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Allan J. Wade
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February 22, 2008

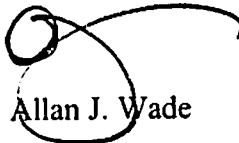
eddie.roberson@state.tn.us
Mr. Eddie Roberson
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: Memphis Networx, LLC; TRA Docket No. 07-000178

Dear Mr. Roberson:

Enclosed are copies of the discovery requests served on the Petitioners. Please forward a filed copy to us in the enclosed envelope. Thank you for your assistance.

Very truly yours,



Allan J. Wade

AJW/tcp
Enclosures

cc Sharla Dillon, Docket Manager (sharla.dillon@state.tn.us)

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Charles B. Welch, Jr., Esq.
618 Church Street, Suite 300
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Henry Walker, Esq.
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Dan Platko, CFO
Memphis Networx, LLC
7620 Appling Center Dr., Suite 101
Memphis, TN 38133

Mark Smith, Esq.
Miller & Martin, PLLC
832 Georgia Ave., Suite 1000
Chattanooga TN 37401

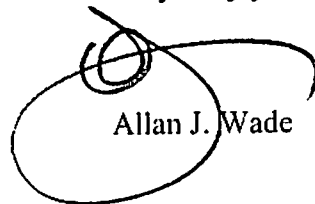
Jay H. Lindy, Esq.
Burch Porter & Johnson, PLLC
130 N. Court Ave.
Memphis, TN 38103

RE: Memphis Networx, LLC; TRA Docket No. 07-000178

Gentlemen:

Enclosed are the City's discovery requests pursuant to the Scheduling Order.

Very truly yours,



Allan J. Wade

AJW/tcp
Enclosures

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

PETITION OF CII HOLDCO, INC.,
MEMPHIS NETWORKX, LLC, MEMPHIS LIGHT
GAS & WATER DIVISION, AND MEMPHIS
BROADBAND, LLC FOR APPROVAL OF
CHANGE OF CONTROL OF MEMPHIS
NETWORKX, LLC

Docket No. 07-000178

**FIRST SET OF INTERROGATORIES, REQUESTS FOR ADMISSIONS AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO PETITIONERS,
CII HOLDCO, INC., MLGW AND MEMPHIS BROADBAND**

Comes now Intervenor, City of Memphis ("the City"), and pursuant to Tennessee Rules of Civil Procedure 26, 33, 34 and 36 submits its "First Set of Interrogatories, Requests for Admissions and Requests for Production of Documents" to Petitioners.

DEFINITIONS AND INSTRUCTIONS

Petitioners are required to serve separate answers to these requests. Each Interrogatory shall be answered separately, in writing, under oath and shall be signed by each Petitioner. Responses shall be forwarded to the City within the time allowed by the Scheduling Order entered in this case. The City also requests that documents requested herein be produced for inspection and copying in a form and manner consistent with Tenn. R. Civ. P. 34 at an agreed location within Memphis, Tennessee.

Unless specifically indicated otherwise, the following definitions and instructions apply throughout these discovery requests and are incorporated into each specific interrogatory:

1. As used herein, the terms "you," "your," and/or "Petitioner" shall refer to CII Holdco, Inc., and/or to Memphis Light Gas & Water Division ("MGLW") and Memphis

Broadband, LLC (“Broadband”), and any consultants, agents, employees, representatives, attorneys, assigns, any affiliate of CII Holdco, Inc., MLGW or Broadband that provides services to residents of Tennessee, and anyone working or acting on behalf of CII Holdco, Inc.

2. The term “City” or “City of Memphis” shall refer to the City of Memphis and any consultants, agents, employees, representatives, attorneys, assigns, and anyone working or acting on behalf of the City of Memphis.

3. The term “TRA” shall refer to the Tennessee Regulatory Authority.

4. The terms “communication” and “correspondence” refer to any meeting, conversation (face-to-face), telephonic, or otherwise), discussion, telex message, cable, correspondence, letter, message, electronic mail, voice mail, or other occurrence whereby thoughts, opinions, data, or other information are transmitted between or among two or more persons or between or among one or more persons and any photographic, mechanical, electrical or electronic device or devices for receiving, transmitting, or storing data or other information.

5. The term “telecommunications service” has the meaning given in 47 U.S.C. § 153(46). An “interstate telecommunications service” or “international telecommunications service” is a common carrier service under the jurisdiction of the Federal Communications Commission. An “intrastate telecommunications service” is a common carrier service under the jurisdiction of the TRA.

6. The term “information service” has the meaning given in 47 U.S.C. § 153(20).

7. “Charter” means Articles of Incorporation filed with the appropriate authorities in the state of its organization.

8. “Concerning” means relating to, referring to, pertaining to, describing, evidencing or constituting.

9. “Date” means the exact day, month and year or, if the exact day, month and year is not known, your closest approximation thereof.

