

March 15, 2010

VIA OVERNIGHT DELIVERY

Ms. Sharla Dillon
Docket Room Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

filed electronically in docket office on 03/12/10

Re: Docket 09-00194: Petition of McLeodUSA Telecommunications Services, Inc. and US LEC of Tennessee Inc. for Notification of Change in Corporate Form, Name Change, and *Pro Forma* Reorganization; Responses to Data Request No. 2

Dear Ms. Dillon:

On behalf of McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") and US LEC of Tennessee Inc. ("US LEC") (together, the "Petitioners"), we submit this letter and the enclosed documents in response to the Tennessee Regulatory Authority's (the "Authority") Data Request No. 2, dated February 26, 2010. This letter and the enclosed materials provide information responsive to each request for information set forth in Data Request No. 2, which the Authority issued in connection with the petition referenced above. It is important to note that this response was originally due by March 8, 2010. Authority staff granted an extension of time in which to respond to Data Request No. 2 until March 15, 2010. Accordingly, this response is timely filed.

- 1. Please provide documentation from the Tennessee Secretary of State's office showing registration of corporate names associated with the name change request.**

The Petitioners have filed for registration of their respective new corporate names – McLeodUSA Telecommunications Services, LLC and US LEC of Tennessee LLC – with the Tennessee Department of State. Attached as Appendix A are copies of applications to the Tennessee Department of State for Certificates of Authority for the Petitioners to conduct business in the state under their new names. Upon receiving the Certificates of Authority, the Petitioners will promptly submit copies of the registration certificates to the Authority.

Ms. Sharla Dillon
March 15, 2010
Page 2

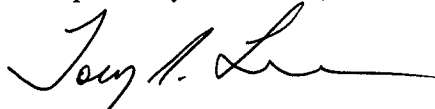
2. **Provide updated information showing US LEC qualifies for an exemption of the surety bond requirement in T.C.A. 65-4-125(j). Documentation sufficient to demonstrate that a waiver is warranted include (1) an Ad Valorem tax report filed with the Tennessee Comptroller of the Treasury or (2) a franchise or excise tax return files with the Tennessee Department of Revenue.**

US LEC qualifies for an exemption of the surety bond requirement under T.C.A. 65-4-125(j) because it is a “telecommunications service provider that owns and operates equipment facilities in Tennessee with a value of more than five million dollars (\$5,000,000).” T.C.A. § 65-4-125(j). Attached as Appendix B is a copy of US LEC’s franchise and excise tax return for the year 2008. Schedule G of the tax return shows that US LEC owns and operates equipment facilities in Tennessee with a value of \$13,910,992. Accordingly, US LEC is exempt from the surety bond requirement T.C.A. 65-4-125(j).

* * *

An original and four (4) copies of this letter and the attached documents are enclosed. The Petitioners are also submitting an electronic copy of this letter and the attached documents. Kindly date-stamp one of the extra copies of this filing, and return it to us in the enclosed self-addressed stamped envelope. Please let us know if you have any questions.

Respectfully submitted,



Tony S. Lee
Mikhia E. Hawkins

Counsel for McLeodUSA Telecommunications
Services, Inc. and US LEC of Tennessee, Inc.

APPENDIX A



March 12, 2010

Tennessee Department of State
Corporate Filings
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

Via Federal Express

Re: Entity Conversions

Dear Sir or Madam:

Enclosed please find two Applications for Certificate of Authority for US LEC Communications LLC, a North Carolina entity and US LEC of Tennessee LLC, a Delaware entity. These entities were recently converted from corporations. The certificates of conversions are attached as required.

Also enclosed is our check for \$600, requesting expedited service for these filings.

If you need further information, please contact me at 757-213-6710 or Karen.ferrini@paetec.com.

Thank you,

Karen F. Ferrini
Legal Assistant

enclosures



Check No. 1200476

Date: 11-MAR-10

TENNESSE SECRETARY OF STATE

Vendor No.: 733

Invoice No.	Date	Description	Discount Amount	Net Amount
030810	08-MAR-10	TN QUALIFICATION FEE-US LEC COMMUNICATIO	0.00	600.00
			0.00	600.00

Please Detach and Retain This Statement as your Record of Payment.

THE FACE OF THIS DOCUMENT HAS A MULTI-COLORED BACKGROUND ON WHITE PAPER, A VOID PANTOGRAPH AND MICROPRINTING. THE BACK OF THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK.



PAETEC
600 Willow Brook Office Park
Fairport, NY 14450
585.340.2500

M&T Bank
Manufacturers and Traders Trust Co
Commercial Banking
Main Office, Ithaca, New York 14850
50-7063/2213 IT

Check No. 1200476

Date: 11-MAR-10

PAY Six Hundred Dollars And 00/100

Amount: \$ *****600.00

TO THE ORDER OF
TENNESSE SECRETARY OF STATE
312 ROSA L. PARKS AVE., 6TH FLOOR

NASHVILLE, TN 37243

Authorized Signature

Void After 90 Days

⑈ 1200476 ⑈ 221370632⑈ 61000000126971⑈

State of Tennessee



Department of State
Corporate Filings
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

APPLICATION FOR
CERTIFICATE OF AUTHORITY
(Limited Liability Company)

For Office Use Only

To the Secretary of State of the State of Tennessee:

Pursuant to the provisions of §48-249-904 of the Tennessee Revised Limited Liability Company Act, the undersigned hereby applies for a certificate of authority to transact business in the State of Tennessee, and for that purpose sets forth:

1. The name of the Limited Liability Company is: US LEC of Tennessee LLC

If different, the name under which the certificate of authority is to be obtained is: _____

NOTE: The Secretary of State of the State of Tennessee may not issue a certificate of authority to a foreign Limited Liability Company if its name does not comply with the requirements of § 48-249-106 of the Tennessee Revised Limited Liability Company Act. If obtaining a certificate of authority under an assumed Limited Liability Company name, an application must be filed pursuant to § 48-249-106(d).

