

ORIGINAL

SWIDLER & BERLIN
CHARTERED

KATHERINE A. ROLPH
ATTORNEY AT LAW

DIRECT DIAL
(202)424-7765

DEPOSIT

DATE

July 8, 1998

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JUL 09 1998

VIA OYERNIGHT DELIVERY

Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak, Blvd.
Tallahassee, Florida 32399-0870

980862-TX

Re: Application of Florida Digital Network, Inc. for Authority to
Provide Alternative Local Exchange Service in Florida

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Digital Network, Inc. ("Florida Digital") please find an original and six (6) copies of Florida Digital's above-referenced application. Also enclosed is a check in the amount of \$250.00 to cover the application filing fee.

Please date-stamp the extra copy and return it to the undersigned in the enclosed self-addressed, stamped envelope.

Should you have any questions concerning this filing, please do not hesitate to contact me.

Very truly yours,

Katherine A. Rolph
Katherine A. Rolph

Enclosures

cc: Richard Kolsby

2441111

87 JUL 6 10 86

**FLORIDA PUBLIC SERVICE COMMISSION
CAPITAL CIRCLE OFFICE CENTER - 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850**

**APPLICATION FORM
for**

**AUTHORITY TO PROVIDE ALTERNATIVE LOCAL EXCHANGE SERVICE
WITHIN THE STATE OF FLORIDA**

INSTRUCTIONS

1. This form is used for an original application for a certificate and for approval of sale, assignment or transfer of an existing alternative local exchange certificate. In case of a sale, assignment or transfer, the information provided shall be for the purchaser, assignee or transferee.
2. Respond to each item requested in the application and appendices. If an item is not applicable, please explain why.
3. Use a separate sheet for each answer which will not fit the allotted space.
4. If you have questions about completing the form, contact:

**Florida Public Service Commission
Division of Communications, Certification & Compliance Section
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0866
(904) 413-6600**

5. Once completed, submit the original and six (6) copies of this form along with a non-refundable application fee of \$250 made payable to the Florida Public Service Commission at the above address.
-

1. This is an application for (check one):

Original authority (new company)

Approval of transfer (to another certificated company)

Example, a certificated company purchases an existing company and desires to retain the original certificate authority.

Approval of assignment of existing certificate (to a non-certificated company)

Example, a non-certificated company purchases an existing company and desires to retain the certificate of authority rather than apply for a new certificate.

Approval for transfer of control (to another certificated company)

Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of applicant:

Florida Digital Network, Inc. ("Digital Network" or the "Applicant.")

3. Name under which the applicant will do business (d/b/a):

Florida Digital Network, Inc.

4. If applicable, please provide proof of fictitious name (d/b/a) registration.

Fictitious name registration number: Not applicable.

5. A. National mailing address including street name, number, post office box, city, state, zip code, and phone number.

**Florida Digital Network, Inc.
4575 Peachtree Dunwoody Road
Atlanta, Georgia 30342
Telephone: 404/816-6739
Facsimile: 404/816-3056**

B. Florida mailing address including street name, number, post office box, city, state, zip code, and phone number.

**Florida Digital Network, Inc.
1199 N. Orange Ave.
Orlando, FL 32804
(407) 895-8240**

6. Structure of organization:

- | | |
|---|--|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Corporation |
| <input checked="" type="checkbox"/> Foreign corporation | <input type="checkbox"/> Foreign Partnership |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership |
| <input type="checkbox"/> Joint Venture | <input type="checkbox"/> Other, Please explain _____ |

7. If applicant is an individual, partnership, or joint venture, please give name, title and address of each legal entity.

Not Applicable.

8. State whether any of the officers, directors, or any of the ten largest stockholders have previously been adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, please explain.

None of Florida Digital's officers, directors, nor any of the ten largest stockholders, have previously been adjudged bankrupt, mentally incompetent, or found guilty of any felony or any crime; nor are any such proceedings pending.

9. If incorporated, please provide proof from the Florida Secretary of State that the applicant has authority to operate in Florida.

A copy of Applicant's certificate of authority to transact business in the State of Florida as a foreign corporation is attached hereto as Exhibit 1.

Corporate charter number: F98000001644

10. Please provide the name, title, address, telephone number, Internet address, and facsimile number for the person serving as ongoing liaison with the Commission, and if different, the liaison responsible for this application.