10. The term “document” shall have the meaning described in Tenn. R. Civ. P. 34(a)(1), and shall include any information stored in any form or format whatsoever, including but not limited to hand-written notes, electronic mail, sound recordings and digital storage of any kind.

11. The term “identify” means (1) when used with reference to a natural person, give the person’s full name, last known business address and telephone number, and (if applicable) job title(s), date(s) of employment by or on behalf of Petitioner, and a brief description of the person’s responsibilities. (If the person’s business address is unknown or the person is retired, give the person’s last known residence address and telephone number); (2) when used with reference to an entity, give the entity’s full name, principal place of business, address and telephone number; (3) when used with reference to a communication not in a document, give the name and business address of each natural person participating in the communication, the location of the participants, the date (or approximate date if actual date is unknown) of the communication, and the substance of the communication; and (4) when used with reference to a communication contained in a document, give the document’s date, title, author, a list of recipients, type (e.g., letter, memorandum, note, report, etc.), name of the custodian of the document, any applicable Bates-number, and a description of the contents with sufficient specificity to be the basis of discovery. In lieu of identifying a document, the particular

document may be referred to and produced in accord with Tennessee Rule of Civil Procedure 33.03.

12. "Person" means natural persons and any business, legal or governmental entity or association, including, but not limited to, firms, partnerships, associations, corporations and divisions, departments or other units thereof, joint ventures, syndicates or governmental agencies, departments, boards or bureaus.

13. "Describe in detail" or "explain in detail" means to set out in the fullest detail possible all knowledge or information available to you on the subject.

14. The singular of each word shall be construed to include its plural and vice versa, and the root word and all derivations (*i.e.*, "ing," "ed," etc.) shall be construed to include each other.

15. The words "and" as well as "or" shall be construed both conjunctively as well as disjunctively.

16. The word "each" shall be construed to include "every" and vice versa.

17. The word "any" shall be construed to include "all" and vice versa.

18. The present tense shall be construed to include the past tense and vice versa.

19. The masculine shall be construed to include the feminine and vice versa.

20. The "knowledge," "information," "possession," "custody," and "control" of a person or entity shall be construed to include such person's or entity's agents, independent contractors, representatives, employees and attorneys.

21. The word “include” shall have its ordinary meaning and shall not indicate limitation to the examples or items mentioned.

22. “City” means the City of Memphis, Tennessee.

23. “Franchise Agreement” shall mean that certain Telecommunications Franchise Contract by and between the City of Memphis and Memphis Networx, LLC, a joint venture between Memphis Light, Gas & Water Division and Memphis Broadband, LLC made and entered into on January 3, 2001.

24. “PROW Authorization” shall mean any agreement, license or authorization to which Petitioner is a party or under which Petitioner is or has been authorized to enter, occupy, use for the purpose of constructing, reconstructing, maintaining or repairing its telecommunications network or any part thereof.

25. In general, all terms used herein shall be construed in an ordinary, common sense manner, and not in a technical, strained, overly-literal or otherwise restrictive manner; and

26. To the extent that a term is not defined or believed to be ambiguous herein but is used by Petitioner in its Petition or in any other pleadings, application or reports filed on behalf of the Petitioner in this proceeding before the TRA, Petitioner should apply the meaning given to the term by Petitioner in its own pleadings, and explain that meaning.

27. These Interrogatories, Requests for Admissions and Requests for Production are continuing in character, so as to require you to file supplemental answers if you obtain further or different information, including information provided to you by the City in the course of the discovery process.

28. If you claim privilege as a ground for failing to respond to any Interrogatory, Request for Admission or Request for Production, respond to that part of each Interrogatory or Request for Production that, in your view, does not seek allegedly privileged communications. For each Interrogatory, Request for Production, or portion thereof, for which you claim a privilege, describe the factual basis for your claim of privilege in sufficient detail to permit adjudication of the validity of that claim, including without limitation, the following:

- 29. A brief description of the type of document or communication;
- 30. The date of the document or communication;
- 31. The name, title and job description of the transmitter of the document or communication;
- 32. The name, title and job description of each person who has received or had access to the document or communications;
- 33. The name, title and job description of the person to whom the document or communication was addressed;
- 34. A brief description of the subject matter of the document or communication; and
- 35. The nature of the privilege claimed.
- 36. If you assert that a part or all of an Interrogatory, Request for Admission or Request for Production is objectionable, state your objection clearly and specifically identify which part(s) of the Interrogatory, Request for Admission, or Request for Production the responses it requires are objectionable, describe with specificity the grounds for objection or refusal to answer, and answer the remaining part of the discovery request to which you do not object.

DISCOVERY REQUESTS

REQUEST FOR ADMISSION NO. 1: Please admit that the statements contained in the Petition of Memphis Networx, LLC filed with the TRA and docketed under case number 01-00091 were truthful statements and contained a true and exact copy of the Franchise Agreement.