2. The state or country under whose law it is formed is: Delaware

and its date of its formation is: 03/01/2010 (must be month, day and year)

3. The complete street address (including zip code) of its principal executive office is:
600 Willowbrook Office Park Fairport, New York 14450
Street City/State Zip Code

4. The complete street address (including the county and the zip code) of its registered office in Tennessee:
800 S. Gay Street, Suite 2021 Knoxville, TN Knox 37929-9710
Street City/State County Zip Code

The name of its registered agent at that office is: CT Corporation System

5. If the provisions of TCA §48-249-309(l) (relating to foreign series LLCs) apply, then the information required by that section should be attached as part of this document.

6. The number of members at the date of filing if more than six (6): _____

7. If the limited liability company commenced doing business in Tennessee prior to the approval of this application, the date of commencement (month, day and year) 03/01/2010. **NOTE:** Additional filing fees may apply. See section 48-249-913(d).

NOTE: This application must be accompanied by a certificate of existence or a document of similar import (for example, a certificate of good standing) duly authenticated by the Secretary of State or other official having custody of the Limited Liability Company records in the state or country under whose law it is organized. The certificate shall not bear a date of more than two (2) months prior to the date the application is filed in this state.

3/11/2010
Signature Date
Secretary
Signer's Capacity

US LEC of Tennessee LLC
Name of Limited Liability Company
Mary O'Connell
Signature
Mary K. O'Connell
Name (typed or printed)

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE CORPORATION UNDER THE NAME OF "US LEC OF TENNESSEE INC." TO A DELAWARE LIMITED LIABILITY COMPANY, CHANGING ITS NAME FROM "US LEC OF TENNESSEE INC." TO "US LEC OF TENNESSEE LLC", FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF FEBRUARY, A.D. 2010, AT 11:55 O'CLOCK A.M.

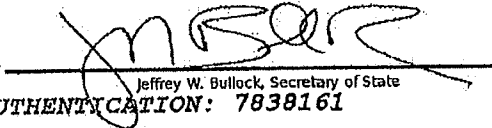
AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF CONVERSION IS THE FIRST DAY OF MARCH, A.D. 2010, AT 12:03 O'CLOCK A.M.

2821392 8100V

100210912

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7838161

DATE: 02-26-10

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:51 AM 02/26/2010
FILED 11:55 AM 02/26/2010
SRV 100210912 - 2821392 FILE

CERTIFICATE OF CONVERSION TO LIMITED LIABILITY COMPANY OF

US LEC OF TENNESSEE INC.

TO

US LEC OF TENNESSEE LLC

This Certificate of Conversion to Limited Liability Company of US LEC of Tennessee Inc., a Delaware corporation (the "Company"), to US LEC of Tennessee LLC, a Delaware limited liability company (the "LLC"), has been duly executed and filed by the Company to convert the Company to the LLC pursuant to and in accordance with the Delaware Limited Liability Company Act (6 Del. C. § 18-101, et seq.) and the General Corporation Law of the State of Delaware (8 Del. C. § 101, et seq.).

1. The Company's name when it was originally incorporated and immediately prior to the filing of this Certificate of Conversion to Limited Liability Company was US LEC of Tennessee Inc.
2. The Company filed its original certificate of incorporation with the Secretary of State of the State of Delaware and was first incorporated on November 14, 1997, in the State of Delaware, and was incorporated in the State of Delaware immediately prior to the filing of this Certificate of Conversion to Limited Liability Company.
3. The name of the LLC into which the Company shall be converted as set forth in its certificate of formation is US LEC of Tennessee LLC.
4. The effective time of the conversion shall be 12:03 A.M. Eastern Standard Time on March 1, 2010.

{The remainder of this page is intentionally left blank.}

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Conversion to Limited Liability Company as of the date set forth below.

US LEC OF TENNESSEE INC.

By: *S. Shane Turley*
Name: S. Shane Turley
Title: Vice President, Senior Corporate Counsel and Assistant Secretary

Date: 2-25-10

[Certificate of Conversion to LLC]

State of Tennessee



Department of State
Corporate Filings
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

For Office Use Only

APPLICATION FOR
CERTIFICATE OF AUTHORITY
(Limited Liability Company)

To the Secretary of State of the State of Tennessee:

Pursuant to the provisions of §48-249-904 of the Tennessee Revised Limited Liability Company Act, the undersigned hereby applies for a certificate of authority to transact business in the State of Tennessee, and for that purpose sets forth:

1. The name of the Limited Liability Company is: US LEC Communications LLC

If different, the name under which the certificate of authority is to be obtained is: _____

NOTE: The Secretary of State of the State of Tennessee may not issue a certificate of authority to a foreign Limited Liability Company if its name does not comply with the requirements of § 48-249-106 of the Tennessee Revised Limited Liability Company Act. If obtaining a certificate of authority under an assumed Limited Liability Company name, an application must be filed pursuant to § 48-249-106(d).

2. The state or country under whose law it is formed is: North Carolina

and its date of its formation is: 03/01/2010 (must be month, day and year)

3. The complete street address (including zip code) of its principal executive office is:

600 Willowbrook Office Park	Fairport, New York	14450
Street	City/State	Zip Code

4. The complete street address (including the county and the zip code) of its registered office in Tennessee:

800 S. Gay Street, Suite 2021	Knoxville, TN	Knox	37929-9710
Street	City/State	County	Zip Code

The name of its registered agent at that office is: CT Corporation System

5. If the provisions of TCA §48-249-309(i) (relating to foreign series LLCs) apply, then the information required by that section should be attached as part of this document.

