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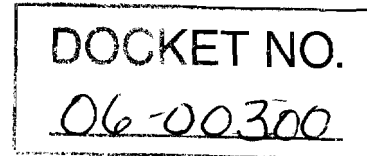
BRUSSELS, BELGIUM

AFFILIATE OFFICES  
MUMBAI, INDIA

November 28, 2006

**VIA UPS**

Ms. Sara Kyle, Chairman  
Attn: Sharla Dillon, Docketing  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243



Re: Application of Acceris Management and Acquisition LLC and First  
Communications, LLC for Approval of an Asset Transfer

Dear Ms. Kyle:

Enclosed for filing with the Tennessee Regulatory Authority, please find an original, thirteen (13) copies and a duplicate copy of the above-referenced application. Please also find a self-addressed, postage-paid envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided. Should there be any questions regarding this matter, please contact Melissa Conway at (202) 342-8552.

Respectfully submitted,

A handwritten signature in dark ink that reads "Melissa Conway". The signature is fluid and cursive.  
Melissa S. Conway

Enclosures

**Before the  
STATE OF TENNESSEE  
TENNESSEE REGULATORY AUTHORITY**

Joint Application of	)	
	)	
Acceris Management and Acquisition LLC	)	
	)	
and	)	
	)	Case No. _____
First Communications, LLC d/b/a	)	
First Communications of Ohio, LLC	)	
	)	
for (i) Approval of the Transfer of Assets,	)	
including Customers, of Acceris Management	)	
and Acquisition LLC to	)	
First Communications, LLC; and	)	
(ii) the Voluntary Surrender of the	)	
Authorization of Acceris Management and	)	
Acquisition LLC Communications LLC	)	

**APPLICATION**

First Communications, LLC d/b/a First Communications of Ohio, LLC (“First”) and Acceris Management and Acquisition LLC (“Acceris”) (together, “Applicants”), by their counsel and pursuant to TCA §65-4-113, request that the Tennessee Regulatory Authority (“TRA”) grant them the authority necessary to consummate a transaction involving the transfer of assets of Acceris to First. After consummation of the transaction, First will provide telecommunications services to all of the former customers of Acceris. Acceris will cease operations in Tennessee and surrender its authorization.

On November 6, 2006 in Docket No. 06-00214, the TRA approved the transfer of Acceris’ large business customer enterprise business (“Business”) to First. At that time, Acceris did not surrender its authorization to provide telecommunications services in Tennessee because it intended to continue to serve customers apart from the Business. First obtained authorization

in Tennessee, and in other states where necessary, to provide long distance resale service to the Business customers it intended to acquire from Acceris. Applicants are filing the instant application because the Applicants have agreed that First will also acquire certain of the remaining assets of Acceris, including the remaining long distance resale customers. Thus, the Applicants request TRA approval for the transfer of assets, including customers, from Acceris to First. First is already authorized to provide long distance resale services in Tennessee and is ready, willing and able to acquire the assets and continue serving the remaining Acceris customers in a seamless manner. Upon consummation of the transfer of customers from Acceris to First, Acceris requests TRA approval to voluntarily surrender its authorization to provide telecommunications services in Tennessee.

After consummation of the transaction, First will provide service to the Acceris customers. These customers will not experience any loss or impairment of service. They 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 closing of the transaction is contingent upon the receipt of the necessary regulatory approvals, among other things. Therefore, the Applicants request that the TRA grant all relief sought herein as expeditiously as possible so that the Applicants can close the transaction as soon as practicable, but no later than *March 15, 2007*, to enable the Applicants to meet critical business objectives. In support of this Application, the Applicants provide the following information:

## **I. APPLICANTS**

### **A. First Communications, LLC**

First Communications, LLC d/b/a First Communications of Ohio, LLC is a privately held Ohio limited liability company headquartered at 3340 West Market Street, Akron, Ohio, 44333, (330) 835-2323. First was formed on July 1, 1998 under the laws of the State of Ohio.

Currently, McKinley Communications, LLC holds a 51% ownership interest in First, First Energy Corp. holds a 32% interest in First and Boich Investment Group, Ltd. Holds a 17% interest in First. No other entity holds a 10% or greater ownership interest in First.

First is a common carrier that provides local, private line and long distance services to both business and residential customers in several states. Currently, First provides telecommunications services to approximately 100,000 customers located primarily in Ohio, Michigan, Indiana, Illinois, Pennsylvania and Florida. First's 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 the facilities and switches that are owned and operated by other telecommunications carriers.