REQUEST FOR ADMISSION NO. 2: Please admit the Memphis City Council approved the Franchise Agreement by Ordinance No. 4744 on December 5, 2000 and that the Grantee of the Franchise Agreement was Memphis Networx, LLC, a joint venture between Memphis Light, Gas and Water Division and Memphis Broadband, LLC ("Grantee") and that the copies of said Ordinance and Agreement, attached hereto as Exhibits "1" and "2", respectively, may be admitted into evidence in these proceedings.

REQUEST FOR ADMISSION NO. 3: Please admit that the Grantee accepted the terms and conditions contained in Ordinance No. 4404, which were incorporated into the Franchise Agreement by reference and that Grantee agreed that the Franchise Agreement would be deemed to constitute a contract by and between Grantee and the City of Memphis and shall be enforceable in accordance with its terms even if Ordinance No. 4404 or any subsection, sentence, clause, phrase, term, provision, condition, covenant or portion thereof is held invalid or unenforceable by a court of competent jurisdiction.

REQUEST FOR ADMISSION NO. 4: Please admit that BellSouth Telecommunications, Inc. sought to and was granted permission to intervene in TRA docket No. 01-00091.

REQUEST FOR ADMISSION NO. 5: Please admit that Petitioner in TRA docket No. 01-00091 sought approval of its Franchise with the City notwithstanding BellSouth's

Petition to Intervene and that Grantee did not adopt BellSouth's position that Grantee's Franchise Agreement was an illegal Franchise and unenforceable.

REQUEST FOR ADMISSION NO. 6: Please admit that prior to September 16, 2007 Grantee did not object in any way to the City that the Franchise Agreement was illegal, invalid or unenforceable in accordance with its terms or file suit against the City to declare the Franchise Agreement illegal and unenforceable.

REQUEST FOR PRODUCTION NO. 1: To the extent your response to the preceding request for admission was anything but an unqualified admission, please produce any and all documents which evidence your objection in any way to the City that the Franchise Agreement was illegal, invalid or unenforceable in accord with its terms.

REQUEST FOR ADMISSION NO. 7: Please admit that Grantee, represented by counsel knowledgeable in telecommunications matters, actively sought, solicited and lobbied for the City's approval of the Franchise Agreement.

REQUEST FOR ADMISSION NO. 8: Please admit that the City performed all of its Agreements under the Franchise Agreement and that the City allowed Grantee full access to its streets and PROW to construct its telecommunications system.

REQUEST FOR ADMISSION NO. 9: Please admit that Grantee accepted and received all of the benefits it bargained for from the City in the Franchise Agreement.

REQUEST FOR ADMISSION NO. 10: Please admit that Grantee received gross revenues from the operation of its telecommunications network as defined in section 3 (§ 2.14 of Ordinance No. 4404) of the Franchise Agreement between January 3, 2001 and February 22, 2008.

INTERROGATORY NO. 1: Please list for each calendar quarter from January 3, 2001 through and including February 22, 2008 the amount of all gross revenues received by Grantee from the operation of its telecommunications network as defined in section 3 (§ 2.14 of Ordinance No. 4404) of the Franchise Agreement.

REQUEST FOR ADMISSION NO. 11: Please admit that Grantee has not paid any general compensation to the City as Grantee agreed in section 3 (§ 21 of Ordinance No. 4404) of the Franchise Agreement.

REQUEST FOR PRODUCTION NO. 2: If your response to request for admission No. 11 was anything but an unqualified admission please produce all documents which evidence your payments of general compensation to the City as required by section 3 (§ 21 of Ordinance No. 4404) of the Franchise Agreement.

REQUEST FOR ADMISSION NO. 12: Please admit that the statements, representations and agreements in the application of Memphis Networx, LLC for a certificate of public convenience and necessity to provide intrastate telecommunications services and joint petition of Memphis Light Gas and Water Division, a division of the City of Memphis, Tennessee and A&L networks – Tennessee LLC (A&L) for approval of agreement between MLGW and A&L regarding Joint Ownership of Memphis Networx, LLC filed with the TRA under Docket No. 99-00909, including all amendments and prefiled testimony of William Larry Thompson, Andrew P. Seamons and Ward Huddleston, Jr. were truthful.

REQUEST FOR ADMISSION NO. 13: Please admit that Memphis Networx, LLC made a commitment to the TRA and agreed in the proceedings docketed under TRA Docket No. 99-00909 that it would within two years from the TRA approval install telecommunication fibers in certain locations in and near St. Jude's Hospital and the housing developments known as

Jefferson Square, R.Q. Vincent and Barry Holmes and that in fiscal years in which the company had net operating profits would commit 1% of its net operating profits not to exceed \$1 million per fiscal year to the development and enhancement of telecommunications services in the low income areas of Shelby County, Tennessee.

INTERROGATORY NO. 4: Please describe Petitioner's efforts to comply with and satisfy its commitment and agreement to the TRA as described in the preceding discovery request, including each and every activity or accomplishment made by Petitioner in the furtherance of such commitments and agreements.

