.8. Fair Market Value.

(a) For purposes of this Operating Agreement, the "fair market value" of an Ownership Interest means the fair market value of the Ownership Interest determined by valuing the Company as a whole and as a going concern, without any discounts for liquidity, minority interest or similar discounts, as of the end of the fiscal quarter of the Company immediately preceding the exercise of the applicable options, as mutually agreed upon in writing by MLGW and MB within fifteen (15) days after the exercise of the applicable option. If the parties do not agree upon the fair market value of the Ownership Interest within such fifteen (15) day period, such value shall be based upon the fair market value determined by a board of up to three (3) appraisers, one of whom shall be designated by MLGW, one by MB, and the two so appointed shall, if necessary, select a third. Each member of the board of appraisers shall (i) be an independent valuation/appraisal specialist or investment banker specializing in the field of making appraisals of equity interests in telecommunications businesses, (ii) have not less than ten (10) years' experience in such field, and (iii) be recognized as ethical and reputable within the field (each, a "Qualified Appraiser"). MLGW and MB shall be solely responsible for and shall pay all of the fees and expenses of their respective Qualified Appraisers appointed by them pursuant to this Section 11.8(a), and each shall pay one-half (½) of the fees and expenses of the third Qualified Appraiser, if any, appointed pursuant to this Section 11.8(a). MLGW and MB shall make their appointments within five (5) days after the expiration of the foregoing fifteen (15) day period. The two Qualified Appraisers selected by MLGW and MB shall submit to MLGW and MB, within thirty (30) days after their appointments to the board of appraisers, their written determinations of the fair market value of the Ownership Interest, and if the difference between the two (2) determinations is less than ten percent (10%), the mean of the two determinations shall be the fair market value of the Ownership Interest. Otherwise, the Qualified Appraisers shall appoint a third Qualified Appraiser to the board of appraisers within five (5) days after the expiration of the thirty (30) day period described in the immediately preceding sentence, who shall submit to MLGW and MB, within fifteen (15) days after its appointment, its written determination of the fair market value of the Ownership Interest. In such event, the fair market value shall be the mean of the two (2) closest determinations of fair market value by the three (3) Qualified Appraisers, but in no event shall be higher than the highest determination of fair market value by the initial two (2) Qualified Appraisers or lower than the lowest determination of fair market value by the initial two (2) Qualified Appraisers.

(b) Any determination of fair market value under this Section 11.8 shall be final and conclusive. If either party shall fail to select a Qualified Appraiser as aforesaid, the fair market value shall be determined by the Qualified Appraiser selected by the other party. If the two (2) Qualified Appraisers selected as described above fail to agree upon the selection of a third (3rd) Qualified Appraiser as aforesaid, then within five (5) days after the expiration of the time period for appointing the third (3rd) Qualified Appraiser, either of the parties

upon written notice to the other party may seek arbitration in Memphis, Tennessee to select the third (3rd) Qualified Appraiser, before an arbitrator appointed by the American Arbitration Association and pursuant to the Commercial Rules of the American Arbitration Association (the "Rules") in effect at the time any arbitration proceeding is commenced, which Rules are hereby incorporated by reference hereto and made a part of this Agreement.

ARTICLE 12
DISSOLUTION AND TERMINATION

12.1. Dissolution Events. The Company shall be dissolved only upon the occurrence of any of the following events:

(a) Any event specified in the Articles;

(b) By action of the Members pursuant to § 48-245-202 of the Act;

(c) By order of a court pursuant to §§ 48-245-901 or 48-245-902 of the Act;

(d) By action of the Secretary of State pursuant to § 48-245-302 of the Act; or

(e) A merger in which the Company is not the surviving organization.

The Company is not dissolved and is not required to be wound up by reason of any event that terminates the continued membership of a Member if there is at least one (1) remaining Member.

