

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 15, 2006

IN RE:	)	
	)	
JOINT PETITION OF TALK AMERICA HOLDINGS, INC.,	)	DOCKET NO.
LDMI TELECOMMUNICATIONS, INC., NETWORK	)	06-00252
TELEPHONE CORPORATION, THE OTHER PHONE	)	
COMPANY, INC., AND CAVALIER TELEPHONE	)	
CORPORATION FOR APPROVAL OF AN INDIRECT	)	
TRANSFER OF CONTROL AND RELATED FINANCING	)	
TRANSACTIONS	)	

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ORDER APPROVING TRANSFER OF AUTHORITY  
AND FINANCING TRANSACTION

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 4, 2006 for consideration of the *Joint Petition* of Cavalier Telephone Corporation ("CTC") and Talk America Holdings, Inc. ("TA Holdings") requesting Authority approval to consummate an indirect transfer of authority transaction pursuant to Tenn. Code Ann. § 65-4-112 (2004) and to enter into certain financing transactions pursuant to Tenn. Code Ann. § 65-4-109 (2004).

**The Joint Petition**

TA Holdings, with and on behalf of its Tennessee-certificated operating subsidiaries, Talk America, Inc. ("Talk America"), LDMI Telecommunications, Inc. ("LDMI"), Network Telephone Corporation ("NTC"), and The Other Phone Company, Inc. ("OPC"), together with CTC, (collectively "Petitioners") seek approval of an indirect transfer of authority and related financing transactions. Currently, Petitioners have a Domestic and International Section 214 Application

pending approval before the Federal Communications Commission (“FCC”). In Tennessee, neither CTC nor TA Holdings are certificated.

CTC wholly-owns Cavtel Holdings, LLC (“Holdings”), a Delaware limited liability company and is the non-certificated parent of all other entities in the “Cavalier family” of companies. As such, CTC is the direct parent of Holdings, and Holdings is the direct and indirect parent of, *inter alia*, the certificated operating subsidiaries described in the *Joint Petition*. Holdings’ wholly-owned direct and indirect subsidiaries include Cavalier Telephone, LLC (“Cavalier”), Cavalier Telephone Mid-Atlantic, LLC (“CTMA”), Elantic Telecom, Inc. (“Elantic”) and Cavalier Networks, LLC (“Networks”), as well as Cavalier Acquisition Corp. (“Acquisition”), a Delaware corporation formed for the specific purpose of effecting the transaction described in the *Joint Petition*. Although neither CTC nor Holdings is certificated to provide telecommunications services in any jurisdiction, Cavalier, CTMA Networks and Elantic hold Domestic and International Section 214 authorizations from the FCC. Cavalier is a provider of IPTV, voice, Internet, and digital TV services. Cavalier currently has 215,000 residential customers, 50,000 DSL customers and 35,000 business customers.

TA Holdings is the parent of certificated local and long distance telecommunications carriers Talk America,<sup>1</sup> LDMI,<sup>2</sup> OPC,<sup>3</sup> NTC<sup>4</sup>, and TAVA<sup>5</sup>, which together serve a nationwide customer base. In Tennessee, Talk America has 888 customers, NTC has 2,893 customers, and LDMI has ten customers.

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<sup>1</sup> Talk America is authorized to provide facilities-based local and interexchange telecommunications within Tennessee pursuant to Orders issued in Docket No. 02-00991 and Docket No. 95-02758 on December 17, 2002 and September 7, 1995, respectively.

<sup>2</sup> LDMI is authorized to provide resold interexchange telecommunications services within Tennessee pursuant to an Order issued in Docket No. 95-03298.

<sup>3</sup> OPC is authorized to provide facilities-based local and resold interexchange telecommunications services within Tennessee pursuant to Orders issued in Docket Nos. 99-00694 and 98-00351 on December 17, 2002 and November 3, 1998, respectively.

<sup>4</sup> NTC is authorized to provide facilities-based local and resold interexchange telecommunications services within Tennessee pursuant to Orders issued in Docket Nos. 00-00009 and 98-00349 on June 23, 2000, and February 2, 1999, respectively.

<sup>5</sup> TAVA does not hold a certificate of public convenience and necessity in Tennessee.

The indirect transfer of authority transaction, whereby CTC and Holdings will acquire indirect control of Talk America, LDMI, NTC and OPC, will be accomplished by (1) CTC's direct subsidiary, Holdings, borrowing from Wachovia and a syndicate of financial institutions (the "Lenders") capital sufficient to effect the acquisition and related buybacks of preferred stock, common stock and options and to provide for anticipated post-transaction working capital and other operational needs of and between the subject operating companies; (2) CTC (indirectly through Holdings), acquiring all of the issued and outstanding shares of TA Holdings; and (3) TA Holdings being merged into Acquisition, a subsidiary of CTC created specifically for this transaction, with TA Holdings surviving. As a result of these steps, Holdings, and by extension, CTC, will indirectly control Talk America, LDMI, NTC and OPC.