INTERROGATORY NO. 5: Please describe CII Holdco's intention to satisfy Memphis Networx, LLC's commitments and agreements to the TRA in the proceedings docketed under TRA Docket No. 99-00909 as described in the TRA's Final Order.

INTERROGATORY NO. 6: Please describe and list each and every payment made by you since June 7, 2007 to any person or entity to whom Memphis Networx, LLC owed or was obligated to pay any money, debt, obligation or trade payable, including tax or franchise compensation to the City.

INTERROGATORY NO. 7: To the extent you have not made all payments of any money, debt, obligation or trade payable, including tax or franchise compensation to any person that Memphis Networx, LLC owed or was obligated to pay on or after June 7, 2007, please describe your intentions to pay and satisfy any such debt, obligation or trade payable, including tax or franchise compensation to the City.

REQUEST FOR ADMISSION NO. 14: Please admit that Grantee has not filed any of the reports that Grantee agreed to file in section 3 (§ 22 of Ordinance No. 4404) of the Franchise Agreement.

REQUEST FOR PRODUCTION NO. 3: If your response to request for admission No. 14 was anything but an unqualified admission, please produce all documents which evidence your reports filed with the City as required by section 3 (§ 22 of Ordinance No. 4404) of the Franchise Agreement.

REQUEST FOR ADMISSION NO. 15: Please admit that Grantee has not obtained the prior written consent of the Memphis City Council to the transfer of Grantee's rights as Grantee agreed in section 3 (§§ 26 and 28.1(8) of Ordinance No. 4404) of the Franchise Agreement.

REQUEST FOR ADMISSION NO. 16: Please admit that Grantee and the City agreed in the Franchise Agreement that the Franchise Agreement shall be subject to revocation or termination in accordance with the terms and conditions and procedures of sections 27 and 28 of Ordinance No. 4404.

REQUEST FOR ADMISSION NO. 17: Please admit that you received a letter dated August 31, 2007 via hand delivery and certified mail no. 7006 0100 0002 5196 2340 from a representative of the City, a copy of which is attached hereto as Exhibit 3, and that the copy of said letter attached hereto may be admitted into evidence in this proceeding.

REQUEST FOR ADMISSION NO. 18: Please admit that you responded to the letter described in the preceding discovery request on September 16, 2007, a copy of which response is attached hereto as Exhibit 4, and that the copy of said letter attached hereto may be admitted into evidence in this proceeding.

INTERROGATORY NO. 8: Please describe and list the original capitalized cost, before depreciation or amortization, of your telecommunications system and/or infrastructure, as

defined in any federal law or in section 3 (§ 21 of Ordinance No. 4404) of the Franchise Agreement.

INTERROGATORY NO. 9: Do you own the telecommunications system and/or infrastructure reflected in bold on Exhibit 5 attached hereto?

INTERROGATORY NO. 10: If your answer to the preceding discovery request was no, please list each and every customer of yours who is connected to the telecommunications system described on Exhibit 5 including a listing of all revenue you have received from each such customer.

REQUEST FOR PRODUCTION NO. 4: If your answer to Interrogatory No.9 was yes, please produce any and all agreements documents or evidence to establish your ownership of the telecommunications system and/or infrastructure reflected in bold on Exhibit 5 attached hereto.

INTERROGATORY NO. 11: Please list each year from and including 2001 through 2007 any and all City of Memphis franchise fees billed and/or collected from your customers pursuant to Tennessee Code Annotated § 65-4-105(e).

REQUEST FOR PRODUCTION NO. 5: Please provide any and all reports, appraisals, assessments or calculations performed by you or by anyone on your behalf which estimates, determines or values Grantee's Telecommunications Systems.

INTERROGATORY NO. 12: Please describe your intentions to comply with and specifically perform the Franchise Agreement.

Respectfully submitted,

By: 

Allan J. Wade (4339)
Lori Hackleman Patterson (19848)
Brandy S. Parrish (21631)
ALLAN J. WADE, PLLC
One Commerce Square, Suite 2275
Memphis, Tennessee 38103
(901) 322-8005
awade@thewadefirm.com

Attorneys for the City of Memphis

CERTIFICATE OF SERVICE

I certify that I forwarded a true and correct copy of the foregoing document to the following individuals by electronic means or by U.S. mail, postage prepaid, this the 22nd day of February, 2008.

