

State of Florida



ORIGINAL

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD AVENUE • TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M- COMMISSION CLERK

DATE: January 3, 2005

TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director

FROM: Toni J. McCoy, Regulatory Analyst II, Division of Competitive Markets & Enforcement *jm*

RE: Docket No. 000614-TI

Please add the attached informational letter to the above closed docket for historical reference. No action is necessary as this was submitted for informational purposes only.

Please call if you have any questions. I can be reached at 413-6532.

Thank you.

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH _____

DOCUMENT NUMBER-DATE

00096 JAN -4 8

FPSC-COMMISSION CLERK

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

TYSONS CORNER

8000 TOWERS CRESCENT DRIVE

SUITE 1200

VIENNA, VIRGINIA 22182

(703) 918-2300

FACSIMILE

(703) 918-2450

www.kelleydrye.com

DIRECT LINE: (703) 918-2311

EMAIL: tconnor@kelleydrye.com

NEW YORK, NY

WASHINGTON, DC

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

JAKARTA, INDONESIA

MUMBAI, INDIA

December 14, 2004

Via UPS

Ms. Toni McCoy
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Re: Informational Filing Regarding the Transfer of Control of First
Communications LLC from FirstEnergy Corp. to McKinley
Communications LLC

Dear Ms. McCoy:

FirstEnergy Corp. ("FirstEnergy"), First Communications LLC ("First"), and McKinley Communications, LLC ("McKinley"),¹ by their undersigned counsel and pursuant to Fl. Stat. §§ 364.33 and 364.337, hereby respectfully notify the Florida Public Service Commission ("Commission") of a proposed transfer of control of First from FirstEnergy to McKinley. As described in detail below, the proposed transaction will result in a change in the ultimate ownership of First, but the management and operation of First will continue largely unchanged. First will retain its authorizations to provide telecommunications services in Florida and will continue to provide service to its existing customers in the same manner as it does today. The end result to First on a day-to-day management basis will be that it is stronger financially and, therefore, better able to serve its current customers and compete for new customers. The Parties understand that prior Commission approval of the proposed transfer of control described herein is not required.² Thus, the Parties submit this letter for the Commission's information only.

¹ FirstEnergy and McKinley are collectively referred to as the "Parties."

² On the advice of Tommy Williams, we are providing this letter to the Commission as notification of the transaction. Based on discussions with Mr. Williams and review of applicable law, it is our understanding that formal approval of this transaction is not required.

The Relevant Parties.

First. First is an Ohio limited liability company with its principal place of business located at 3340 West Market Street, Akron, Ohio 44333. Founded in 1984, First is a common carrier that provides local, private line and long distance services to both business and residential customers in several states in the U.S. Currently, First provides telecommunications services to approximately 70,000 customers, located primarily in Florida, Ohio, Indiana and Michigan. First's services include, in addition to traditional local and long distance services, toll-free services, conference calling packages, calling cards, prepaid calling cards, Internet access, and dedicated and private line services. First's telecommunications services are provided primarily on a resale basis using facilities and switches that are owned and operated by other telecommunications carriers. First is certificated or otherwise authorized to provide local exchange telecommunications services and/or intrastate interexchange services in several states, including in Florida.³ First provides domestic and international telecommunications services pursuant to authorizations granted by the Federal Communications Commission ("FCC").

FirstEnergy. FirstEnergy is a registered public utility holding company headquartered at 76 South Main Street, Suite 1600, Akron, Ohio 44308. At present, FirstEnergy holds a 65 percent ownership interest in First. The remaining 35 percent ownership interest is held by Boich Investment Group, Ltd. ("Boich") of Columbus, Ohio.

McKinley. McKinley is an Ohio limited liability company headquartered at 134 Sixth Street S.W., Canton, Ohio 44702. McKinley is an investment company. McKinley is controlled by Marbel Investments, LLC ("Marbel"), an investment company that is owned in equal shares by four (4) individual investors – Marsh Belden, Timothy Belden, Susan Belden, and Katherine Belden (the "Beldens"). Neither McKinley nor any of its affiliates currently provide any telecommunications services on a common carrier basis.

Designated Contacts.