In connection with the above-referenced indirect transfer of authority, the Petitioners further request Authority approval to pledge their assets and enter into the financing obligations. Upon closing of the transfer transaction, Talk America, LDMI, NTC and OPC will become co-guarantors in Holdings' indebtedness and will pledge their assets, including all Tennessee assets<sup>6</sup>, as security for the financing. Specifically, Holdings seeks to borrow from the Lenders up to \$510 million, consisting of (a) a senior secured term loan facility of up to approximately \$415 million with a six-year maturity date, (b) a senior secured revolving credit facility of up to \$20 million and (c) a second lien term loan facility of up to \$75 million. According to the *Joint Petition*, Holdings will use the funds to finance the acquisition of TA Holdings and its subsidiaries, the related repurchase of CTC preferred stock and employee stock options, as well as to provide working capital and other general corporate purposes. The *Joint Petition* notes that upon closing of the transaction, the former subsidiaries of TA Holdings will pledge their assets as security for the indebtedness of Holdings.

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<sup>6</sup> In a *Data Response* filed on October 17, 2006, the Petitioners stated that they will pledge all of their Tennessee assets to secure the financing upon consummation of the transfer of authority.

The *Joint Petition* maintains that although the proposed transaction will result in a change in the ultimate ownership of Talk America, LDMI, NTC and OPC, no transfer of certificates, assets or customers will result. Talk America, LDMI, NTC and OPC will continue to provide service to their existing customers in Tennessee pursuant to those authorizations under the same rates, terms and conditions. The acquisition and financial transactions will be seamless and completely transparent to the customers of Talk America, LDMI, NTC and OPC. The *Joint Petition* states further that the transactions allow for the combined companies to pool their expertise in providing service and generate cost savings. Further, the transaction will give the Petitioners greater access to capital markets and allow pursuit of company growth and expansion. The Petitioners assert that the transactions are in the public interest, as the combined company will be more competitive.

#### **The December 4, 2006 Authority Conference**

The Petitioners submitted the *Joint Petition* requesting approval for both the authorization to consummate a proposed indirect transfer of authority transaction pursuant to Tenn. Code Ann. § 65-4-112 (2004) and to participate in certain related financing transactions pursuant to Tenn. Code Ann. § 65-4-109 (2004). However, the TRA finds that Tenn. Code Ann. § 65-4-113 (2004) and Tenn. Code Ann. § 65-4-109 (2004) apply to the transactions as described in the *Joint Petition* and herein.

Tenn. Code Ann. § 65-4-113(b) (2004) states:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

Regarding the financing transaction, Tenn. Code Ann. § 65-4-109 (2004) states:

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the authority for such proposed issue. It shall be the duty of the authority after hearing to

approve any such proposed issue maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the authority.

At a regularly scheduled Authority Conference held on December 4, 2006, the panel voted unanimously to approve the transfer of authority pursuant to Tenn. Code Ann. § 65-4-113 (2004), contingent upon FCC approval. In addition, the panel made the following findings:

1. The financing transaction is subject to approval pursuant to Tenn. Code Ann. § 65-4-109 (2004);
2. The transaction is being made in accordance with the laws enforceable by the Authority; and
3. The transaction is in the public interest.

Thereafter, the panel voted unanimously to approve the financing transaction.

**IT IS THEREFORE ORDERED THAT:**

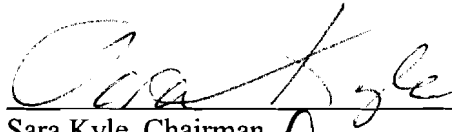
1. Cavalier Telephone Corporation and Talk America Holdings, Inc. are authorized to enter into the transfer of authority as described in the *Joint Petition* and discussed herein contingent on approval by the Federal Communications Commission.

2. Cavalier Telephone Corporation and Talk America Holdings, Inc. are authorized to enter into the financing transactions as described in the *Joint Petition* and discussed herein.

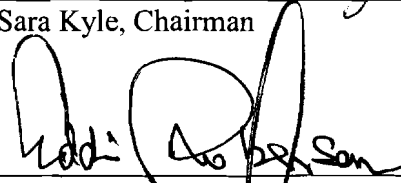
3. Because this transaction is an indirect transfer of authority, Talk America Holdings, Inc. will become a direct, wholly-owned subsidiary of Cavalier Telephone Corporation, and its Tennessee-certificated operating subsidiaries, Talk America, Inc., LDMI Telecommunications, Inc., Network Telephone Corporation, and The Other Phone Company, Inc. will retain their certificates of public convenience and necessity.

4. The Petitioners shall file with the Tennessee Regulatory Authority any documents evidencing the Federal Communications Commission's approval of their Domestic and International Section 214 Application.

5. The authorization and approval given hereby shall not be used by any party, including, but not limited to, any lending party, for the purpose of inferring an analysis or assessment of the risk involved to a purchaser has been performed. Nothing contained herein creates or is intended to create any liability on the part of the Tennessee Regulatory Authority, the State of Tennessee or any political subdivision thereof for the transactions approved herein.



Sara Kyle, Chairman



Eddie Roberson, Director



Pat Miller, Director