6. The number of members at the date of filing if more than six (6): _____

7. If the limited liability company commenced doing business in Tennessee prior to the approval of this application, the date of commencement (month, day and year) 03/01/2010. **NOTE:** Additional filing fees may apply. See section 48-249-913(d).

NOTE: This application must be accompanied by a certificate of existence or a document of similar import (for example, a certificate of good standing) duly authenticated by the Secretary of State or other official having custody of the Limited Liability Company records in the state or country under whose law it is organized. The certificate shall not bear a date of more than two (2) months prior to the date the application is filed in this state.

3/11/2010

Signature Date

Secretary

Signer's Capacity

US LEC Communications LLC

Name of Limited Liability Company

Mary O'Connell

Signature

Mary K. O'Connell

Name (typed or printed)

Delaware

PAGE 2

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF CERTIFICATE OF FORMATION OF "US LEC OF TENNESSEE LLC" FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF FEBRUARY, A.D. 2010, AT 11:55 O'CLOCK A.M.

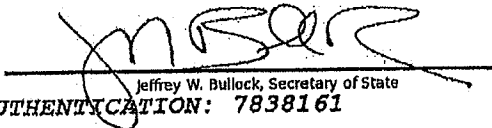
AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF FORMATION IS THE FIRST DAY OF MARCH, A.D. 2010, AT 12:03 O'CLOCK A.M.



2821392 8100V

100210912

You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7838161

DATE: 02-26-10

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:51 AM 02/26/2010
FILED 11:55 AM 02/26/2010
SRV 100210912 - 2821392 FILE

CERTIFICATE OF FORMATION
OF
US LEC OF TENNESSEE LLC

This Certificate of Formation of US LEC of Tennessee LLC (the "LLC"), dated as of February 11, 2010, has been duly executed and is being filed by S. Shane Turley, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. § 18-101, *et seq.*).

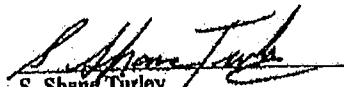
FIRST. The name of the limited liability company is US LEC of Tennessee LLC.

SECOND. The address of the registered office of the LLC in the State of Delaware is c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

THIRD. The name and address of the registered agent for service of process on the LLC in the State of Delaware is The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

FOURTH. The effective time of this Certificate of Formation shall be 12:03 A.M. Eastern Standard Time on March 1, 2010.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the date first above written.


S. Shane Turley
Authorized Person

State of North Carolina
Department of the Secretary of State

SOSID: 0505526
Date Filed: 2/26/2010 4:11:00 PM
Effective: 3/1/2010
Elaine F. Marshall
North Carolina Secretary of State
C201005702199

ARTICLES OF ORGANIZATION
INCLUDING ARTICLES OF CONVERSION

Pursuant to §§ 57C-2-21, 57C-9A-01 and 57C-9A-03 of the General Statutes of North Carolina, the undersigned converting business entity does hereby submit these Articles of Organization Including Articles of Conversion for the purpose of forming a limited liability company.

1. The name of the limited liability company is: US LEC Communications LLC.
The limited liability company is being formed pursuant to a conversion of another business entity.
2. The name of the converting business entity is US LEC Communications Inc.
and the organization and internal affairs of the converting business entity are governed by the laws of the state or country of North Carolina.
A plan of conversion has been approved by the converting business entity as required by law.
3. The converting business entity is a (check one): ☒ domestic corporation; ☐ foreign corporation; ☐ foreign limited liability company; ☐ domestic limited partnership; ☐ foreign limited partnership; ☐ domestic registered limited liability partnership; ☐ foreign limited liability partnership; or ☐ other partnership as defined in G.S. 59-36, whether or not formed under the laws of North Carolina.
4. If the limited liability company is to dissolve by a specific date, the latest date on which the limited liability company is to dissolve: (If no date for dissolution is specified, there shall be no limit on the duration of the limited liability company.) N/A
5. The name and address of each person executing these articles of organization is as follows: *(State whether each person is executing these articles of organization in the capacity of a member, organizer or both).*
Barney Stewart III, Bryan Cave LLP, 301 S. College Street, Suite 3700, Charlotte, North Carolina 28202. Executing as organizer.

6. The street address and county of the initial registered office of the limited liability company is:
Number and Street 150 Fayetteville Street
City, State, Zip Code Raleigh, North Carolina 27601 County Wake
7. The mailing address, *if different from the street address*, of the initial registered office is:
Box 1011, Raleigh, North Carolina 27601

8. The name of the initial registered agent is: OT Corporation System

9. Principal office information: (Select either a or b.)

a. ☒ The limited liability company has a principal office.

- The street address and county of the principal office of the limited liability company is:

Number and Street 600 Willowbrook Office Park

City, State, Zip Code Fairport, New York 14450

County Monroe

- The mailing address, *if different from the street address*, of the principal office of the limited liability company is: _____

b. ☐ The limited liability company does not have a principal office.

10. Check one of the following:

☒ (i) *Member-managed LLC*: all members by virtue of their status as members shall be managers of this limited liability company.

☐ (ii) *Manager-managed LLC*: except as provided by N.C.G.S. Section 57C-3-20(a), the members of this limited liability company shall not be managers by virtue of their status as members.

11. Any other provisions which the limited liability company elects to include are attached.

12. These articles will be effective upon filing, unless a date and/or time is specified:
12:03 a.m., March 1, 2010

This is the 25th day of February, 2010.

US LEO Communications Inc.