12.2. Notice of Dissolution. If the Members agree to dissolve the Company pursuant to § 48-245-202 of the Act, or if the Company is dissolved upon the occurrence of an event specified in the Articles, the Company shall file with the Tennessee Secretary of State a notice of dissolution. The Company shall cease to carry on its business, except to the extent necessary (or appropriate) for the winding up of the business of the Company. The Members shall retain the right to revoke the dissolution in accordance with § 48-245-601 of the Act and the right to remove or appoint Governors and managers. The Company's existence shall continue until the dissolution is revoked or articles of termination are filed with the Tennessee Secretary of State.

12.3. Procedure in Winding Up. If the business of the Company is to be wound up and terminated other than by merging the Company into a surviving business entity, the following procedures shall be followed:

(a) When a notice of dissolution has been filed with the Tennessee Secretary of State, the Board, or the managers acting under the direction of the Board, shall proceed as soon as possible to collect or make provision for the collection of all known debts due or owing to the Company, including unperformed contribution agreements, and except as

provided in § 48-245-502 of the Act (relating to known and unknown claims), pay or make provision for the payment of all known debts, obligations, and liabilities of the Company according to their priorities under § 48-245-1101 of the Act.

(b) When a notice of dissolution has been filed with the Tennessee Secretary of State, the Board may sell, lease, transfer, or otherwise dispose of all or substantially all of the property and assets of the Company without a vote of the Members. Any Net Profits or Net Losses from such sales shall be allocated to the Equity Owners' Capital Accounts in accordance with Article 10 hereof.

(c) All tangible or intangible property, including money, remaining after the discharge of the debts, obligations, and liabilities of the Company shall be distributed to the Equity Owners in accordance with the Capital Account balances of the Equity Owners. The assets may be distributed in cash or in kind as determined by the Board. Any assets distributed in kind shall be deemed to have been sold as of the date of dissolution for their fair market value, and the Capital Accounts of the Equity Owners shall be adjusted pursuant to the provisions of Article 10 of this Operating Agreement to reflect the deemed sale. Distributions to the Equity Owners in respect of their Capital Accounts shall be made in accordance with the time requirements set forth in Section 1.704-1(b)(2)(ii)(b)(2) of the Treasury Regulations.

(d) If any Equity Owner has a Deficit Capital Account at the time of a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which the liquidation occurs), such Equity Owner shall not be obligated to make any Capital Contribution, and the negative balance in the Member's Capital Account shall not be considered a debt owed by such Equity Owner to the Company or to any other Person for any purpose whatsoever.

12.4. Articles of Termination. The Company shall file its Articles of Termination with the Secretary of State upon its dissolution and the completion of winding up of its business.

12.5. Return of Contribution Nonrecourse to Other Equity Owners. Upon dissolution, except as provided by law or as expressly provided in this Operating Agreement, each Equity Owner shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company's assets remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return the cash contribution of one or more Equity Owners, such Equity Owners shall have no recourse against any other Equity Owner.

12.6. Withdrawal of a Member. Neither MB nor MLGW shall withdraw from the Company without the other's approval, subject to the right of each Member to sell or otherwise dispose of its Ownership Interest in accordance with Article 11.

ARTICLE 13
INDEMNIFICATION

13.1. Definitions. As used in this Article, unless the context otherwise requires:

(a) "Expenses" include counsel fees.

(b) "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable Expenses incurred with respect to a Proceeding.

(c) "Official Capacity" means the position of Governor and the elective or appointive office or position held by a manager, member of a committee of the Board, or the employment or agency relationship undertaken by an employee or agent on behalf of the Company. "Official Capacity" does not include service for any other foreign or domestic corporation, limited liability company, partnership, joint venture, trust, employee benefit plan, or other enterprises.

(d) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a Proceeding.

(e) "Proceeding" means any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal.