First currently is authorized to provide intrastate long distance telecommunications services in all contiguous states except for the following states in which authority is pending: Arizona, Louisiana, North Dakota, Oklahoma, South Carolina, Vermont and Wyoming. First is authorized to provide intrastate long distance and competitive local exchange telecommunications services in Illinois, Indiana, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin. In Tennessee, First is authorized to provide long distance resale

services.<sup>1</sup> With years of experience in the states mentioned above, First has the financial, managerial and technical qualifications needed to provide quality telecommunications services to the customers to be acquired from Acceris. Indeed, the TRA has already examined the qualifications of First to be an authorized telecommunications provider in Tennessee. First is also authorized by the Federal Communications Commission to provide domestic interstate and international telecommunications services.

**B. Acceris Management and Acquisition LLC**

Acceris Management and Acquisition LLC, a Minnesota limited liability company also conducting business as Acceris Communications or WorldxChange, is headquartered at 9530 Padgett Street, Suite 101, San Diego, CA 92126, (858) 547-5700. Acceris is a direct, wholly owned subsidiary of North Central Equity LLC (“North Central”), a privately held Minnesota holding company established in 2004, whose executives have many years of experience in the telecommunications industry. Mr. Elam Baer, CEO of North Central, holds approximately 53% of the ownership interests in Acceris indirectly through his holdings in North Central. No other entity holds a 10% or greater ownership interest in Acceris. 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.

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<sup>1</sup> First received this authority in connection with an Asset Purchase Agreement dated July 11, 2006, between First and Acceris pursuant to which First acquired the Business from Acceris. See Docket No. 06-213.

Currently, Acceris is authorized to provide long distance telecommunications services in the contiguous 48 states, Hawaii and the District of Columbia, including Tennessee,<sup>2</sup> except in Alaska. Acceris also is authorized to provide long distance and competitive local exchange telecommunications services in California, Pennsylvania, New York, New Jersey, Florida and Massachusetts. Acceris is also authorized by the Federal Communications Commission to provide domestic and international telecommunications services. After consummation of the transaction, Acceris will surrender its telecommunications authorization in Tennessee.

## **II. DESIGNATED CONTACTS**

The designated contact for this application is:

Melissa Conway  
KELLEY, DRYE AND WARREN, LLP  
3050 K Street, N.W., Suite 400  
Washington, D.C. 20007  
Tel: (202) 342-8552  
Fax: (202) 955-8415

Copies of all correspondence, notices, inquiries and orders in relation to this Application also should be sent to the following:

Mary Cegelski  
FIRST COMMUNICATIONS, LLC  
15166 Neo Parkway  
Garfield Heights, OH 44128  
Telephone: (216) 468-1614  
Facsimile: (216) 468-1680  
E-Mail: [mcegelski@firstcomm.com](mailto:mcegelski@firstcomm.com)

Drew S. Backstrand, General Counsel  
Acceris Management and Acquisition LLC  
60 South Sixth Street, Suite 2535  
Minneapolis, Minnesota 55402  
Tel. (612) 465-0260  
Fax: (612) 455-1022

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<sup>2</sup> See Docket No. 05-00169, issued August 24, 2005.

### **III. DESCRIPTION OF ASSET TRANSFERS**

The Applicants have reached an agreement providing for the acquisition by First of certain of the remaining assets of Acceris (except for certain cash equivalent assets retained by Acceris), including the remaining long distance resale customers and any remaining personal property, but not including any federal or state telecommunications authorizations. In Tennessee, the customers being acquired are long distance resale customers only. After consummation of the transaction, Acceris will surrender its telecommunications authorization, and First will provide telecommunications services to the Acceris customers directly pursuant to its own telecommunications authorization.

The proposed transfer of customers to First will have no adverse impact on customers. The affected customers will continue to receive their existing services at the same rates, terms and conditions that they have prior to the transfer and any future changes in the rates, terms and conditions of service will be made consistent with TRA requirements. To ensure a seamless transition and avoid customer confusion or inconvenience, First will provide advance written notice to the affected customers at least thirty (30) days prior to the transfer, explaining the change in service provider in accordance with applicable Federal Communications Commission and TRA requirements for changing a customer's presubscribed carrier. A copy of the customer notice letter will be provided to the TRA upon request.

#### **IV. QUALIFICATIONS OF FIRST COMMUNICATIONS, LLC**

As the TRA has already determined, First is well-qualified managerially, technically and financially to provide telecommunications services in Tennessee. First's qualifications are on file with the TRA in connection with First's application for authority to operate as a long distance reseller in Docket No. 06-213. First's management team includes individuals with substantive experience in successfully developing and operating telecommunications business. Consequentially, the company has the adequate internal technical resources to support its Tennessee operations. First has access to the financing and capital necessary to conduct its telecommunications operations and to fulfill any obligations it may undertake with respect to the operation and maintenance of its services. First has successfully provided a range of local and long distance telecommunications services over the past several years.