Charles B. Welch, Jr., Esq.
618 Church Street, Suite 300
Nashville, TN 37219

Mark Smith, Esq.
Miller & Martin, PLLC
832 Georgia Ave., Suite 1000
Chattanooga TN 37401

Henry Walker, Esq.
Boult Cummings Conners & Berry, PLC
P.O. Box 340025
Nashville, TN 37203

Jay H. Lindy, Esq.
Burch Porter & Johnson, PLLC
130 N. Court Ave.
Memphis, TN 38103

Dan Platko, CFO
Memphis Network, LLC
7620 Appling Center Dr., Suite 101
Memphis, TN 38133

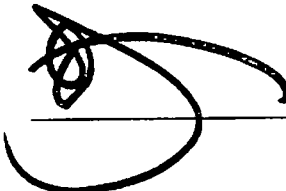


EXHIBIT "1"

ORDINANCE NO: 4744

AN ORDINANCE GRANTING A FRANCHISE
TO CONSTRUCT, MAINTAIN, AND OPERATE
A TELECOMMUNICATIONS SYSTEM WITHIN
THE CITY OF MEMPHIS UNDER THE PRO-
VISIONS OF ORDINANCE NO: 4404.

WHEREAS, in Ordinance No. 4404 the Council of the City of Memphis established terms and conditions for any company wishing to construct, maintain, and operate a telecommunications system in the public rights-of-way, using fiber optic cable, in whole or in part; and

WHEREAS, Memphis Networx, LLC, has duly filed an application for such a franchise and is financially capable to construct, maintain, and operate a telecommunications system; and

WHEREAS, it is in the best interest of the City of Memphis that a franchise to construct, maintain, and operate a telecommunications system in the public rights-of-way of the City be granted to Memphis Networx, LLC.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,

That a franchise to construct, maintain and operate a telecommunications system, as defined by City of Memphis Ordinance No. 4404, which ordinance is attached hereto and by reference made a part of this franchise, within the City of Memphis, is hereby granted to Memphis Networx, LLC, 7555 Appling Center Drive, Memphis, Tennessee, 38133-5069, (hereinafter "Grantee") in accordance with the terms and conditions of City Ordinance No. 4404, and for a term of twenty (20) years.

SECTION 2. BE IT FURTHER ORDAINED, That the Telecommunications Franchise contract by and between the City of Memphis and Grantee, which contract is attached hereto and by reference made a part of this ordinance, is hereby approved and the Mayor is hereby authorized to execute said contract.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and shall become

effective as otherwise provided by law.

BARBARA SWEARENGEN HOLT

Chairman of Council

Attest:

Danny N. Wray, Comptroller

THE FOREGOING ORDINANCE

4749 PASSED

1st Reading 1-18-00

2nd Reading 2-1-00

3rd Reading 12-5-00

Approved Barbara Swearengen Holt
Chairman of Council

Date Signed: Dec 19, 2000

APPROVED:

[Signature]
Mayor, City of Memphis (L)

Date Signed: 12/24/2000

I hereby certify that the foregoing is a true copy, and said documents were adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

[Signature]
Comptroller

EXHIBIT "2"

TELECOMMUNICATIONS FRANCHISE CONTRACT
BY AND BETWEEN
THE CITY OF MEMPHIS
AND
MEMPHIS NETWORK, LLC, a joint venture between
MEMPHIS LIGHT, GAS & WATER DIVISION
AND
MEMPHIS BROADBAND, LLC.

THIS FRANCHISE CONTRACT made and entered into this 3rd day of January, 2001, by and between the City of Memphis, a municipal corporation, (hereinafter "City"), and, Memphis Network, LLC, a joint venture between Memphis Light, Gas & Water Division and Memphis Broadband, LLC, duly authorized to do business in the State of Tennessee (hereinafter "Grantee");

WITNESSETH:

WHEREAS, Grantee has duly filed its application for a telecommunications franchise pursuant to the terms of Ordinance No.: 4404; and

WHEREAS, the grant of a telecommunications franchise to Grantee has been approved by ordinance of the City Council of Memphis in accordance with Section 15 of the Charter of the City of Memphis.

NOW, THEREFORE,

Pursuant to the authority granted by the Charter of the City of Memphis and by Ordinance No.: 4404, and for good and valuable consideration, the City hereby grants a telecommunications franchise to Grantee subject to the following terms and conditions:

1. Grantee's application for a franchise to construct and operate a telecommunications system, using fiber optic cable, in whole or in part, which application was filed with the Chief Administrative Officer of the City on January 14, 2000, and is incorporated herein by reference, is hereby accepted by the City.
2. Pursuant to the terms of said application and the provisions of Ordinance No.: 4404, Grantee is hereby awarded a franchise to construct, maintain and operate a telecommunications system, as defined in said ordinance, within the City of Memphis.
3. Grantee hereby agrees to and accepts the terms and conditions contained in Ordinance No.: 4404, which is hereby incorporated into this Contract by reference.

4. Grantee shall, prior to execution of this Franchise Contract, file with the Director of Finance a bond and certificate of insurance meeting the requirements of Ordinance No.: 4404. Grantee shall not commence construction, operation or activation of its telecommunications system until these bond and insurance requirements are satisfied.

5. Grantee warrants that it has the financial capability to construct, maintain, and operate a telecommunications system and to comply with the provisions of Ordinance No.: 4404.

6. Grantee shall provide no service regulated by the Federal Communications Commission and/or the Tennessee Regulatory Authority until it has received all necessary approvals and permits from said Commissions.