(f) "Responsible Person" means an individual who is or was a Governor of the Company, or an individual who, while a Governor of the Company, is or was serving at the Company's request as a governor, manager, director, officer, partner, trustee, employee, or agent of another foreign or domestic limited liability company, corporation, partnership, joint venture, employee benefit plan or other enterprise. A Governor is considered to be serving an employee benefit plan at the Company's request if the Governor's duties to the Company also impose duties on, or otherwise involve services by the Governor to the plan or to participants in or beneficiaries of the plan. "Responsible Person" includes, unless the context requires otherwise, the estate or personal representative of a Responsible Person.

(g) "Special Legal Counsel" means counsel who has not represented the Company or a related limited liability company, or a Governor, manager, member of a committee of the Board, agent or employee, whose indemnification is in issue.

13.2. Authority to Indemnify. The Company shall indemnify an individual made a Party to a Proceeding because such individual is or was a Responsible Person against Liability incurred in the Proceeding if the individual acted in good faith and reasonably believed, in the case of conduct in such individual's Official Capacity with the Company, that such individual's conduct was in the

Company's best interest, and in all other cases, that such individual's conduct was at least not opposed to the Company's best interests, and in the case of any criminal Proceeding, had no reasonable cause to believe such individual's conduct was unlawful.

(a) A Responsible Person's conduct with respect to an employee benefit plan for a purpose such person reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirements of this Section 13.2.

(b) The termination of a Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Responsible Person did not meet the standard of conduct described in this Section 13.2.

(c) Except as provided in Section 13.5 below, the Company may not indemnify a Responsible Person in connection with a Proceeding by or in the right of the Company in which the Responsible Person was adjudged liable to the Company, or in connection with any other Proceeding charging improper personal benefit to such Responsible Person, whether or not involving action in such person's Official Capacity, in which such person was adjudged liable on the basis that personal benefit was improperly received by such person.

13.3. Mandatory Indemnification. The Company shall indemnify a Responsible Person who was wholly successful, on the merits or otherwise, in the defense of any Proceeding to which the person was a Party because the person is or was a Responsible Person of the Company against reasonable Expenses incurred by the person in connection with the Proceeding.

13.4. Advances for Expenses. The Company shall pay for or reimburse the reasonable Expenses incurred by a Responsible Person who is a Party to a Proceeding in advance of final disposition of the Proceeding if (i) the Responsible person furnishes the Company a written affirmation of good faith belief that the Person has met the standard of conduct described in Section 13.2; (ii) the Responsible Person furnishes the Company a written undertaking, executed personally or on such person's behalf, to repay the advance if it is ultimately determined that the Person is not entitled to indemnification; and (iii) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article. The undertaking required by this section must be an unlimited general obligation of the Responsible Person but need not be secured and may be accepted without reference to financial ability to make repayment. Determinations and authorizations of payments under this section shall be made in the manner specified in Section 13.6.

13.5. Court-Ordered Indemnification. A Responsible Person of the Company who is a Party to a Proceeding may apply for indemnification to the court conducting the Proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice the court considers necessary, may order indemnification if it determines:

(a) The Responsible Person is entitled to mandatory indemnification under Section 13.3, in which case the court shall also order the Company to pay the Responsible Person's reasonable Expenses incurred to obtain court-ordered indemnification; or

(b) The Responsible Person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the person met the standard of conduct set forth in Section 13.2 or was adjudged liable as described in Section 13.2(c), but if the person was adjudged so liable the person's indemnification is limited to reasonable Expenses incurred.

13.6. Determination and Authorization of Indemnification. Except as provided in Section 13.5, the Company may not indemnify a Responsible Person under Section 13.2 unless authorized in the specific case after a determination has been made that indemnification of the Responsible Person is permissible in the circumstances because the person has met the standard of conduct set forth in Section 13.2. The determination shall be made:

(a) By the Board by majority vote of a quorum consisting of Governors not at the time Parties to the Proceeding;

(b) If a quorum cannot be obtained under Section 13.6(a), by majority vote of a committee duly designated by the Board (in which designation Governors who are parties may participate), consisting solely of two (2) or more Governors not at the time parties to the Proceeding;

(c) By independent Special Legal Counsel selected by the Board or by a committee in the manner prescribed in Section 13.6(a) or (b), or if a quorum of the Board cannot be obtained under Section 13.6(a) and a committee cannot be designated under Section 13.6(b), selected by majority vote of the full Board (in which selection Governors who are parties may participate); or

(d) By the members of the Company, but ownership interests owned by or voted under the control of members who are at the time parties to the Proceeding may not be voted on the determination.