The designated contacts for questions concerning this notice are:

For FirstEnergy:	For First:	For McKinley:
Mark Clark Authorized Representative FirstEnergy Corp. 76 S. Main Street, Suite 1600 Akron, Ohio 44308 Tel: (330) 384-5817 Fax: (330) 384-3866 clarkm@firstenergycorp.com	Joseph R. Morris V.P. Corporate Operations and General Counsel First Communications LLC 3340 W. Market Street Akron, Ohio 44333 Tel: (330) 835-2472 Fax: (330) 835-2330 jmorris@firstcomm.com	Marsh Belden Authorized Representative McKinley Communications, LLC 134 Sixth Street S.W. Canton, Ohio 44702 Tel: (330) 455-4000 Fax: (330) 455-4019

³ First was authorized to provide resold interexchange telecommunications services in Florida in Docket No. 000614.

For FirstEnergy:	For First:	For McKinley:
David L. Feltner Associate General Counsel FirstEnergy Corp. 76 S. Main Street, Suite 1600 Akron, Ohio 44308 Tel: (800) 646-0400 Fax: (330) 384-3875 feltnerd@firstenergycorp.com	Steven A. Augustino Kelley Drye & Warren, LLP 1200 19th Street, NW, Suite 500 Washington, DC 20036 Tel: (202) 955-9600 Fax: (202) 955-9792 saugustino@kelleydrye.com	Tamara E. Connor Kelley Drye & Warren, LLP 8000 Towers Crescent Drive Suite 1200 Vienna, VA 22182 Tel: (703) 918-2311 Fax: (703) 955-9792 tconnor@kelleydrye.com

The Transaction.

FirstEnergy, Boich, and McKinley have reached an agreement in principle whereby FirstEnergy will sell to McKinley a 33.15 percent membership interest in First. The purchase price for the membership interest is \$11,700,000, subject to certain subsequent adjustments. In addition, Boich will sell to McKinley a 17.95 percent membership interest in First. The purchase price for the membership interest is \$6,300,000. The transaction is contingent on receipt of necessary regulatory approvals, among other things. After closing, McKinley will hold a 51 percent ownership interest in First, FirstEnergy will hold a 31.85 percent ownership interest in First and Boich will hold a 17.15 percent ownership interest in First. An organization chart for First reflecting the pre-close and post-close ownership structure is provided in *Exhibit A*.

First will continue to possess the managerial and technical qualifications to provide telecommunications services in Florida. McKinley currently plans to retain the majority of First's current management team and will rely on its experienced professionals. It is thus not contemplated that there will be significant changes in First's current management occasioned by this transaction, and the current senior management is expected to continue to oversee the day-to-day operations of its operating subsidiaries. Of course, over time, there may be management changes as deemed appropriate by First's Board of Directors. Similarly, First will continue to possess the financial qualifications to provide telecommunications services in Florida. McKinley will bring an infusion of new capital to First and thus better equip First to provide quality telecommunications services to its customers.

Public Interest Considerations.

The transfer of control of First to McKinley will serve the public interest. Maintaining a controlling interest in First is no longer consistent with FirstEnergy's goals and objectives. FirstEnergy's sale of a portion of its ownership interest to McKinley will allow FirstEnergy to decrease its interest in First in an orderly fashion. McKinley will supplement First's current management, the majority of whom will be retained post-close, and will bring additional capital to First. In so doing, McKinley will strengthen First and better ensure that it remains a viable long-term competitor in the telecommunications marketplace. Given the difficulties with which the competitive telecommunications industry is now struggling, the creation of a financially stronger telecommunications competitor would benefit consumers in Florida.

At the same time, the change in ultimate ownership of First will not have any adverse

impact on customers. Since this is an equity transaction as opposed to an asset sale, the transfer of control of First will not result in a change of carrier for First's customers or any transfer of authorizations. Immediately following consummation of the transaction First will continue to provide high-quality communications services to its customers without interruption and without immediate change in rates, terms or conditions. The contact for customers and Commission inquiries will continue to be: Mary Celgelski, First Communications LLC, 3340 West Market Street, Akron, Ohio 44333, telephone number: (330) 835-2272, email mcelgelski@firstcomm.com. In fact, the operations of First will largely continue to be determined by many of the same management, technical, and customer service personnel that currently oversee those operations.