Berney Stewart III
Signature

Berney Stewart III, Organizer

Barney Stewart III, Organizer
Type or Print Name and Title

NOTES:

1. Filing fee is \$125. This document must be filed with the Secretary of State.
CORPORATIONS DIVISION P.O. BOX 29622
(Revised January 2002)

RALEIGH, NC 27626-0622
(Form L-01A)

APPENDIX B

N0025701

8458593091029



**TENNESSEE DEPARTMENT OF REVENUE
NOTICE OF FRANCHISE, EXCISE TAX OVERPAYMENT**

NAME	ACCOUNT#	FILING PERIOD	DATE RECEIVED	DATE
US LEC OF TENNESSEE INC.	317832585	01-01-08 / 12-31-08	October 15, 2009	November 2, 2009

	A. As originally reported	B. Corrected Amount
FRANCHISE TAX		
1. Total Net Worth	\$6,676,060.00	\$6,676,060.00
2. Franchise Tax Ratio	0.794886	0.794886
3. Apportioned Net Worth	\$5,306,707.00	\$5,306,707.00
4. Value of Real, Tangible Personal Property TN	\$13,910,992.00	\$13,910,992.00
5. Franchise Tax Base (Greater of 3 or 4)	\$13,910,992.00	\$13,910,992.00
6. Franchise Tax (\$100.00 Minimum)	\$3,477.00	\$3,477.48
EXCISE TAX		
7. Federal Income	\$3,030,784.00	\$3,030,784.00
8. Total Additions To Federal Income	\$0.00	\$0.00
9. Total Deductions From Federal Income	\$0.00	\$0.00
10. Business Income (Loss)	\$3,030,784.00	\$3,030,784.00
11. Excise Tax Ratio	0.794886	0.794886
12. Apportioned Business Income (Loss)	\$2,409,128.00	\$2,409,128.00
13. Nonbusiness Earnings Allocated To TN	\$0.00	\$0.00
14. Loss Carryover Available	\$11,850,187.00	\$11,012,142.85
15. Loss Carryover Applied	\$11,850,187.00	\$2,409,128.00
16. Excise Tax Base	-\$9,441,059.00	\$0.00
17. Excise Tax	\$0.00	\$0.00
18. Recapture of Industrial Machinery Credit	\$0.00	\$0.00
19. Excise Tax Due	\$0.00	\$0.00
TAX DUE OR OVERPAYMENT		
20. Total Franchise and Excise Taxes	\$34,777.00	\$34,777.48
21. Gross Premiums Tax Credit	\$0.00	\$0.00
22. Tennessee Income Tax Credit	\$0.00	\$0.00
23. Day Care Credit	\$0.00	\$0.00
24. Industrial Machinery Credit	\$0.00	\$0.00
25. Jobs Tax Credit	\$0.00	\$0.00
26. A. Penalty	\$0.00	\$0.00
27. A. Interest	\$0.00	\$0.00
28. Franchise and Excise Tax Due	\$27,992.00	\$34,777.48
29. Credit Available	\$41,250.00	\$27,992.43
30. Total Payments		\$41,250.00
31. Offset Amount (Details under separate cover)		\$3,465.00

EXPLANATION:

TOTAL CREDIT

\$30,999.95

REF

TENNESSEE DEPARTMENT OF REVENUE

500 DEADERICK STREET
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE TN 37242

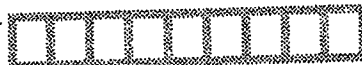
NOTICE OF OVERPAYMENT

November 2, 2009

US LEC OF TENNESSEE INC.
ATTN: TRANSAMERICA SQUARE
6801 MORRISON BLVD
CHARLOTTE NC 28211-3599

Account Type: FRAN/EXCS2
Account No.: 317832585
Notice No.: 8458593091029
Period Beg: 01-01-08
Period End: 12-31-08
Total Credit: \$30,999.95

This credit may be applied to your next tax return. It is not necessary to return this notice. Please retain it for your records.



FOR
OFFICE
USE
ONLY



STATE OF TENNESSEE
DEPARTMENT OF REVENUE
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37242

US LEC OF TENNESSEE INC.
6801 MORRISON BLVD

October 30, 2009

CHARLOTTE NC 28211-3599

Account Number: 317832585

Dear Taxpayer:

This notice is to let you know that you are now required to submit your franchise and excise tax payments electronically rather than by check.

Tennessee's tax law (Tenn. Code Ann. Section 67-1-703(b)) requires all taxpayers owing \$2,500 or more per period in connection with any return, report or other document to make such payments electronically. Based on a twelve month analysis of your payment history, you are now legally required to electronically submit your franchise and excise tax payments.

Taxpayers can remit payments through the Automated Clearing House (ACH) payment network with an ACH Debit or an ACH Credit. Information that will allow you to begin submitting electronic payments is available on the Department of Revenue's Web site at www.tn.gov/revenue. Click on Online Services and select "Electronic Funds Transfer Agreement" to get started.

Taxpayers not in compliance with the electronic payment requirement by January 15, 2010 face a 5% penalty for franchise and excise tax payments not submitted electronically.

Should you have additional questions, feel free to contact our Electronic Commerce Unit at (866) 368-6374 for in-state calls or (615) 253-0704 for local or out-of-state calls.

