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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Joint Application for Approval of Indirect  
Transfer of Control of Telecommunications  
Facilities by Smart City Finance, LLC and  
Hargray-Smart City Acquisition Co., LLC

Docket No. \_\_\_\_\_  
Filed: August 8, 2008

COMMISSION  
CLERK

**JOINT APPLICATION FOR APPROVAL OF INDIRECT  
TRANSFER OF CONTROL OF TELECOMMUNICATIONS FACILITIES**

Smart City Finance LLC ("SCF") and Hargray-Smart City Acquisition Co., LLC, ("Hargray") (collectively, the "Parties"), joined by Smart City Telecommunications LLC d/b/a Smart City Telecom ("SCT"), by and through counsel, hereby respectfully advise the Florida Public Service Commission ("Commission") of the Parties' intent to consummate a transaction that will result in the indirect transfer of control of incumbent local exchange and pay telephone telecommunications facilities in the State of Florida, and to the extent required by §364.33, Florida Statutes, respectfully request approval of such indirect transfer. In support, the Parties state as follows:

**SUMMARY**

- 1. Section 364.33, Florida Statutes, provides as follows:

A person may not begin the construction or operation of any telecommunications facility, or any extension thereof for the purpose of providing telecommunications services to the public, or acquire ownership or control thereof, in whatever manner, including the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership, without prior approval. This section does not require approval by the commission prior to the construction, operation, or extension of a facility by a certificated company within its certificated area or in any way limit the commission's ability to review the prudence of such construction programs for ratemaking as provided under this chapter.

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2. SCF is the parent company and 100% owner of SCT, which provides local exchange service and pay telephone service in Florida pursuant to Certificates Nos. 1971 and 7664, respectively.<sup>1</sup> On July 11, 2008, SCF and Hargray executed a Purchase Agreement, pursuant to which Hargray will purchase SCF's 100% ownership interest in SCT, and as a result, will become its new parent. A copy of the Purchase Agreement will be provided under separate cover.

3. After consummation of the transaction, SCT will continue to own and operate its existing telecommunications facilities, and will continue to provide local exchange and pay telephone telecommunications service to its customers pursuant to its existing certificates, subject only to a change in the identity of its parent company. No Florida certificate or telecommunications facility will be sold, transferred or assigned; no Florida customers will be transferred to another provider; the identity of the company providing service will not change; and the Commission will retain the same regulatory authority over SCT that it has today.

4. As set forth below, the proposed transaction will serve the public interest and should be approved on an expedited basis.

#### **THE PARTIES AND TRANSACTION**

5. SCF is a Delaware limited liability company. SCF's mailing address is 28 West Grand Avenue, Montvale, New Jersey, 07645. SCF's designated contacts for information regarding this Application are:

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<sup>1</sup> SCT also is registered with the Commission to provide Florida intrastate interexchange telecommunications services. Pursuant to §§ 364.02(14)(g) and 364.11(1), Florida Statutes, intrastate interexchange carriers are exempt from the requirements of § 364.33, Florida Statutes and thus the Parties are not required to seek, and do not seek, the Commission's approval in connection with the indirect transfer of telecommunications facilities used to provide intrastate interexchange service.

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6. Hargray is a Delaware limited liability company formed for the purpose of acquiring SCT and other properties described in the Purchase Agreement. Hargray is a wholly-owned subsidiary of Hargray-Smart City Holdings LLC (HSCH), which, through its subsidiary Hargray Communications Group, Inc. (HCG), provides telecommunications services in South Carolina and Georgia.<sup>2</sup> The company's operations include traditional telephone carrier services as well as cable television, wireless telephone, and Internet services. The mailing address for Hargray is 856 William Hilton Parkway, P.O. Box 5986, Hilton Head Island, South Carolina, 29938. Hargray's designated contacts for information regarding this application are:

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7. SCF and Hargray entered into the attached Purchase Agreement on July 11, 2008. As set forth in the Purchase Agreement, Hargray will purchase from SCF, among other things, all issued and outstanding limited liability company interests in SCT. Thus, consummation of the transaction will result in Hargray becoming the new parent of SCT, and with SCT as a wholly-owned, first tier subsidiary of Hargray, and a wholly-owned, second tier subsidiary of HSCH.

