

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 25, 2011

IN RE:

**APPLICATION OF CYPRESS COMMUNICATIONS
OPERATING COMPANY, LLC FOR APPROVAL
OF A CHANGE IN OWNERSHIP**

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**DOCKET NO.
10-00200**

ORDER APPROVING *JOINT APPLICATION*

This matter came before Chairman Mary W. Freeman, Director Eddie Roberson and Director Kenneth C. Hill of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 13, 2010 for consideration of the *Joint Application* filed on October 20, 2010 by TechInvest Holding Company, Inc. ("THC"), Cypress Communications Operating Company, LLC ("Cypress"), and The Broadvox Holding Company, LLC ("Broadvox") (collectively, "Applicants"). The Applicants seek to consummate a merger resulting in the transfer of control of Cypress from its existing ultimate parent, THC, to Broadvox.

THC is controlled by Arcapita Bank B.S.C. (c) ("Arcapita"), a joint stock company that is organized under the laws of the Kingdom of Bahrain. Arcapita is a private equity firm based in Atlanta, Georgia, whose investment portfolio includes various U.S. companies in the manufacturing services.

Cypress is a Delaware limited liability company and a wholly-owned subsidiary of Cypress Communications, Inc. ("CCI"), a Delaware corporation and holding company. Cypress is also a wholly-owned indirect subsidiary of THC. Cypress provides voice and data

communications services to 5,000 business customers and holds certificates to provide local and intrastate toll services in thirty-two states. In Tennessee, Cypress is authorized to provide local and intrastate telecommunications services pursuant to Authority Orders in Docket No. 03-00316 issued on October 1, 2003 and Docket No. 02-00763 issued on August 5, 2002. Cypress also holds domestic and international authority from the Federal Communications Commission ("FCC").

Broadvox is a Delaware limited liability company and holding company that operates through its subsidiaries. Broadvox provides unregulated Internet Protocol based information services to approximately 300 wholesale carriers and over 3,500 small- and medium-sized businesses and enterprise retail customers. Broadvox is owned and managed by its sole member, Broadvox, Inc. ("Broadvox Parent"), an Ohio company and holding company. Broadvox indirectly controls Broadvox-CLEC, LLC ("Broadvox-CLEC"). Broadvox-CLEC was granted a certificate by Authority Order in Docket No. 09-00076 issued on December 9, 2009 but does not provide service to any customers.

THE JOINT APPLICATION

Pursuant to the terms of an Agreement and Plan of Merger dated October 12, 2010 by and among Broadvox Parent, Broadvox, CCI Acquisition Corp. ("CCI Acquisition," a newly formed wholly-owned subsidiary of Broadvox), and THC, CCI Acquisition will merge with and into THC. THC will be the surviving corporation and will continue in existence as a wholly-owned subsidiary of Broadvox. Thus, Cypress will become a wholly-owned indirect subsidiary of Broadvox following consummation of the transaction. Immediately before closing the transaction, Arcapita will reorganize the corporate structure of Cypress. According to the *Joint Application*, this *pro forma* reorganization is for tax purposes and is intended to facilitate the

transaction. Once the proposed transaction is closed, Arcapita will have no ongoing equity interest in either Cypress or Broadvox, and no form of control or management oversight.

FINDINGS AND CONCLUSIONS

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:

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, which in pertinent part, states as follows:

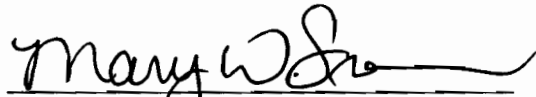
Upon application for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the 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.

Based on the assertions in the *Joint Application*, the panel found that the transfer will take place at the parent holding company level, and Cypress's current customers will continue to receive their existing services at the same rates, terms and conditions as at present. The transaction serves the public interest because it will further enhance Cypress's ability to compete in the telecommunications and information services marketplace. Based on the record and these findings, the panel voted unanimously to approve the transfer described in the *Joint Application* pursuant to Tenn. Code Ann. § 65-4-113. The Applicants were also directed to file with the Authority any documentation from the FCC regarding subsequent action on the transfer.¹

¹ The FCC filed a Notice establishing a streamlined pleading cycle on November 1, 2010. The Notice stated that unless otherwise notified, the Applicants may transfer control on the 31st day after the date of the Notice. See DA 10-2099, WC Docket No. 10-216.

IT IS THEREFORE ORDERED THAT:

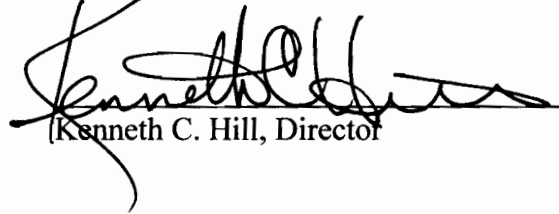
The *Joint Application* is approved. The Applicants shall file with the Tennessee Regulatory Authority any documentation from the Federal Communications Commission regarding subsequent action on the transfer.



Mary W. Freeman, Chairman



Eddie Roberson, Director



Kenneth C. Hill, Director