Sincerely,

Electronic Commerce Unit
Taxpayer and Vehicle Services Division

PAETEC TAX GROUP TAX RETURN CONTROL SHEET

Company Name USL of Tennessee Inc

Due Date 4/1/2009

Type of Return INCOME TAX RETURN TN Form FAE 170

Extended Due Date 10/15/2009

Filing Period 2008 INCOME TAX RETURN FOR TN

	Initial	Date	Hours to complete
Prepared	DJC <i>WJC</i>	10/1/09	1
Reviewed			
Assembled			
Signed Return	<i>W</i>	10/2/09	
Signed Attachments			

7008 2810 0001 2021 4589

	Initial	Date
Copied the signed return & all attachments		
Review/workpaper copy of return filed in the workpaper file by		
Signed/final copy of return filed in the tax file by		
Tax calendar list for this filing updated by:		

	Number of Copies
Filing	
Tax File	
State Attachment	
Consultant	
Other	
Total	

Delivered:	Initial	Date
<input type="checkbox"/> U.S. Certified #		
<input type="checkbox"/> U.S. Reg.		
<input type="checkbox"/> Fed Ex		
<input type="checkbox"/> UPS		
<input type="checkbox"/> Courier		
<input type="checkbox"/> Other:		

Contents of Return:	
Description	# of Pages
FAE 170	
7004 extension request	
1120 PROFORMA	

Mailing Address: TENNESSEE DEPARTMENT OF REVENUE
ANDREW JACKSON STATE OFFICE BUILDING
500 DEADERICK STREET
NASHVILLE, TN 37242

Special Instructions:

- ☒ Attach extension requests to Form:
 Federal form# _____ State form# _____
- ____ Attach federal return to state:
- ____ Stamp federal return as "copy"
- ____ Attach check in the amount of \$ _____
- ____ Other:
- ____ Pending items:

Notes for:

U.S. Postal ServiceTM
CERTIFIED MAIL[®] RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$ _____
 Certified Fee \$ _____
 Return Receipt Fee (Endorsement Required) \$ _____
 Restricted Delivery Fee (Endorsement Required) \$ _____
 Total Postage & Fees \$ _____

Sent to: TN DOR Andrew Jack St office Bldg
 Street Apt. No. or PO Box No. 500 Deaderick Street
 City, State, ZIP+4 Nashville TN 37242

PS Form 3800, August 2006 See reverse for instructions

GREENDYKE JENCIK & ASSOCIATES, PLLC
110C LINDEN OAKS
ROCHESTER, NY 14625

* * * * *

US LEC OF TENNESSEE INC
INSTRUCTIONS FOR FILING
FORM FAE 170
TENNESSEE FRANCHISE AND EXCISE TAX RETURN
FOR THE YEAR ENDED DECEMBER 31, 2008

* * * * *

SIGNATURE . . .

THE ORIGINAL RETURN SHOULD BE SIGNED AND DATED ON PAGE ONE
BY AN AUTHORIZED OFFICER OF THE CORPORATION.

OVERPAYMENT . . .

THIS RETURN SHOWS AN OVERPAYMENT OF \$ 34,465. WE HAVE
APPLIED IT AS FOLLOWS:

AMOUNT APPLIED TO 2009 ESTIMATED TAX. 34,465.

TOTAL OVERPAYMENT \$ 34,465.

FILING . . .

THE ORIGINAL RETURN SHOULD BE FILED ON OR BEFORE
WITH THE FOLLOWING:

TENNESSEE DEPARTMENT OF REVENUE
ANDREW JACKSON ST. OFFICE BLDG., 500 DEADERICK ST.
NASHVILLE, TN 37242

Schedule D - SCHEDULE OF CREDITS		
1. Gross Premiums tax credit (cannot exceed Schedule C, Line 8)	(1)	
2. Tennessee Income Tax (cannot exceed Schedule B, Line 5)	(2)	
3. Day Care Credit from Schedule W, Line 18/Green Energy Tax Credit/Carbon Charge Credit/ Headquarters Relocation Expense Credit (attach schedule)	(3)	
4. Industrial Machinery Credit from Schedule T, Line 11	(4)	
5. Jobs Tax Credit from Schedule X, Line 28	(5)	
6. Jobs Tax Credit computed in accordance with T.C.A. Section 67-4-2109 (c)(2)(H), (I) or (K)	(6)	
7. Total Credit - Add lines 1 through 6 (Enter here and on Schedule C, Line 9)	(7)	

Schedule E - SCHEDULE OF PAYMENTS		
1. Overpayment from previous year if available	(1)	27992
2. First quarterly estimated payment	(2)	12000
3. Second quarterly estimated payment	(3)	15500
4. Third quarterly estimated payment	(4)	13750
5. Fourth quarterly estimated payment	(5)	
6. Extension payment	(6)	
7. Total payments - Add lines 1 through 6 (Enter here and on Schedule C, Line 11)	(7)	69242

COMPUTATION OF FRANCHISE TAX

Schedule F1 - NON-CONSOLIDATED NET WORTH		
1. Net Worth (total assets less total liabilities)	(1)	6676060
2. Indebtedness to or guaranteed by parent or affiliated corporation	(2)	
3. Total lines 1 and 2	(3)	6676060
4. Ratio (Schedules N, O, P, or R if applicable or 100%)	(4)	79.4886 %
5. Total - Line 3 multiplied by Line 4 (Enter here and on Schedule A, Line 1)	(5)	5306707

Schedule F2 - CONSOLIDATED NET WORTH		
1. Consolidated Net Worth (total assets less total liabilities)	(1)	
2. Ratio (Schedule 170NC or 170SF)	(2)	%
3. Total - Line 1 multiplied by Line 2 (Enter here and on Schedule A, Line 1)	(3)	

NOTE: Schedule F2 is to be completed only if the consolidated net worth election has been made.