7. The City of Memphis agrees to use its best efforts to preserve the confidentiality of information designated by Grantee as proprietary, to the extent permitted by law.

8. The time within which Grantee shall be required to perform any act under the franchise ordinance shall be extended by a period of time equal to the number of days due to a force majeure. The term "force majeure" shall mean delays due to acts of God, inability to obtain governmental approvals, governmental restrictions, war, civil disturbances, fire, unavoidable casualty, construction delays due to weather, or other similar causes beyond the control of Grantee. Grantee shall not be excused from performance of any its obligations under Ordinance No.: 4404, by misfeasance or malfeasance of its directors, officers or employees or by mere economic hardship.

9. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in the manner which would indicate any such relationship with the other.

10. This Franchise Contract shall be subject to revocation or termination in accordance with the terms and conditions and procedures of Section 27 and 28 of Ordinance No.: 4404.

11. The Franchise granted by this Franchise Contract is subject to the provisions of Tennessee Code Annotated, Section 65-4-107, which requires approval by the Tennessee Regulatory Authority of any municipal franchise granted to a public utility to the full extent that said statute is applicable under the laws of Tennessee.

12. Upon the execution of this Franchise Contract, said Franchise Contract shall be deemed to constitute a contract by and between Grantee and the City of Memphis and shall be enforceable in accordance with its terms even if Ordinance No.: 4404 or any subsection, sentence, clause, phrase, term, provision, condition, covenant or portion thereof is held invalid or unenforceable by a court of competent jurisdiction.

13. This Franchise Contract and all attachments hereto represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and can be amended, supplemented, modified, or changed only as provided in Ordinance No.: 4404.

All notices, requests or other communications hereunder shall be in writing and shall be deemed duly given if hand delivered or mailed first class, postage prepaid, certified or registered mail, addressed:

FOR CITY

Chief Administrative Officer
City of Memphis, City Hall
125 N. Main Street, Room 308
Memphis, Tennessee 38103

FOR MEMPHIS NETWORKX, LLC

Memphis Networkx, LLC
7555 Appling Center Drive
Memphis, Tennessee 38133-5069
Attn: Chairman of Board, or Chief Manager

In the event that the Grantee should change name or address at any time during the term of this Contract, Grantee shall give written notice of each such change to the City of Memphis within one (1) week subsequent to each such change.

IN WITNESS WHEREOF, the Grantee and the City of Memphis have executed this Franchise Contract by signatures of their lawfully designated representatives, on the day, month and year first above written.

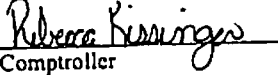
THE CITY OF MEMPHIS

By

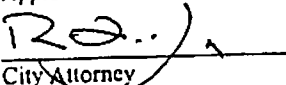

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W.W. Herenton, Mayor

Attest:


Deputy Comptroller

Approved:


City Attorney

Franchise contract with
Memphis Network, LLC
Ordinance No.: _____

MEMPHIS NETWORK, LLC
A joint venture between
Memphis Light, Gas & Water Division, and
Memphis Broadband

By: Ward Huddleston
Chairman of Board,
Chief Exec. Officer/Director

Attest:

Corporate Secretary

Approved: [Signature]
Memphis Light, Gas & Water Division,
Chief Executive Officer

Approved: Frank McGrew IV
Frank McGrew IV, Manager
Memphis Broadband

EXHIBIT "3"

LAW OFFICES
ALLAN J. WADE, PLLC
One Commerce Square, Suite 2275
Memphis, Tennessee 38103
Telephone (901) 322-8005
Facsimile (901) 322-8007

Allan J. Wade
Lori H. Patterson
Brandy S. Parrish

August 31, 2007

CERTIFIED MAIL NO. 7006 0100 0002 5196 2340
[Confirmation via Hand Delivery]

Memphis Networkx, LLC
Suite 101
7620 Appling Center Drive
Memphis, TN 38133

RE: City of Memphis Franchise Ordinance 4744

Gentlemen:

Pursuant to City Ordinance No. 4404, Memphis Networkx, LLC ("Networkx") applied for, and was granted, a twenty (20) year telecommunications franchise by Ordinance No. 4744 on December 5, 2000. Networkx agreed to and accepted the franchise by execution of a Telecommunications Contract with the City ("Contract"). Under the Contract, Networkx expressly agreed the franchise would be subject to Sections 27 and 28 of Ordinance No. 4404 and further, that the franchise would be enforceable as a contract between the parties even if any provision of Ordinance No. 4404 were declared invalid by a court of competent jurisdiction.

By adoption of Ordinance No. 4980 on December 3, 2002, the City amended Ordinance No. 4404. Networkx was given sixty (60) days after enactment to notify the City's Chief Administrative Officer in writing if it elected to have the franchise governed by Ordinance No. 4404 as amended by Ordinance No. 4980. Networkx elected, by its silence, to continue under Ordinance No. 4404.