#### **V. TARIFF**

First will late-file its revised interexchange tariff to be appended hereto as ***Exhibit A***. The interexchange tariff will be revised to include the same services, rates, terms and conditions as in the existing Acceris tariff for the interexchange customers being acquired by First. Thus, the customers being transferred from Acceris to First will not experience any change in their telecommunications services. The only change will be the new service provider: First Communications, LLC. Upon consummation of the customers transfers, Acceris requests authority to withdraw its existing tariff in connection with the surrender of its telecommunications authorization in Tennessee.



## **VI. PUBLIC INTEREST**

The transfer of assets to First will serve the public interest. Acceris has determined that its continuation as a telecommunications service provider is no longer consistent with its long term interests. First is a strong company that will continue to provide high quality services to the Acceris customers. First's purchase of the Acceris assets will strengthen First, enable it to expand and better ensure that it remains a viable long-term competitor in the telecommunications marketplace.

At the same time, the proposed transfer of assets does not present any anti-competitive issues. The Applicants emphasize that, following the transfer, the former Acceris customers will continue to receive services from an experienced and qualified carrier, which services will be consistent with the quality of services currently provided by Acceris. First has extensive experience in providing both local exchange and long distance telecommunications services. The Applicants anticipate that customers will experience a seamless transition of service provider. Further, these customers will be sufficiently notified of the transaction and their rights.


In addition, the exit of Acceris from the telecommunications marketplace does not present any competitive concerns. In the geographic markets in which the operations of First and Acceris overlap, the market share of First post-close in the local service market will be less than 5 percent. In the geographic markets in which the operations of First and Acceris do not overlap, First will simply step into the shoes of Acceris with respect to market share. The Applicants note that there are a number of other carriers operating in each market, including the incumbent carrier, which in each market controls a substantial market share.

In sum, grant of this Application will serve the public interest by strengthening the competitive position of First without negative impact to Acceris customers or competition in the markets in which Acceris operates.

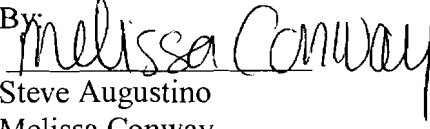
WHEREFORE, the Applicants respectfully request that the TRA (i) approve the transfer of certain assets, including customers, of Acceris Management and Acquisition LLC to First Communications, LLC; and (ii) approve the voluntary surrender of the telecommunications authorization and tariff of Acceris Management and Acquisition LLC upon consummation of the customer transfer, and whatever further relief that the TRA deems is appropriate to consummate the transaction described herein.

Respectfully submitted,

**Acceris Management and Acquisition  
LLC**

By: Drew Backstrand   
Drew S. Backstrand  
General Counsel  
Acceris Management and Acquisition  
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**First Communications, LLC**

By: Melissa Conway   
Steve Augustino  
Melissa Conway  
Katherine Barker Marshall  
Kelley, Drye & Warren LLP  
3050 K Street, NY, Suite 400  
Washington, ,D.C. 20007  
Tel. (202) 342-8519  
Fax: (202) 342-8415

Dated: November 28, 2006

# **EXHIBIT A**

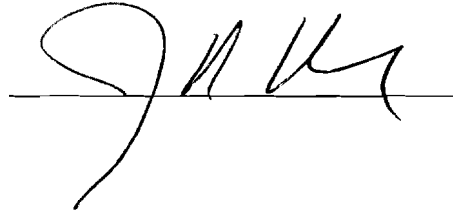
**PROPOSED TARIFF**

**TO BE LATE-FILED**

## VERIFICATION

I, Joseph R. Morris, am Chief Operating Officer of First Communications, LLC and am authorized to represent it and its affiliates, and to make this verification on their behalf. The statements in the foregoing document relating to First Communications, LLC and its affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.



Subscribed and sworn to before me this 15 day of  
November 2006.

  
Notary Public

**MARY CEGELSKI**  
**NOTARY PUBLIC • STATE OF OHIO**  
**Recorded in Cuyahoga Cty.**  
**My commission expires Oct. 18, 2011**

My Commission expires: \_\_\_\_\_

## VERIFICATION

I, Drew S. Backstrand, am General Counsel of Acceris Management and Acquisition LLC and am authorized to represent it and its affiliates, and to make this verification on their behalf. The statements in the foregoing document relating to Acceris Management and Acquisition LLC and its affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Drew S. Backstrand

Subscribed and sworn to before me this 22<sup>nd</sup> day of  
November 2006.

Elizabeth A. Husman  
Notary Public

My Commission expires: \_\_\_\_\_

