BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

April 29, 2011

IN RE:)	
)	
PETITION OF CII HOLDCO, INC., MEMPHIS)	DOCKET NO.
NETWORX, LLC, MEMPHIS LIGHT GAS &)	07-00178
WATER DIVISION AND MEMPHIS)	
BROADBAND, LLC FOR APPROVAL OF)	
CHANGE OF CONTROL OF MEMPHIS)	
NETWORX, LLC)	

ORDER LIFTING ABEYANCE AND REINSTATING DOCKET PROCEEDINGS

This matter came before the Hearing Officer upon a Motion to Lift Abeyance and Approve Petition ("Motion to Lift Abeyance") filed with the Tennessee Regulatory Authority ("Authority") by Zayo Bandwith Tennessee, Inc. ("Zayo"), formerly known as Memphis Networx, LLC, and CII Holdco, Inc. on February 2, 2011, requesting that the Order Holding Docket in Abeyance & Directing Parties to Provide Status Update ("Abeyance Order") be lifted and the Authority approve its change-of-control petition nunc pro tunc.

As set forth in the *Abeyance Order*, the parties to this docket raised certain questions concerning the interpretation and enforcement of the Franchise Agreement executed between the City of Memphis and Memphis Networx, and the resulting legal ownership of Memphis Networx. The Hearing Officer, having found that this dispute constituted a threshold issue that requires resolution by a court of competent jurisdiction before the Authority could properly

¹ Order Holding Docket in Abeyance & Directing Parties to Provide Status Update (November 4, 2008).

consider the petition for change-of-control, ordered that the proceedings be held in abeyance pending notice from the parties that the threshold issue is resolved.²

In its *Motion to Lift Abeyance*, Zayo notes that on December 30, 2010, the City of Memphis informed the Authority that the threshold issue had been settled and therefore withdrew its opposition to the change-of-control petition.³ Referencing an Order Dismissing Case with Prejudice filed in federal court attached to its motion, Zayo further states that litigation filed by the City of Memphis against Memphis Networx has been "dismissed with prejudice." In light of this development, Zayo urges the Authority to lift the imposed suspension of the proceedings. Further, Zayo asserts that it has sufficiently demonstrated its ability to operate Memphis Networx in accordance with the applicable statutory requirements and therefore requests Authority approval of its change-of-control petition.

IT IS THEREFORE ORDERED THAT:

Abeyance of the proceedings, as ordered previously by the Hearing Officer in the *Order Holding Docket in Abeyance & Directing Parties to Provide Status Update*, is hereby lifted, and these proceedings are therefore reinstated for the Authority's consideration of Zayo's petition for change-of-control during a future regularly scheduled Authority Conference.

Kelle Cashman Grams, Hearing Officer

³ Notice of the Withdrawal by City of Memphis of Its Objection to Petition of Change of Control (December 20, 2010).

² Order Holding Docket in Abeyance & Directing Parties to Provide Status Update, pp. 4-5 (November 4, 2008).

⁴ City of Memphis, Tenn. v. Zayo Bandwith Tenn., LLC f/k/a Memphis Networx, LLC, Order Dismissing Case with Prejudice, U.S. District Court, Western District of Tennessee (January 24, 2011).