Since it was awarded the franchise, Networkx has not:

- (a) paid any general compensation as required by Ordinance No. 4404;
- (b) paid state assessed utilities taxes;
- (c) notified the City of its transfer of a majority interest in the franchise; and
- (d) filed audited statement of revenues for the calendar years ended December 31, 2002 through 2006, both inclusive.

In sum, the breaches of Networkx under its Franchise Contract are so extensive and material that the City has no alternative but to revoke your franchise. The City gave Networkx notice to comply with the Franchise Agreement on October 7, 2002 and Networkx ignored the City's notice and demand.

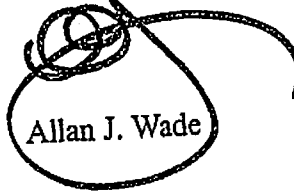
August 31, 2007

Page 2

We understand that the ownership interests of the franchisee were sold to Communications Infrastructure Investments ("CII") on August 1, 2007. Prior to the sale, Networx was informed by the City that the transfer of a majority interest of the franchise to new ownership would require City Council approval. Not only was City Council approval not obtained, it was not sought. The City hereby elects to purchase the system pursuant to Section 28.3 of Ordinance No. 4404 for the same price paid by CII, less all amounts due the City under the Franchise Contract.

Please have your counsel contact the undersigned immediately so that we can discuss the details of transfer of control of the system to the City.

Very truly yours,



Allan J. Wade

AJW/tlf

cc Mayor W.W. Herenton
Memphis City Council
Elbert Jefferson, Jr., Esq.

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Street, Apt. No., or PO Box No.	7620 Arding Center Dr. #101
City, State, ZIP+4	Memphis TN 38133

PS Form 3800, June 2002 See Reverse for Instructions

EXHIBIT "4"

Scott E. Beer
General Counsel
Memphis Networkx, LLC
7620 Appling Center Drive, Ste 101
Memphis, TN 38133

September 16, 2007

By Email and First Class Mail

Allan J. Wade, Esq.
Law Offices of Allan J. Wade, PLLC
One Commerce Square, Suite 2275
Memphis, TN 38103

Re: City of Memphis Ordinance 4744

Dear Mr. Wade:

As I promised in my letter to you earlier this week, Memphis Networkx ("Networkx") herein provides a more detailed response to your letter dated August 31, 2007. You are correct that City of Memphis Ordinance 4744 grants to Memphis Networkx a 20-year franchise to construct, maintain, and operate a telecommunications system within the City's rights-of-way pursuant to the terms of City of Memphis Ordinance 4404 (Ordinances 4744 and 4404 collectively are referred to herein as the "Ordinance"). As set forth below, however, Networkx strongly disagrees with the remaining claims contained in your letter. As a preliminary matter, although Networkx disputes the legal validity and enforceability of numerous provisions of the Ordinance, please consider this letter as Networkx' response to the City's August 31st letter and pursuant to Section 27 of Ordinance 4404.

Memphis Networkx responds first to the four alleged breaches of the Ordinance in the order you presented them in your letter as follows:

1. Claim regarding unpaid general compensation. Pursuant to Federal and State law, as well as judicial precedent in the State of Tennessee, the "general compensation" provision contained in Section 21 of City Ordinance 4404 is invalid and unenforceable. See Bellsouth Telecommunications, Inc. v. City of Memphis, Tennessee, 160 S.W.3d 901 (Tenn. Ct of App. July 12, 2004). Networkx' refusal to pay compensation which has been deemed unlawful cannot be deemed a breach of the Ordinance.
2. Claim regarding unpaid state utilities taxes. Networkx assumes the City is referring to the state assessed public utility tax (property tax). First, Section 28.1 of the Ordinance does not cite the failure to pay such taxes as a basis for revocation or termination. Accordingly, your citation to it in that context is misplaced. Second, the City has never previously put Networkx on notice of such an alleged breach or that it deemed such a breach to be a "substantial breach" under the Ordinance (which Networkx would dispute). Finally, and most importantly, Networkx has recently paid the 2005 and 2006 assessments,

which the prior owners including Memphis Light Gas & water ("MLGW"), apparently had failed to remit. Thus, Networkx is current with regard to said property tax and, to the extent such delay in paying state taxes may be deemed to be a breach under the Ordinance, it has been cured.

3. Failure to provide notice to the City of Communications Infrastructure Investments ("CII") acquisition of Networkx. Based upon the inconsistencies in your letter as well as the public statements you have made and the opinions you have rendered regarding CII's acquisition of Networkx, it appears you are not sure what obligation Networkx had to involve the City prior to completion of the transaction. Your letter first claims that Networkx has not "*notified* the City of its transfer of a majority interest in the franchise" and then later says that the "transfer of a majority interest of the franchise to new ownership would require City *approval*." (emphasis added) As you well know, Networkx disagrees that it was required to give notice to the City or to obtain the City's approval of the acquisition. With regard to notice, the City clearly had notice of CII's acquisition of Networkx. Indeed, the City, through its MLGW division, was one of the sellers in this transaction. Not only did MLGW hold a major interest in Networkx, the MLGW Board of Commissioners expressly voted to *approve* the sale of its interest to CII.

