

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 15, 2008

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	)	

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ORDER GRANTING PETITIONS FOR INTERVENTION  
AND ESTABLISHING PROCEDURAL SCHEDULE

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This matter came before the Hearing Officer upon the filing of the *Petition of CII Holdco, Inc., Memphis Networx, LLC, Memphis Light, Gas & Water Division and Memphis Broadband, LLC for Approval of Change of Control of Memphis Networx, LLC* ("Petition") filed on July 27, 2007, the *Petition of the Tennessee Cable Telecommunications Association for Leave to Intervene* ("TCTA's Petition") filed on September 17, 2007 and the *Petition of the City of Memphis for Leave to Intervene* ("City's Petition") filed on October 2, 2007.

**BACKGROUND**

According to the *Petition*, CII Holdco, Inc. ("CII" or "ZAYO") has entered into a contract with Memphis Light, Gas and Water Division ("MLG&W") and Memphis Broadband, LLC to purchase all of the issued and outstanding equity of Memphis Networx, LLC ("Memphis Networx"), a competitive local exchange telephone company ("CLEC") certified by the Tennessee Regulatory Authority ("Authority" or "TRA") to offer intrastate communications

services.<sup>1</sup> The *Petition* states that upon completion of the proposed transaction, Memphis Networx will continue to own and operate the certificate awarded by the Authority in Docket No. 99-00909, but CII will effectively control Memphis Networx. The *Petition* therefore requests that the Authority approve this change of control of Memphis Networx to CII pursuant to Tenn. Code Ann. Section 65-4-113.<sup>2</sup>

During a regularly scheduled Authority Conference held on October 8, 2007, Director Pat Miller, Director Sara Kyle and Director Ron Jones, the voting panel assigned to this docket, unanimously voted to appoint the General Counsel or his designee to act as Hearing Officer in this proceeding to hear preliminary matters prior to Hearing, to rule on any petition(s) for intervention, and to set a procedural schedule to completion and prepare the case for hearing before the panel.<sup>3</sup> On November 15, 2007, a status conference was noticed for November 27, 2007.

#### **NOVEMBER 27, 2007 STATUS CONFERENCE**

A status conference was held on November 27, 2007, at which the following counsel or representatives appeared:

Henry Walker, Esq.: CII Holdco (“CII” or “ZAYO”);<sup>4</sup>

Mark Smith, Esq.: Memphis Light Gas and Water (“MLG&W”);

Jamie Hollin, Esq.: Tennessee Cable Telecommunications Association (“TCTA”); and

Allen Wade, Esq.: City of Memphis (“City”).<sup>5</sup>

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<sup>1</sup> See Final Order Approving Amended and Restated Operating Agreement and Granting Certificate of Public Convenience and Necessity, TRA Docket No. 99-00909 (August 9, 2001).

<sup>2</sup> *Petition*, p. 1 (July 27, 2007).

<sup>3</sup> See Order Convening a Contested Case and Appointing a Hearing Officer, Docket No. 07-00178 (November 21, 2007).

<sup>4</sup> During introductions, Mr. Walker stated that CII had recently changed its name to ZAYO and that a name change petition is pending in another docket.

<sup>5</sup> Mr. Wade appeared by telephone.

At the status conference, no objections were raised to either the City's Petition or TCTA's Petition to intervene. Furthermore, because the legal rights and interests of either the City or TCTA may be determined in this proceeding, both petitions were timely, and these interventions will not impair the interests of justice and the orderly and prompt conduct of these proceedings, after applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) (2005)<sup>6</sup>, the Hearing Officer granted the City's Petition and TCTA's Petition to intervene.

At the status conference, the parties proposed the following procedural schedule:

<b>January 18, 2008</b>	<b>Direct testimony and filing of a proposed agreed protective order</b>
<b>February 22, 2008</b>	<b>Discovery requests (one copy to be filed with the Authority)</b>
<b>February 29, 2008</b>	<b>Objections to first round of discovery requests (one copy to be filed with the Authority)</b>
<b>March 7, 2008</b>	<b>Response to objections (one copy to be filed with the Authority)</b>
<b>March 11, 2008</b>	<b>1:30 P.M. Status Conference re: discovery disputes</b>
<b>April 1, 2008</b>	<b>Response to first round of discovery requests (one copy to be filed with the Authority)</b>
<b>April 16, 2008</b>	<b>Pre-filed testimony by intervenors</b>
<b>April 25, 2008</b>	<b>Pre-filed rebuttal testimony by CII / ZAYO</b>
<b>May 1, 2008</b>	<b>1:30 P.M. Pre-Hearing Conference (if required)</b>

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<sup>6</sup> Tenn. Code Ann. § 4-5-310(a) (2005) sets forth the following criteria for granting petitions to intervene: (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if; (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing; (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

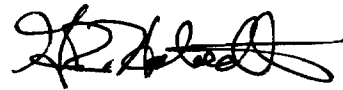
**May 5, 2008  
(or week thereof)**

**Proposed Hearing date suggested by the parties;  
date subject to confirmation by the assigned  
panel of directors**

In addition, the parties agreed that if any issues or disputes arise regarding discovery, they will contact the Hearing Officer for resolution. The Hearing Officer accepted the proposed procedural schedule. After a Hearing date is determined, a Notice of Hearing will be issued.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of the Tennessee Cable Telecommunications Association for Leave to Intervene* filed on September 17, 2007 and the *Petition of the City of Memphis for Leave to Intervene* filed on October 2, 2007 are granted. TCTA and the City of Memphis may participate in this proceeding as their interests require and receive copies of any notices, orders or other documents filed herein.
2. A procedural schedule is established as stated herein.
3. All filings are due no later than **2:00 p.m.** on the dates indicated in the procedural schedule.



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Gary R. Hotvedt,  
Hearing Officer