Schedule G - DETERMINATION OF REAL AND TANGIBLE PROPERTY		
BOOK VALUE OF PROPERTY OWNED - Cost less accumulated depreciation		In Tennessee
1. Land	(1)	
2. Buildings, leaseholds, and improvements	(2)	1311744
3. Machinery, equipment, furniture, and fixtures	(3)	7556349
4. Automobiles and trucks	(4)	
5. Prepaid supplies and other tangible personal property (Attach schedule)	(5)	39571
6. Share of partnership real and tangible property provided that the partnership does not file a return (Attach schedule)	(6)	
7. Inventories and work in progress	(7)	
a. Deduct exempt inventory in excess of \$30 million (§ 67-4-2108(a)(6)(B))	(7a)	()
8. Deduct value of certified pollution control equipment (Include copy of certificate (§67-5-604))	(8)	()
9. Deduct exempt required capital investments (T.C.A. Section 67-4-2108(a)(6)(G))	(9)	()
10. SUBTOTAL - Add lines 1 through 7, less Line 7a through Line 9	(10)	8907664
Rental Value of Property Used but not Owned		(C)
Net Annual Rental Paid for:	(A) In Tennessee	(B)
11. Real property	625416	x8 (11)
12. Machinery & equipment used in manufacturing & processing		x3 (12)
13. Furniture, office machinery, and equipment		x2 (13)
14. Delivery or mobile equipment		x1 (14)
15. TENNESSEE TOTAL - Add lines 10-14 (Enter total here and on Schedule A, Line 2)	(15)	13910992

TAXABLE YEAR	TAXPAYER NAME	ACCOUNT NO./FEIN/SSN
01/01/2008 - 12/31/2008	US LEC OF TENNESSEE INC	317832585

COMPUTATION OF EXCISE TAX

Schedule J-1 -- COMPUTATION OF NET EARNINGS FOR ENTITIES TREATED AS PARTNERSHIPS		
1. Ordinary Income or Loss from Federal Form 1065, Line 22 plus any intangible expense to an affiliated business entity deducted for federal tax purposes	(1)	
Additions:		
2. Additional income items specifically allocated to partners, including guaranteed payments to partners (Fed 1065 - Sch K)	(2)	
3. Any net loss or expense received from a "pass-through" entity subject to and paying the excise tax, or any net loss or expense distributed to a publicly traded REIT (include schedule of entities and FEINs)	(3)	
4. Total - Add lines 1, 2, and 3	(4)	
Deductions:		
5. Additional expense items specifically allocated to partners (Fed 1065 - Sch K)	(5)	
6. Amount subject to self-employment taxes distributable or paid to each partner or member net of medical insurance payments previously deducted to determine Ordinary Income (Loss) on Form 1065 (If negative, enter zero) (Include on Schedule K, Line 3)	(6)	
7. Amount of contribution, not previously deducted, to qualified pension or benefit plans of any partner or member, including all IRC 401 plans (Include on Schedule K, Line 3)	(7)	
8. Any net gain or income received from a "pass-through" entity subject to and paying the excise tax, or any net gain or income distributed to a publicly traded REIT (include schedule of entities and FEINs)	(8)	
9. Total deductions - Add lines 5 through 8	(9)	
10. Total - Line 4 less Line 9 (Enter here and on Schedule J, Line 1)	(10)	

Schedule J-2 -- COMPUTATION OF NET EARNINGS FOR A SINGLE MEMBER LLC FILING AS AN INDIVIDUAL		
Additions:		
1. Business Income from Form 1040, Schedule C plus any intangible expense to an affiliated business entity	(1)	
2. Business Income from Form 1040, Schedule D plus any intangible expense to an affiliated business entity	(2)	
3. Business Income from Form 1040, Schedule E plus any intangible expense to an affiliated business entity	(3)	
4. Business Income from Form 1040, Schedule F plus any intangible expense to an affiliated business entity	(4)	
5. Business Income from Form 4797	(5)	
6. Other: Form _____, Schedule _____	(6)	
7. Any net loss or expense received from a "pass-through" entity subject to and paying the excise tax (include schedule of entities and FEINs)	(7)	
8. Total - Add lines 1 through 7	(8)	
Deductions:		
9. Amount subject to self-employment taxes distributable or paid to the single member (If negative, enter zero) (Include on Schedule K, Line 3)	(9)	
10. Any net gain or income received from a "pass-through" entity subject to and paying the excise tax (include schedule of entities and FEINs)	(10)	
11. Total deductions - Add lines 9 and 10	(11)	
12. Total - Line 8 less Line 11 (Enter here and on Schedule J, Line 1)	(12)	

Schedule J-3 -- COMPUTATION OF NET EARNINGS FOR ENTITIES TREATED AS SUBCHAPTER S CORPORATIONS		
1. Ordinary Income or Loss from Federal Form 1120S, Line 21 plus any intangible expense to an affiliated business entity deducted for federal tax purposes	(1)	
Additions:		
2. Income items to extent includable in federal income were it not for "S" status election (Fed 1120S - Schedule K)	(2)	
3. Any net loss or expense received from a "pass-through" entity subject to and paying the excise tax, or any net loss or expense distributed to a publicly traded REIT (include schedule of entities and FEINs)	(3)	
4. Total - Add lines 1, 2 and 3	(4)	
Deductions:		
5. Expense items to extent includable in federal expenses were it not for "S" status election (Fed 1120S - Schedule K)	(5)	
6. Any net gain or income received from a "pass-through" entity subject to and paying the excise tax, or any net gain or income distributed to a publicly traded REIT (include schedule of entities and FEINs)	(6)	
7. Total deductions - Add lines 5 and 6	(7)	
8. Total - Line 4 less Line 7 (Enter here and on Schedule J, Line 1)	(8)	

