

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**February 15, 2007**

**IN RE:**

**JOINT APPLICATION OF MCDATA CORPORATION,  
COMPUTER NETWORK TECHNOLOGY CORPORATION  
AND BROCADE COMMUNICATIONS SYSTEMS, INC., FOR  
APPROVAL OF THE INDIRECT TRANSFER OF CONTROL  
OF COMPUTER NETWORK TECHNOLOGY  
CORPORATION**

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**DOCKET NO.  
06-00271**

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**ORDER APPROVING TRANSFER OF AUTHORITY**

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Ron Jones 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 Application* of McDATA Corporation (“McDATA”), its wholly-owned subsidiary, Computer Network Technology Corporation (“CNT”) and Brocade Communications Systems, Inc. (“Brocade”), (collectively, “Applicants”) for approval of a transfer of authority of CNT.

**The Joint Application**

CNT is a Minnesota corporation with headquarters in Minneapolis, Minnesota. CNT, a wholly-owned subsidiary of McDATA<sup>1</sup> was authorized to provide local exchange and interexchange telecommunications services in Tennessee by Authority Order in Docket No. 03-00612. CNT is authorized to provide telecommunications services in 45 other states and the

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<sup>1</sup> McDATA was granted approval to acquire CNT in Docket No. 05-00043 by Authority Order dated June 21, 2005.

District of Columbia and is also authorized to provide international and domestic interstate telecommunications services as a non-dominant carrier by the Federal Communications Commission (“FCC”). CNT currently has no customers in Tennessee.

McDATA is a Delaware corporation with principal offices in Broomfield, Colorado. McDATA designs, develops, markets, sells and supports data storage networking and application infrastructure management solutions involving hardware, firmware, software, professional services, connectivity and remote systems monitoring. McDATA is the parent company of CNT and holds no authorizations for provision of telecommunications services.

Brocade is a Delaware corporation with principal offices in San Jose, California. Brocade designs, develops, markets, sells and supports data storage networking products, software and services that enable companies to implement highly available, scalable, manageable and secure environments for data storage applications. Brocade products and services are marketed, sold and supported worldwide. Brocade also holds no authorizations for provision of telecommunications services.

The *Joint Application* requests Authority approval to consummate a transaction between McDATA and Brocade through which Brocade will acquire indirect control of CNT. The Applicants state that McDATA and Brocade entered into an Agreement and Plan of Reorganization (“Agreement”) dated August 7, 2006, whereby Brocade will acquire McDATA in an all-stock transaction. Specifically, Worldcup Merger Corporation (“Merger Sub”), a wholly-owned subsidiary of Brocade created for the purposes of this transaction, will be merged with and into McDATA, with McDATA surviving the merger. The merger will be accomplished by the cancellation of the Class A and Class B common stock of McDATA and the conversion of Merger Sub’s stock into common stock of McDATA. Under the terms of the Agreement,

McDATA stockholders will receive 0.75 shares of Brocade common stock for each share of McDATA Class A common stock and each share of McDATA Class B common stock they hold. Following the transaction, McDATA stockholders will own approximately 30% of Brocade. CNT will become a wholly-owned indirect subsidiary of Brocade but will continue to operate and provide services to CNT's customers and retain the assets used in the provision of those services. Upon completion of the transfer, CNT will change its name to "Brocade Service Corporation" and will file an application to change its name with the Authority at that time. Except for the associated name change, the proposed transaction will involve no change in CNT's operating authority, and CNT's tariffs will remain in effect.

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

Tenn. Code Ann. § 65-4-113 (2004) requires a public utility to obtain TRA approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) (2004) provides:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:


Upon application 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.


At the regularly scheduled Authority Conference held on December 4, 2006, the voting panel assigned to this docket found that the proposed transaction should be considered pursuant to Tenn. Code Ann. § 65-4-113 (2004) rather than Tenn. Code ann. § 65-4-112 (2004) because

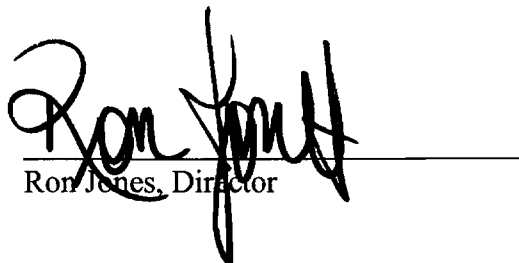
the latter section applies to transactions between two public utilities, which is not true of the parties in this docket. Relying on the legal standard set forth in Tenn. Code Ann. § 65-4-113 (2004), the panel voted unanimously to grant approval of the *Joint Application* contingent upon FCC approval.

**IT IS THEREFORE ORDERED THAT:**

1. The indirect transfer of authority of Computer Network Technology Corporation to Brocade Communications Systems, Inc. as described in the *Joint Application* and discussed herein is approved contingent upon approval by the Federal Communications Commission.
2. The Applicants shall file with the Authority any documentation from the Federal Communications Commission regarding subsequent action on the indirect transfer.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Ron Jones, Director