Authorization of indemnification and evaluation as to reasonableness of Expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by Special Legal Counsel, authorization of indemnification and evaluation as to reasonableness of Expenses shall be made by those entitled under Section 13.6(c) to select counsel.

13.7. Indemnification of Managers, Employees and Agents.

(a) A manager of the Company who is not a Responsible Person is entitled to mandatory indemnification under Section 13.3, and is entitled to apply for court-ordered indemnification under Section 13.5, in each case to the same extent as a Responsible Person.

(b) The Company may indemnify and advance Expenses to a manager, employee, independent contractor or agent of the Company who is not a Responsible Person to the same extent as a Responsible Person.

(c) The Company may also indemnify and advance Expenses to a manager, employee, independent contractor or agent who is not a Responsible Person to the extent, consistent with public policy, provided by general or specific action of the Board, or by contract.

13.8. Insurance. The Company shall purchase and maintain insurance on behalf of an individual who is or was a Responsible Person, manager, employee, independent contractor, or agent of the Company, or who, while a Responsible Person, manager, employee, independent contractor, or agent of the Company, is or was serving at the request of the Company as a Responsible Person, manager, partner, trustee, employee, independent contractor, or agent of another foreign or domestic limited liability company, corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against Liability asserted against or incurred by such person in that capacity or arising from such person's status as a Responsible Person, manager, officer, employee, independent contractor, or agent, whether or not the Company would have power to indemnify such person against the same Liability under Section 13.2 or 13.3.

13.9. Application of Article. The indemnification and advancement of Expenses provided by this Article shall not be deemed exclusive of any other rights to which a Responsible Person seeking indemnification or advancement of Expenses may be entitled, whether contained in the Act, the Articles, or this Operating Agreement, or when authorized by the Articles or this Operating Agreement, in a resolution of members, a resolution of Governors, or an agreement providing for such indemnification; provided, that no indemnification may be made to or on behalf of any Responsible Person if a judgment or other final adjudication adverse to the Responsible Person or officer establishes such person's Liability for any breach of the duty of loyalty to the Company or its members, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or under § 48-237-101 of the Act (relating to wrongful distributions). Nothing contained in this section shall affect any rights to indemnification to which the Company's personnel, other than Responsible Persons, may be entitled by contract or otherwise under law. This section does not limit the Company's power to pay or reimburse Expenses incurred by a Responsible Person in connection with such person's appearance as a witness in a Proceeding at a time when such person has not been made a named defendant or respondent to the Proceeding.

ARTICLE 14
MISCELLANEOUS PROVISIONS

14.1. Notices. Except as otherwise provided in this Operating Agreement, all notices, requests, demands, letters, waivers and other communications required or permitted to be given under this Operating Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed, certified mail with postage prepaid, (c) sent by next-day or overnight mail or delivery or (d) sent by facsimile and the appropriate answer back is received or receipt is otherwise confirmed.

14.2. Books of Account and Records. The manager shall keep complete records and books of account at the principal executive office of the Company, which shall be open to the reasonable inspection and examination by the Equity Owners and their duly authorized representatives during reasonable business hours.

14.3. Application of Law. This Operating Agreement shall be governed by the laws of the State of Tennessee. To the extent permitted by law, the courts of Shelby County, Tennessee shall be the exclusive forum for the litigation of any disputes under this Operating Agreement.