Schedule J-4 -- COMPUTATION OF NET EARNINGS FOR ENTITIES TREATED AS CORPORATIONS AND "OTHER" ENTITIES		
Enter the amount of income (loss) from the applicable federal return to Schedule J, Line 1		
1. Federal Form 1120 - Line 28 (Taxable income or loss before net operating loss deduction and special deductions) plus any intangible expense to an affiliated business entity deducted for federal tax purposes	(1)	3030784
2. Federal Form 990-T, Line 30 (unrelated business taxable income)	(2)	
3. Other: Form _____, Schedule _____	(3)	
Additions:		
4. Any net loss or expense received from a "pass-through" entity subject to and paying the excise tax, or any net loss or expense distributed to a publicly traded REIT (include schedule of entities and FEINs)	(4)	
Deductions:		
5. Any net gain or income received from a "pass-through" entity subject to and paying the excise tax, or any net gain or income distributed to a publicly traded REIT (include schedule of entities and FEINs)	(5)	
6. Total - Lines 1 through 4 less Line 5 (Enter here and on Schedule J, Line 1)	(6)	3030784

Schedule J - COMPUTATION OF NET EARNINGS SUBJECT TO EXCISE TAX		
1. Federal income or loss (Enter amount from Schedule J-1, J-2, J-3, or J-4)	(1)	3030784
ADDITIONS:		
2. Any depreciation under the provisions of IRC Section 168 not permitted for excise tax purposes due to Tennessee permanently decoupling from federal bonus depreciation and any expense/depreciation deducted as a result of "safe harbor" lease elections. (attach schedule)	(2)	
3. Any deduction for domestic production activities under the provisions of IRC Section 199	(3)	
4. Any gain on the sale of an asset sold within twelve months after the date of distribution to a nontaxable entity	(4)	
5. Tennessee excise tax expense (to the extent reported for federal purposes)	(5)	
6. Gross premiums tax deducted in determining federal income and used as an excise tax credit	(6)	
7. Interest income on obligations of states and their political subdivisions, less allowable amortization	(7)	
8. Depletion not based on actual recovery of cost	(8)	
9. Contribution carryover from prior period(s)	(9)	
10. Capital gains offset by capital loss carryover or carryback	(10)	
11. Excess fair market value over book value of property donated	(11)	
12. Total additions - Add lines 2 through 11	(12)	
DEDUCTIONS:		
13. Any depreciation under the provisions of IRC Section 168 permitted for excise tax purposes due to Tennessee permanently decoupling from federal bonus depreciation	(13)	
14. Any excess gain (or loss) from the basis adjustment resulting from Tennessee permanently decoupling from federal bonus depreciation	(14)	
15. Any loss on the sale of an asset sold within twelve months after the date of distribution to a nontaxable entity	(15)	
16. Dividends received from corporations, at least 80% owned (attach schedule)	(16)	
17. Contributions in excess of amount allowed by federal government	(17)	
18. Donations to Qualified Public School Support Groups and nonprofit organizations	(18)	
19. Portion of current year's capital loss not included in federal taxable income	(19)	
20. Any expense other than income taxes, not deducted in determining federal taxable income for which a credit against the federal income tax is allowable	(20)	
21. Any income included for federal tax purposes and any depreciation or other expense that could have been deducted for "safe harbor" lease elections. (attach schedule)	(21)	
22. Nonbusiness earnings - Schedule M, Line 8	(22)	
23. Intangible expense to an affiliated business entity (Intangible expense disclosure form MUST be completed to avoid the adjustment provided in T.C.A. Section 67-4-2006(d)(3))	(23)	
24. Intangible income from an affiliated business entity if the corresponding intangible expense has not been disclosed or has been disallowed	(24)	
25. TOTAL deductions - Add lines 13 through 24	(25)	()
COMPUTATION OF TAXABLE INCOME		
26. Total Business Income (Loss) - Add lines 1 and 12, less Line 25 (If loss, complete Schedule K)	(26)	3030784
27. Apportionment Ratio (Schedules N, O, P, or R if applicable or 100%)	(27)	79.4886 %
28. Apportioned business income (Loss) (Line 26 multiplied by Line 27)	(28)	2409128
29. Add: Nonbusiness earnings directly allocated to Tennessee (From Schedule M, Line 9)	(29)	
30. Deduct: Loss carryover from prior years (From Schedule U)	(30)	(11850187)
31. Subject to excise tax (6.5%) (Line 28 plus Line 29, less Line 30) (enter here and on Schedule B, Line 4)	(31)	-9441059

Schedule K - DETERMINATION OF LOSS CARRYOVER AVAILABLE - See Rule 1320-6-1-.21 of Departmental Rules and Regulations

1. Net loss from Schedule J, Line 26	(1)	
ADD:		
2. Amounts reported on Schedule J, lines 16 and 22	(2)	
3. Amounts reported on Schedule J-1, lines 6 and 7, and Schedule J-2, Line 9	(3)	
4. Reduced loss - Add lines 1 through 3 (If net amount is positive, enter "0")	(4)	
5. Excise Tax ratio (Schedules N, O, P, or R if applicable or 100%)	(5)	%
6. Current year loss carryover available (Line 4 multiplied by Line 5)	(6)	

Schedule L - FEDERAL INCOME REVISIONS				
Year	1. Original Net Income on Federal Return	2. Net Income Corrected	3. Increase (Decrease) in Net Income	4. Increase (Decrease) Affecting Excise Tax

APPORTIONMENT SCHEDULES FOR TAXPAYERS DOING BUSINESS OUTSIDE THE STATE OF TENNESSEE

Franchise and excise tax ratios are obtained by using the arithmetical average of the following ratios. If a factor's denominator (everywhere value) is zero, that factor is to be eliminated entirely and the average is to be computed from the remaining factor or factors.