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<sup>2</sup> HSCH does not currently own, directly or indirectly, the subsidiaries providing service in South Carolina and Georgia, but will indirectly own 98.5% of these subsidiaries following consummation of a pending corporate restructuring.

8. In addition to SCT, Hargray also will purchase SCF's 100% ownership interest in Smart City Solutions, LLC d/b/a Smart City Communications ("SCS"), which provides competitive local exchange services in Florida pursuant to Certificate No. 8030. Pursuant to § 364.337(2), Florida Statutes, competitive local exchange telecommunications companies are not subject to the requirements of § 364.33, Florida Statutes, and thus the Parties are not required to seek, and do not seek, the Commission's approval in connection with the indirect transfer of telecommunications facilities used by SCS to provide competitive local exchange services.<sup>3</sup>

9. Because the transaction only effects a change in the identity of the SCT's parent, the transaction will be seamless and invisible to Florida customers. The indirect transfer will have no effect on the rates, terms or conditions of service provided by SCT. Following consummation of the transaction, SCT, acting through its existing management, will continue to provide the same services to its customers in Florida, pursuant to the same tariffs, as it currently provides. No Florida assets will be transferred from SCT, and SCT will continue to own and operate its Florida telecommunications facilities.<sup>4</sup>

**THE COMMISSION SHOULD APPROVE THE INDIRECT TRANSFER  
OF CONTROL OF SCT'S PAY TELEPHONE AND LOCAL EXCHANGE  
TELECOMMUNICATIONS FACILITIES**

10. The proposed indirect transfer will serve the public interest by making Hargray's financial resources and managerial skills and experience available to SCT, thus ensuring

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<sup>3</sup> The Purchase Agreement also provides for Hargray's purchase of SCF's 100% ownership interest in Smart City Information Services, LLC, a Florida limited liability company; Smart City/mpINET, LLC, a Florida limited liability company; and Smart City Television LLC, a Delaware limited liability company, none of which own, operate or control telecommunications facilities subject to the Commission's jurisdiction.

<sup>4</sup> Because customers of SCT and SCS will continue to receive service from their existing providers, the Parties request that the Commission find the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, to be inapplicable.

continued provision of high quality and innovative telecommunications services to SCT's customers.

11. The Commission has previously noted that it applies a public interest test to transfer applications filed pursuant to § 364.33, Florida Statutes, in which it reviews "the financial, management, and technical capabilities of the Applicants to determine if these aspects of the operation would impact such items as customer rates, service quality, or the ability to invest in preparing and upgrading infrastructure as a result of the change of control." Order No. PSC-98-0702-FOF-TP, pg. 4.<sup>5</sup> Hargray's financial, management and technical capabilities easily satisfy the Commission's public interest concerns.

12. HSCH indirectly owns substantially all of the equity interest of HCG. HCG is a privately held telecommunications provider serving southeastern South Carolina and portions of Georgia. HCG began operation in the 1940s and, through its subsidiaries and affiliates, provides both incumbent and competitive local exchange service, as well as long distance, cable television, wireless telephone, data services and telephone directory publishing services. HSCH also indirectly owns several subsidiaries and affiliates, Hargray, Inc., Hargray of Georgia, Inc., Hargray Telephone Company, Inc., Bluffton Telephone Company, Inc., and Low Country Carriers, Inc. Hargray, Inc. provides competitive local exchange service, including voice, Internet and high-speed video services in South Carolina. Hargray of Georgia, Inc. provides competitive local exchange services, including voice and data services to business in portions of Georgia. Hargray Telephone Company, Inc. is an incumbent local exchange carrier providing