Finally, no anticompetitive effects will result from this transaction. Since neither McKinley nor any of its affiliates is presently a participant in the telecommunications market, no competitors will be eliminated as a result of the proposed transaction.

As noted above, the Parties do not believe that Commission approval is required for the proposed transfer of control described herein. Should the Commission determine otherwise, the Parties respectfully request that the Commission notify them as soon as possible. Enclosed please find a duplicate copy of this filing and a self-addressed, postage-paid envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided. Should the Commission have any questions, please contact Tamara Connor at (703) 918-2311.

Respectfully submitted,

**FIRSTENERGY CORP.,
FIRST COMMUNICATIONS LLC, and
MCKINLEY COMMUNICATIONS LLC**

By: 

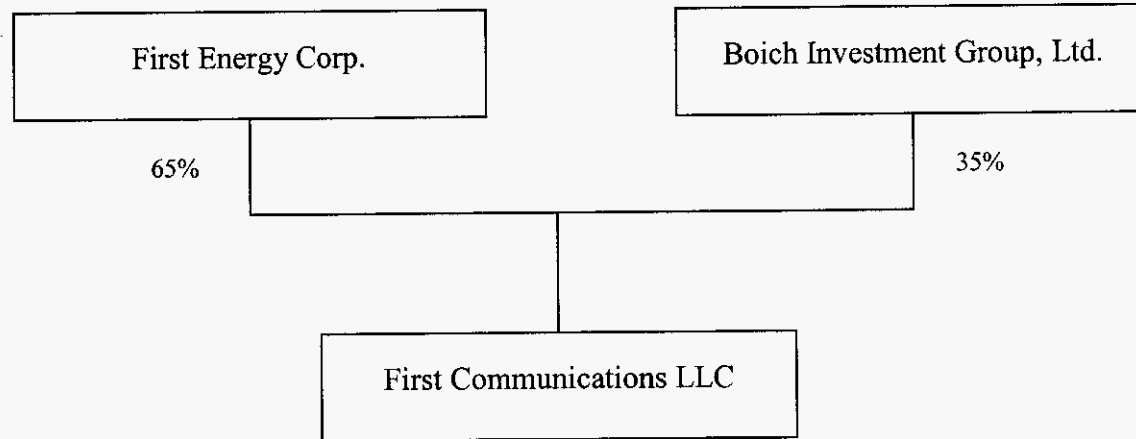
Tamara E. Connor
Kelley Drye & Warren LLP
8000 Towers Crescent Drive
Suite 1200
Vienna, VA 22182
Tel: (703) 918-2311
Fax: (703) 918-2450

Steve A. Augustino
Kelley Drye & Warren, LLP
1200 19th Street, N.W.
Suite 500
Washington, DC 20036
Tel: (202) 955-9600
Fax: (202) 955-9792

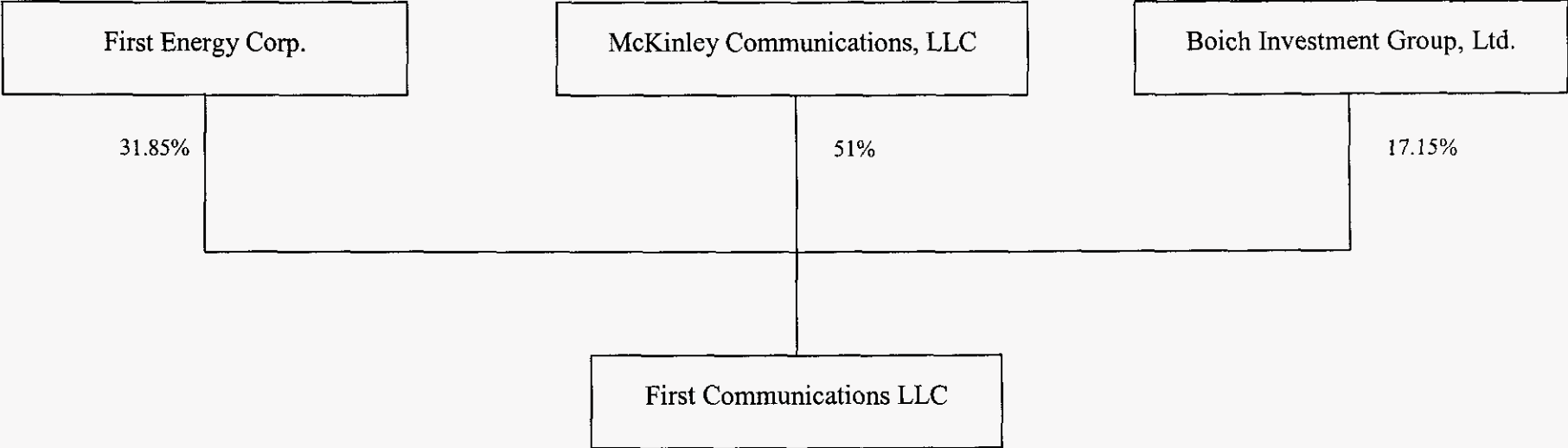
David L. Feltner
Associate General Counsel
FirstEnergy Corp.
76 South Main Street
Suite 1600
Akron, Ohio 44308
Tel: (800) 640-0400
Fax: (330) 384-3875

EXHIBIT A

FIRST COMMUNICATIONS LLC
CURRENT STRUCTURE



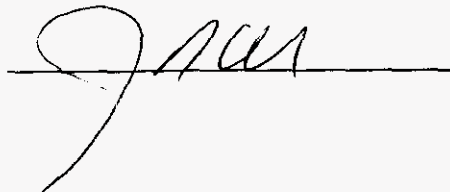
FIRST COMMUNICATIONS LLC
POST-CLOSE STRUCTURE



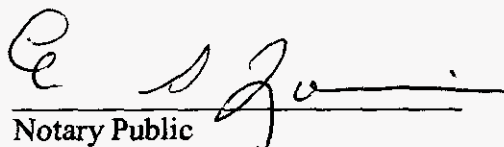
VERIFICATION

I, Joseph R. Morris, am Vice President of Corporate Operations of First Communications LLC, and am authorized to represent it and its affiliates, and to make this verification on their behalf. The statements in the foregoing document relating to this company and its affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.



Subscribed and sworn to before me this 10th day of December, 2004.



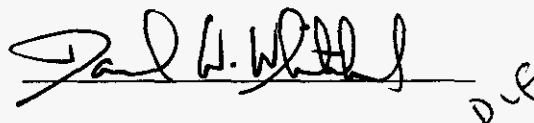
Notary Public

My Commission expires: _____
ERIC S. LOCKSHIN, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Feb. 25, 2007

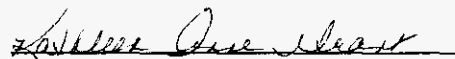
VERIFICATION

I, David W. Whitehead, am Corporate Secretary of FirstEnergy Corp., and am authorized to represent it, and to make this verification on its behalf. The statements in the foregoing document relating to this company and its affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

 David W. Whitehead DWF

Subscribed and sworn to before me this
10th day of December, 2004.



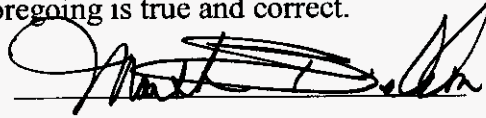
Notary Public

My Commission expires: November 8, 2009.

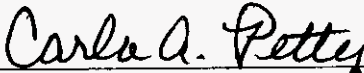
VERIFICATION

I, Marsh Belden, am the Authorized Representative of McKinley Communications, LLC, and am authorized to represent it and its affiliates, and to make this verification on their behalf. The statements in the foregoing document relating to this company and its affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

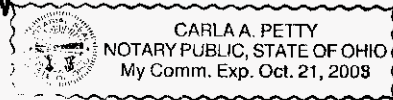
I declare under penalty of perjury that the foregoing is true and correct.



Subscribed and sworn to before me this 10th day of December, 2004.



Notary Public



My Commission expires: _____