SCHEDULE N - APPORTIONMENT - STANDARD (Manufacturers, retailers, wholesalers, etc)

Property	In Tennessee		Total Everywhere	
NOTE: USE ORIGINAL COST OF ASSETS	a. Beginning of Taxable year	b. End of Taxable year	a. Beginning of Taxable year	b. End of Taxable year
1. Land, buildings, leaseholds, and improvements		1762911		2308111
2. Machinery, equipment, furniture, and fixtures	11817411	11107942	15275300	14090008
3. Automobiles and trucks				
4. Inventories and work in progress				
5. Prepaid supplies and other property		120860		170115
6. Share of partnership property (if partnership is not taxable)				
7. Excise tax total (Lines 1 through 6)	a. 11817411	b. 12991713	a. 15275300	b. 16568234
8. Less exempt inventory (see §67-4-211(b)(1))	()	()	()	()
9. Franchise tax total (Line 7 minus Line 8)	a. 11817411	b. 12991713	a. 15275300	b. 16568234
10. Excise tax average value (add Line 7(a) & (b), divide by 2)		12404562		15921767
11. Franchise tax average value (add Line 9(a) & (b), divide by 2)		12404562		15921767
12. Add: Rented property (rent paid X 8)		5003328		6325296

NOTE: Double Weighted Sales Factor	a. In Tennessee	b. Total Everywhere	d. Franchise Ratio (Col. a ÷ Col. b)	a. Excise Ratio (Col. a ÷ Col. b)
13. Excise Tax property factor (Line 10 plus Line 12)	17407890	22247063		78.2480 %
14. Franchise Tax property factor (Line 11 plus Line 12)	17407890	22247063	78.2480 %	
15. Payroll factor	3131956	3670709	85.3229 %	85.3229 %
16. Sales factor - (Business Gross Receipts)	37688174	48824136	77.1917 %	77.1917 %
Sales factor - (Business Gross Receipts)	37688174	48824136	77.1917 %	77.1917 %
17. Total Ratios			317.9543 %	317.9543 %
18. Apportionment Ratio (Line 17 divided by 4) (Enter Franchise Ratio to Sch. F1, Line 4. Enter Excise ratio to Sch. J, Line 27)			79.4886 %	79.4886 %

SCHEDULE O - APPORTIONMENT - COMMON CARRIERS (Railroads, motor carriers, pipelines and barges)

	In Tennessee	Total Everywhere	Ratio
1. Total franchise mileage (odometer miles)			%
2. Tennessee intrastate receipts - Interstate gross receipts everywhere			%
3. Total Ratios	XXXXX	XXXXX	%
4. Apportionment ratio (Line 3 divided by two; transfer ratio to Schedule F1, Line 4 and Schedule J, Line 27)			%

SCHEDULE P - APPORTIONMENT - AIR CARRIERS

	In Tennessee	Total Everywhere	Ratio
1. Originating revenue			%
2. Air miles flown (Include in Tennessee column only air miles flown on flights either originating from or ending in Tennessee or both)			%
3. Total Ratios	XXXXX	XXXXX	%
4. Apportionment Ratio (Line 3 divided by two; transfer ratio to Schedule F1, Line 4 and Schedule J, Line 27)			%

SCHEDULE R - APPORTIONMENT - AIR EXPRESS CARRIERS

	In Tennessee	Total Everywhere	Ratio
1. Originating revenue			%
2. Air miles flown and ground miles travelled (include in Tennessee column only air miles flown on flights either originating from or ending in Tennessee or both. Include only ground miles travelled with respect to actual common carriage of persons or property for hire)			%
3. Total Ratios	XXXXX	XXXXX	%
4. Apportionment Ratio (Line 3 divided by two; transfer ratio to Schedule F1, Line 4 and Schedule J, Line 27)			%

SCHEDULE U and V - LOSS CARRYOVER/INDUSTRIAL MACHINERY CREDIT CARRYOVER

NOTE: SCHEDULES U AND V ARE NOT REQUIRED TO BE FILED WITH THE RETURN. These schedules may be used as a worksheet to compute the amount of net operating loss carryover and \ or industrial machinery credit carryover available.

IMPORTANT INFORMATION APPLICABLE TO LOSS CARRYOVER

- Any net operating loss incurred for fiscal years ending on or after 1-15-84 may be carried forward fifteen (15) years as a net operating loss carryover.
- COMBINED RETURN - UNITARY GROUP OF FINANCIAL INSTITUTIONS:**
Any net operating loss incurred by a member of the unitary group which has been apportioned to Tennessee in a year prior to filing a combined return may be carried forward seven (7) years as a net operating loss carryover by the unitary group. A net operating loss incurred by a unitary group of financial institutions computed on a combined basis may be carried forward fifteen (15) years by the unitary group.
Reference: Section 67-4-2006(c), Tennessee Code Annotated.

SCHEDULE U - SCHEDULE OF LOSS CARRYOVER

Year	Period Ended (MM/YY)	For Original Return or As Amended	Used In Prior Year(s)	Expired	Loss Carryover Available
1					
2					
3					
4					
5	12/98	3924574	3924574		
6	12/99	464164	464164		
7	12/00	28226009	17515954		10710055
8	12/01	1140132			1140132
9					
10					
11					
12					
13					
14					
15					
Total Amount (Transfer to Schedule J, Line 30)					11850187

SCHEDULE V - SCHEDULE OF INDUSTRIAL MACHINERY CREDIT CARRYOVER

IMPORTANT INFORMATION APPLICABLE TO INDUSTRIAL MACHINERY CREDIT CARRYOVERS

Any unused credit incurred for fiscal years ending on or after 3-15-82 may be carried forward in any tax period for up to fifteen (15) years.
Reference: Section 67-4-2009(4)(c), Tennessee Code Annotated.

Year	Period Ended (MM/YY)	For Original Return or As Amended	Used In Prior Year(s)	Expired	Industrial Machinery Credit Carryover Available
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
Total Amount (Transfer to Schedule T, Line 4)					

INTERNET (12-08)