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<sup>5</sup> Notice of Proposed Agency Action Order Approving Indirect Transfer of Control, June 23, 2006, Docket No. 060308-TP, *In re: Joint application for approval of indirect transfer of control of telecommunications facilities resulting from agreement and plan of merger between AT&T Inc. (parent company of AT&T Communications of the Southern States, LL, CLEC Cert. No. 4037, IXC Registration No. TJ615, and PATS Cert. No. 8019; TCG South Florida, IXC Registration No. TI327 and CLEC Cert. No. 3519; SBC Long Distance, LLC, CLEC Cert. No. 8452, and IXC Registration No. TI684; and SNET America, Inc., IXC Registration No. TI389) and BellSouth Corporation (parent company of BellSouth Telecommunications, Inc., ILEC Cert. No. 8 and CLEC Cert. No. 4455); and BellSouth Long Distance, Inc. (CLEC Cert. No. 5261 and IXC Registration No. TI554).*

local exchange, interexchange and high-speed data service to residential and business customers in Hilton Head and Hardeeville, South Carolina. Bluffton Telephone Company, Inc. is an incumbent local exchange carrier providing local exchange, interexchange and high-speed data service to residential and business customers in Bluffton, South Carolina. Low Country Carriers, Inc. provides interexchange services in South Carolina and Georgia.

13. Upon closing of a pending corporate restructuring, HSCH will be wholly owned by Quadrangle (AIV) Capital Partners II LP, Quadrangle Capital Partners II-A LP and Quadrangle (AIV) Select Partners II LP (collectively, "Quadrangle"). Quadrangle is a private equity fund managed by affiliates in the New York-based investment firm, Quadrangle Group LLC. Quadrangle invests in media and communications companies through separate private and public investment vehicles. Since 2000, Quadrangle has completed over 20 investments in the communications industry, including investment in rural local exchange carriers, competitive local exchange carriers, cable operators and wireless providers.

14. The proposed transaction will provide the Parties with access to each other's network capabilities, technical and financial strengths and complementary services, which together are expected to strengthen the Parties' ability to expand their offerings and provide more advanced telecommunications services to a broader customer base. The Parties expect that the proposed acquisition will enable SCT to continue to offer innovative products and to further strengthen their marketplace positions to the benefit of consumers. Further, the transaction will be conducted in a manner that will be virtually transparent to customers of SCT.

15. Hargray's executive team identified below has a proven track record operating telecommunications companies while meeting and exceeding both customer and state regulatory commission expectations:

- **Michael Gottdenker: Chairman & Chief Executive Officer**
  - Prior to joining Hargray, Mr. Gottdenker served as Chairman and Chief Executive Officer of Access Spectrum, LLC, which holds spectrum licenses covering two-thirds of the United States. Mr. Gottdenker has also served as President and Chief Executive Officer of Commonwealth Telephone Enterprises, Inc., a publicly-traded provider of local telephone service in portions of rural Pennsylvania. Under Mr. Gottdenker's leadership, Commonwealth became one of the nation's most dynamic and fastest-growing independent telephone companies.
  
- **Paul Sunu: Chief Financial Officer**
  - Mr. Sunu most recently served as Chief Financial Officer for Hawaiian Telcom, the 11th largest telephone company in the United States. Prior to Hawaiian Telcom, Mr. Sunu held the same position at Madison River Communications for 11 years where he was also a founder. Mr. Sunu has over 25 years of experience in finance, tax, treasury, securities, and law, including integrating telecom acquisitions.
  
- **David Armistead: General Counsel and Secretary**
  - Mr. Armistead joined Hargray from CT Communications, Inc., a publicly-traded telecom provider where he held the position of General Counsel and Secretary until that company's sale to Windstream Corporation in 2007. Prior to CT Communications, Mr. Armistead was a partner in the law firm of Troutman Sanders, LLP.
  
- **Andrew Rein: Vice President of Corporate Development**
  - Mr. Rein joined Hargray from Access Spectrum where he served as Director of Strategy and Operations. Prior to Access Spectrum, Mr. Rein served as a consultant with a strategy consulting company based in Washington, DC. Mr. Rein's current responsibilities include strategic planning, mergers and acquisitions, and strategic partnerships.

15. As shown in the Purchase Agreement, SCT's current experienced management team, customer service staff and operations and maintenance personnel will remain in place, and will continue to provide the same dependable service to customers. SCT's customers will continue to receive service over the same reliable facilities and networks, will continue to receive prompt and professional customer care and repair services, and SCT will continue to render accurate and timely bills for services rendered. In short, SCT's ability to provide high quality telecommunications services to its customers will be unaffected by a change in the identity of its parent company. SCT's management team includes:

- **Martin Rubin: CEO and President**
  - Mr. Rubin founded Smart City Networks in 1994 and has served as the CEO and President of the Smart City Companies and their affiliates. Prior to Smart City, Mr. Rubin was President of Raptor Systems, one of the original and largest Internet firewall companies. He also served as President of AutoInfo, a publicly-traded satellite communications company, and was group Vice President at JPMorgan Chase.
  
- **John Cascio: Chief Operating Officer**
  - Mr. Cascio joined SCT in January 2007 after a fifteen-year career at Sprint. Mr. Cascio served as Sprint's Vice President responsible for marketing, sales, and service in the southeastern United States. Prior to Sprint, Mr. Cascio was one of the original employees at ROLM, a major PBX manufacturer. After the acquisition of ROLM by IBM, Mr. Cascio worked for several years with IBM Europe, based in its London offices.
  
- **James Schumacher: VP, Finance & Administration**
  - Since 1981, Mr. Schumacher has led the finance and administration functions for SCT. His team is currently responsible for finance and accounting, customer service, information technology, human resources and logistics services. Schumacher served as the manager of business affairs for Vista-United Telecommunications, manager of regulatory affairs and manager of revenues.
  
- **Valli Corbin: VP, Sales**
  - Ms. Corbin joined SCT in June 2007 after a 17 year career at Sprint. Starting as a systems designer for GTE in North Carolina, she quickly rose through the ranks as an account executive, sales manager and branch director. During her tenure at Sprint/Embarq she achieved an unparalleled track record of sales success, highlighted by five President's Club Top Performer awards and numerous other High Achiever Awards.
  
- **Carlos Palenzuela: VP, Technology Services**
  - As the Vice President of Technology Services since 2007, Mr. Palenzuela is responsible for overseeing Network Services, Engineering, Construction, and Operations. Prior to joining Smart City, he had a 25-year career with Embarq.

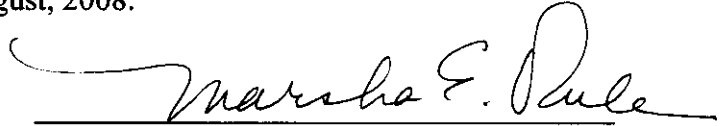
### CONCLUSION

As demonstrated above, the proposed transfer of indirect control of SCT's pay telephone and local exchange telecommunications facilities is in the public interest. Hargray and SCT have the requisite managerial, technical and financial capability to continue to provide the same high-quality and reliable telecommunications service currently provided by SCT. The Commission



should approve the proposed indirect transfer of control of telecommunications facilities described herein, and should find that the transaction will not implicate the requirements of Rule 25-4.118, Florida Administrative Code.

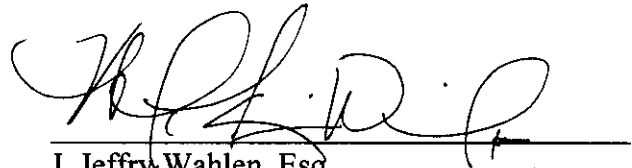
Respectfully submitted this 8th day of August, 2008.



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