14.4. Amendments. This Operating Agreement may not amended without the unanimous approval of the Members.

14.5. Heirs, Successors and Assigns. This Operating Agreement shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

14.6. Creditors and Other Third Parties. None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any third parties, including, without limitation, any creditors of the Company.

14.7. Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. This Agreement shall become effective as of the date specified in the opening paragraph and shall be binding on each party upon the execution by each party of at least one counterpart hereof, and it shall not be necessary that any single counterpart bear the signatures of all parties. Execution and delivery of this Agreement by delivery of a facsimile copy bearing the facsimile signature of a party shall constitute a valid and binding execution and delivery of this Agreement by such party. Such facsimile copies shall constitute enforceable original documents.

14.8. Limitation of Liability. The obligations of MLGW under this Operating Agreement shall be limited to the extent required by applicable state and federal law and shall be further subject to the second sentence of Section 1 of the Wholesale Power Contract between MLGW and the Tennessee Valley Authority dated December 26, 1984 and to Paragraph 1 of the Schedule of Terms

and Conditions attached to the Wholesale Power Contract (and to substantially similar anti-commingling provisions in any subsequent contract or amended contract between TVA and MLGW). Without limitation of the foregoing, MB acknowledges that (i) MLGW's liability for any tortious acts or omissions or breaches of contract under this Operating Agreement shall be limited to its Ownership Interest in the Company and the other resources and assets within, or allocated to, the Telecommunications Division of the Electric Division of MLGW; (ii) neither the Electric Division (except for its Telecommunications Division), the Gas Division, nor the Water Division of MLGW assumes any financial obligation under this Operating Agreement; and (iii) neither the tax revenues nor the taxing power of the City of Memphis, Tennessee are in any way pledged or obligated under this Operating Agreement.

14.9. Entire Agreement. This Operating Agreement constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof, and all prior and concurrent agreements, understandings, representations and warranties with respect to such subject matter, whether written or oral, are and have been merged herein and superseded hereby.

THIS AMENDED AND RESTATED OPERATING AGREEMENT has been adopted by the undersigned as of the day and year first above written.

MEMPHIS LIGHT, GAS & WATER DIVISION

By: _____
Herman Morris, President
and Chief Executive Officer

MEMPHIS BROADBAND, LLC

By: Frank McGee

Its: Manager

TRANSMISSION VERIFICATION REPORT

TIME : 02/21/2006 12:51
NAME : TN REGULATORY AUTH.
FAX : 615-532-4698
TEL :

DATE,TIME	02/21 12:31
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RESULT	OK
MODE	STANDARD ECM

Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, Tennessee 37243-0505

FAX

Date: 2/21/06

Number of pages including cover sheet: 66

To:

Paul A. Robinson

Phone:

Fax phone: 901-522-8935

XC:

From:

Martha Tria

EAA to Commissioner Jones

Phone: 615-741-3668

Fax Phone: 615-532-4698

E-mail:

TRANSMISSION VERIFICATION REPORT

TIME : 02/21/2006 11:51
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FAX : 615-532-4698
TEL :

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Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, Tennessee 37243-0505

FAX

Date: 2/21/06

Number of pages including cover sheet: 66

To:

Nathan A. Bicks and
Junaid Odubeko

Phone:
Fax phone: 901-524-5024
XC:

From:

Martha Tria
EAA to Commissioner Jones

Phone: 615-741-3668
Fax Phone: 615-532-4698
E-mail:

TRANSMISSION VERIFICATION REPORT

TIME : 02/21/2006 11:22
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TEL :

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RESULT	OK
MODE	STANDARD ECM

Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, Tennessee 37243-0505

FAX

Date: 2/21/06

Number of pages including cover sheet: 66

To:

Melvin Malone and
Mark Smith

Phone:
Fax phone: 256-8197
XC:

From:

Martha Tria
EAA to Commissioner Jones

Phone: 615-741-3668
Fax Phone: 615-532-4698
E-mail: