

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 21, 2007

IN RE:

**JOINT PETITION OF INDEPENDENT
TELECOMMUNICATIONS SYSTEMS, INC. D/B/A
ITS COMMUNICATIONS D/B/A IXC DIRECT, INC.
AND CAPITAL GROWTH SYSTEMS, INC. FOR APPROVAL
OF A TRANSFER OF CONTROL**

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**DOCKET NO.
07-00192**

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Director Pat Miller, Director Sara Kyle 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 September 10, 2007 for consideration of the *Joint Petition of Independent Telecommunications Systems, Inc. d/b/a ITS Communications d/b/a IXC Direct, Inc. and Capital Growth Systems, Inc. for Approval of a Transfer of Control ("Joint Petition")* filed on August 15, 2007.

Independent Telecommunications Systems, Inc. d/b/a ITS Communications d/b/a IXC Direct, Inc. ("ITS") is a provider of network solutions and professional consulting services related to data, voice, and network management and holds authorization to provide international telecommunications services from the Federal Communications Commission ("FCC"). ITS is authorized to provide resell interexchange long distance telecommunications in Tennessee¹ and has approximately six business customers.

¹ See *In re: Petition of Independent Telecommunications Systems, Inc. for Authority to Resell Telecommunications Services in Tennessee*, Docket No. 04-00108, *Order Granting Authority* (August 3, 2004).

Capital Growth Systems Inc. d/b/a Global Capacity (“CGSY”) (together, with ITS, “Petitioners”) is a publicly-traded corporation that delivers telecom integration services to a global client set consisting of systems integrators, telecommunications companies and enterprise customers. CGSY is not authorized to provide telecommunications services in Tennessee.

The Joint Petition

According to the *Joint Petition*, the Petitioners have entered into a Letter of Intent which contemplates a definitive agreement through which: (1) CGSY’s wholly-owned subsidiary, ITS Merger Sub, Inc. (“ITS Merger Sub”) which was created for this purpose, will be merged with and into ITS, whereupon the separate existence of ITS Merger Sub shall cease and ITS shall be the surviving corporation, (2) the certificate of incorporation of and by-laws of ITS Merger Sub shall become the certificate of incorporation and by-laws of ITS, (3) the stock of ITS will be cancelled and converted into the right to receive a certain amount of cash, and (4) each share of the common stock of ITS Merger Sub will be converted into one share of the common stock of ITS. At the close of the transaction, ITS will become a wholly-owned subsidiary of CGSY.

The Petitioners assert that the proposed transaction will serve the public interest by providing ITS with greater operating flexibility, enabling it to expand its telecommunications infrastructure and improve its customer service, billing, financial reporting and other management information systems. The *Joint Petition* also states that the proposed transaction will be transparent to customers. According to the *Joint Petition*, there will be no disruption or impairment of service or other changes in the entity providing service to customers. Nor will there be any changes to the facilities used to provide services, or the rates, terms and conditions of such service. There will be no name change and ITS will continue to provide services

pursuant to the terms and conditions of its existing tariffs. The Petitioners have similar petitions pending with the FCC and other applicable state regulatory authorities.

Findings and Conclusions

The Petitioners request approval to consummate the transfer of authority pursuant to Tenn. Code Ann. § 65-4-112 (2004). The Authority finds that the proposed transaction should be considered pursuant to Tenn. Code Ann. § 65-4-113 (2004) because control of a Tennessee-certificated entity is being transferred to a non-certificated entity.

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

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.

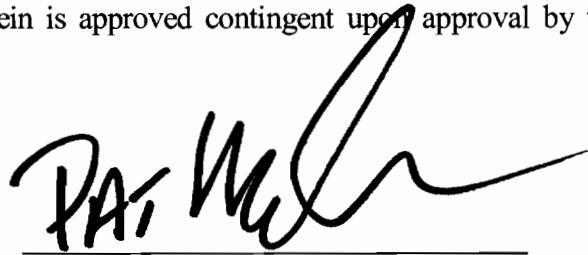
At the regularly scheduled Authority Conference held on September 10, 2007, the voting panel assigned to this docket considered the transfer of authority requested in the *Joint Petition* and voted unanimously to approve the transfer of authority pursuant to Tenn. Code Ann. § 65-4-113 (2004) contingent upon FCC approval based on the following additional findings.

1. The record demonstrates that CGSY is suited to exercise control over the regulated entity.

2. The transfer furthers the public interest such that the transfer will not limit the number of providers in the State, the transfer will be transparent to customers, and the transfer will allow greater operating flexibility.

IT IS THEREFORE ORDERED THAT:

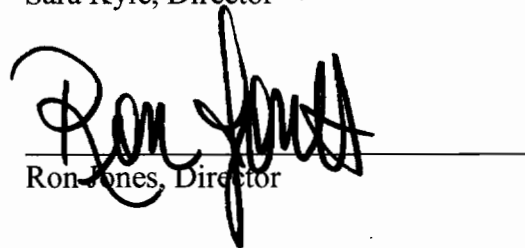
The transfer of authority of Independent Telecommunications Systems, Inc. d/b/a ITS Communications d/b/a IXC Direct, Inc. to Capital Growth Systems, Inc. d/b/a Global Capacity as described in the *Joint Petition* and discussed herein is approved contingent upon approval by the Federal Communications Commission.

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Pat Miller, Director

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director