

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 8, 2006

IN RE:

**APPLICATION FOR A TRANSFER OF ASSETS,
INCLUDING CUSTOMERS FROM ACCERIS MANAGEMENT
AND ACQUISITION LLC TO
FIRST COMMUNICATIONS, LLC**

)
) **DOCKET NO.**
) **06-00214**
)
)
)

**ORDER APPROVING TRANSFER OF ASSETS
AND CUSTOMER NOTIFICATION LETTER**

This matter came before Director Eddie Roberson, Director Pat Miller and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on November 6, 2006, to consider the *Application* filed by First Communications, LLC d/b/a, First Communications of Ohio, LLC ("First Communications") and Acceris Management and Acquisition, LLC ("Acceris") (together, the "Applicants") on August 22, 2006.

The Application

First Communications is a privately held limited liability company formed under the laws of the State of Ohio and headquartered in Akron, Ohio. First Communications is a common carrier that provides local, private line and long distance services to both business and residential customers in several states. Currently, First Communications provides telecommunications services to approximately 100,000 customers located primarily in Ohio, Michigan, Indiana, Illinois, Pennsylvania, and Florida. First Communications' services include, in addition to traditional local and long distance services, toll-free services, conference calling packages, calling cards, prepaid calling cards, Internet access and dedicated and private line services.

First's telecommunications services are provided primarily on a resale basis, using facilities and switches owned and operated by other telecommunications carriers. On October 16, 2006, in TRA Docket No. 06-00213, First Communications was granted authority to provide resold interexchange telecommunications services in the State of Tennessee.

Acceris is a direct, wholly-owned subsidiary of North Central Equity LLC ("North Central") and is headquartered in San Diego, California. Acceris is a broad-based communications company, serving residential, small and medium-sized business and large enterprise customers throughout the United States. The company provides a range of products from domestic and international long distance voice services to fully managed and integrated data services and enhanced services. Currently, Acceris is authorized to provide long distance telecommunications services in several states, including Tennessee. Acceris currently has approximately 11 enterprise business customers at 70 locations throughout the State of Tennessee. On July 15, 2005, in TRA Docket No. 05-00169, Acceris was granted authority to provide interexchange and/or local exchange telecommunications services in Tennessee.

In its *Application*, Acceris seeks authorization, pursuant to Tenn. Code Ann. § 65-4-113, to transfer certain assets of Acceris relating to its large business customer enterprise business ("the Business"), including personal property such as equipment and switches, customer contracts and working capital, including accounts receivable. The assets Acceris seeks to transfer do not include any federal or state telecommunications authorizations. After consummation of the transfer, First Communications will provide telecommunications services to Acceris customers directly, pursuant to its own telecommunications authorizations.

According to the *Application*, after consummation of the transactions, Acceris will retain its authorization to provide telecommunications services in Tennessee in order to provide service to its customers not related to the Business. The assets and customers related to the Business will be acquired by First Communications. These customers will not experience any loss or impairment of service but will continue to receive their existing services at the same rates, terms and conditions as at present. Future

changes in the rates, terms and conditions of service will be made consistent with TRA requirements. The only material change will be in the customers' service provider. Notice of the change will be provided to customers in accordance with TRA and federal rules.

The customer notification letter, as revised and filed on October 25, 2006, will be sent to the affected Acceris customers in an envelope bearing Acceris' return address and logo. Further, the notice states that customers being transferred to First Communications will be notified a minimum of thirty (30) days in advance of any changes in rates, terms and/or conditions of service within ninety (90) days of the close of the transaction.

November 6, 2006 Authority Conference

Tenn. Code Ann. § 65-4-112(a) (2004) states:

No lease of its property, rights, or franchises, by any such public utility, and no merger or consolidation of its property, rights and franchises by any such public utility with the property, rights and franchises of other such public utility of like character shall be valid until approved by the authority, even though power to take such action has been conferred on such public utility by the state of Tennessee or by any political subdivision of the state.

Regarding the transfer of a customer base, Tenn. Comp. R. & Regs. 1220-4-2-.56(2)(d) provides:

- (d) In the case of a transfer of a customer base between two or more telecommunications service providers, the Authority, upon petition by the acquiring telecommunications service provider, may deem that sufficient notice has been given and approval received from the affected customers when the following criteria are met:
 - 1. The acquiring telecommunications service provider shall provide the Authority a copy of the self-certification letter it shall file with the Federal Communications Commission ("FCC"), as required in CC Docket No. 00-257, certifying that the customer transfer is in compliance with all FCC regulations governing such transactions.
 - 2. A notification letter, pre-approved by the Authority, shall be mailed by the current provider of telecommunications service to its customers describing the customer transfer and explaining that unless the customer selects another telecommunications service provider, the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a date specified in

the notification letter. The notification letter shall be mailed by U.S. First Class Postage, with the logo or name of the current provider displayed on both the letterhead and the exterior envelope, no less than thirty (30) days prior to the actual customer transfer. For good cause shown, the Authority may waive any requirement of this part or order any requirement thereof to be fulfilled by the acquiring provider. Good cause includes, but is not limited to, evidence that the current provider is no longer providing service in Tennessee.

3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
4. The acquiring telecommunications service provider agrees to provide to the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the date of the transfer of customers. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

At the regularly scheduled Authority Conference held on November 6, 2006 the panel voted unanimously to approve the *Application* and made the following findings:

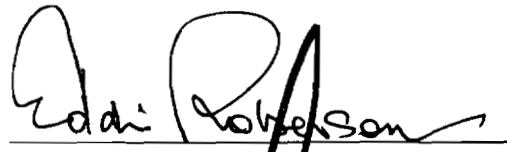
1. Tenn. Code Ann. § 65-4-112 (2004) applies to this transaction;
2. The proposed transaction will serve the public interest because it will enable First Communications to expand and strengthen its competitive position in the State of Tennessee, and the existing customers will continue to receive services at the same rates, terms and conditions without disruption; and
3. The customer notification letter as revised and filed on October 25, 2006 complies with Tenn. Comp. R. & Regs. 1220-4-2-.56(2)(d).

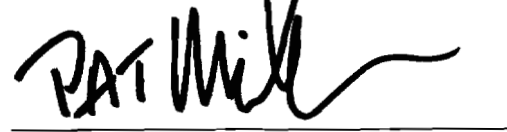
IT IS THEREFORE ORDERED THAT:

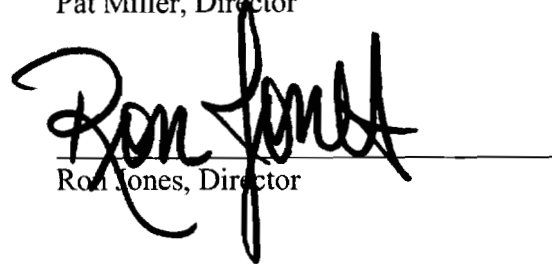
1. The transfer of assets, including customers from Acceris Management and Acquisition LLC to First Communications, LLC d/b/a First Communications of Ohio, LLC as described in the *Application* and discussed herein is approved.

2. Acceris Management and Acquisition LLC will retain its certificate of public convenience and necessity.

3. Pursuant to Tenn. Comp. R. & Regs. 1220-4-2-.56(2)(d), the customer notification letter, as revised and filed on October 25, 2006 is approved.


Eddie Roberson, Director


Pat Miller, Director


Ron Jones, Director