If the City truly believed that further approval was required pursuant to the Ordinance, it was obligated to put Networkx on notice of its view and attempt to stop the transaction from proceeding, neither of which, of course, was done. Indeed, your written counsel to the City recognized that the City had no such authority, pursuant to the Ordinance or otherwise: "[T]he City can no more address the propriety of the sale of Networkx by MLGW through this franchise contract than it could involve itself in Time Warner's decision to sell to Comcast, or any other private entity's sale or transfer of their telecommunications networks." Letter to Tom Marshall, Chairman of the Memphis City Council and Elbert Jefferson, Jr, City Attorney for the City of Memphis, dated July 6, 2007.

Regardless of whether you argue that either notice or approval was required, Networkx disagrees. The language of Section 26 of the Ordinance refers to an assignment or lease of the franchise. As you know, this was not an asset purchase. Rather, CII purchased all of the equity interests of Memphis Networkx. Thus the transaction did not result in any transfer or assignment of the franchise; it was a change in control, which Section 26 does not address. You were well aware that Networkx was of the opinion that the transaction did not trigger any specific notice or consent obligation on its part as you were quoted saying "we have a franchise with them and we have authority to approve the franchise. *They take the position that it wasn't the transfer of a franchise.*" (emphasis added) Moreover, if the City intended to include a change in control transaction within the scope of Section 26, it could have expressly included such language. No such language exists in the Ordinance. Accordingly, no notice or approval of the change in control was required and there was no breach of Section 26 of the Ordinance.

However, as a courtesy to you and the City, and to respond to the "limited inquiries" you previously referenced, please consider this letter as additional "notice" of the change in control of Memphis Networkx. As you know, on July 30, 2007, CII Holdco acquired all of the ownership interests in Networkx from MLGW and Memphis Broadband. Networkx wants to provide the City with assurance that it intends to continue

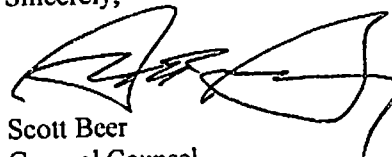
to honor the lawful provisions of all agreements it has with the City, including the Fiber Optics Network Agreement dated May 14, 2004. Networkx will also continue to operate and maintain its System consistent with all applicable construction and safety standards. Networkx also represents that it has the financial capability to continue operating and maintaining its System. To the extent you or any of the City Council has further questions in this regard, please direct them to me and we will attempt to provide you with further responsive information.

4. Failure to provide audited financial statements. Because the Tennessee Courts have ruled repeatedly that a revenue-based franchise fee is invalid under State law, and Networkx is of the view that such a fee is invalid also under Federal law, the requirement that Networkx submit an audited statement of revenues required by Section 21 is also invalid. Networkx' revenues are irrelevant to the City's exercise of its police powers and any fee based thereon cannot bear any "reasonable relation of the cost to the City for the use and maintenance of the rights-of-way." See Bellsouth 160 S.W.3d at 916. Accordingly, Networkx has not breached any lawful provision of the Ordinance.

Based on the information provided above, it should become clear to the City that Networkx has not engaged in a breach of any of its lawful obligations under City Ordinance 4404, and certainly not any "substantial breach" justifying the revocation or termination of the Networkx franchise. Accordingly, it is our position that the lawful provisions of the franchise agreement remain in effect and your purported election to purchase Networkx' "system" pursuant to Section 28.3 of the Ordinance is without foundation and hereby rejected. Not only is there no basis to make such an election under the terms of the Ordinance, the first right of refusal provision also is unlawful under Federal and State law.

Finally, in connection with our review of the claims you made in your August 31, 2007, letter, we are also taking the opportunity to analyze more closely the Ordinance and Networkx' rights as a telecommunications provider under Federal and State law and we intend to provide you with further information concerning the invalidity and unenforceability of numerous other provisions in the Ordinance (including the underlying City Ordinance 4404) in the near future.

Sincerely,



Scott Beer
General Counsel

Cc: Mayor W.W.Herenton
Elbert Jefferson, Jr., Esq.
Memphis City Counsel

EXHIBIT "5"

155

-
- 1: 4371 O.K. Robertson - MPD Training Academy
 2: 3633 Old Allen Rd - North Precinct
 3: 6852 Whitten Bend Cove - Northeast Precinct
 4: 201 Poplar Ave. - Criminal Justice Center
 5: 79 S. Flicker - Central Precinct
 6: 2602 Mt. Moriah Rd. - East Precinct
 7: 791 E. Raines Rd. - South Precinct
- Map of Memphis, Tennessee, showing the locations of the seven numbered precincts. The map includes major roads, landmarks, and a scale bar.