Ongoing liaison: Richard B. Kolsby, Florida Digital Network, Inc., 4575 Peachtree Dunwoody Road, Atlanta, Georgia 30342, Tel.: (404) 816-6739 Fax: (404) 816-3056.

Liaison for Application: Andrew D. Lipman, Esq. and Katherine A. Rolph, Esq., Swidler & Berlin Chartered, 3000 K Street, Suite 300, Washington, D.C. 20007-5116 Tel: (202) 424-7788; Fax (202) 424-7645.

11. Please list other states in which the applicant is currently providing or has applied to provide local exchange or alternative local exchange service.

Applicant currently is seeking authority to provide telecommunications services only in Florida.

12. Has the applicant been denied certification in any other state? If so, please list the state and reason for denial.

No.

13. Have penalties been imposed against the applicant in any other state? If so, please list the state and reason for penalty.

No penalties have been imposed against the applicant in any other state.

14. Please indicate how a customer can file a service complaint with your company.

When Florida Digital commences operations in Florida, it will have a customer service department that customers may reach by dialing a toll-free number.

15. Please complete and file a price list in accordance with Commission Rule 25-24.825.

Florida Digital will file a complete price list with the Commission in accordance with Commission Rule 25-24.825 prior to initiating service.

16. Please provide all available documentation demonstrating that the applicant has the following capabilities to provide alternative local exchange service in Florida.

A. Financial capability. See Exhibit 2.

Regarding the showing of financial capability, the following applies:

The application should contain the applicant's financial statements for the most recent 3 years, including:

1. the balance sheet
2. income statement
3. statement of retained earnings.

Further, a written explanation, which can include supporting documentation, regarding the following should be provided to show financial capability.

1. Please provide documentation that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.
2. Please provide documentation that the applicant has sufficient financial capability to maintain the requested service.
3. Please provide documentation that the applicant has sufficient financial capability to meet its lease or ownership obligations.

NOTE: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

If available, the financial statements should be audited financial statements.

If the applicant does not have audited financial statements, it shall be so stated. The unaudited financial statements should then be signed by the applicant's chief executive officer and chief financial officer. The signatures should attest that the financial statements are true and correct.

- B. Managerial capability. See Exhibit 3.
- C. Technical capability. See Exhibit 3.

(If you will be providing local intra-exchange switched telecommunications service, then state how you will provide access to 911 emergency service. If the nature of the emergency 911 service access and funding mechanism is not equivalent to that provided by the local exchange companies in the areas to be served, describe in detail the difference.)

Florida Digital will negotiate an E911/911 interconnection arrangement with the incumbent LECs that will allow it to complete 911 calls for its customers. Florida Digital will coordinate with the agency operating the Public Service Answering Point ("PSAP") in each locality that it serves, in order to assure that 911 calls are routed and delivered in the manner desired by the PSAP. In those localities where E911 service has been implemented, Florida Digital also will make arrangements for the proper delivery of Automatic Number Identification ("ANI") and Automatic Location Identification ("ALI") information to the PSAP.

EXHIBITS

EXHIBIT 1 **Certificate of Authority to Transact Business**

EXHIBIT 2 **Financial Qualifications**

EXHIBIT 3 **Managerial and Technical Capability**

EXHIBIT 1

Certificate of Authority to Transact Business

APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 807.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:

F98000001644

1. Florida Digital Network, Inc.
(Name of corporation: must include the word "INCORPORATED", "COMPANY", "CORPORATION", or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name of present.)

2. Delaware
(State or country under the law of which it is incorporated)

3. Applied For
(FEI number, if applicable)

4. 02/27/1998
(Date of incorporation)

5. Perpetual
(Duration: Year corp. will cease to exist or "perpetual")

6. Upon Qualification
(Date first transacted business in Florida. (See sections 807.1501, 807.1502, and 817.155, F.S.))

7. 4875 Peachtree Dunwoody Road, Atlanta, Georgia 30342
(Current mailing address)

8. See attached purpose clause
(Purpose(s) of corporation authorized in home state or country to be carried out in the state of Florida)

9. Name and street address of Florida registered agent:

Name: C T Corporation System

Office Address: 9/9 C T Corporation System, 1200 South Pine Island Road

Plantation, Florida, 31124
(Zip Code)

10. Registered agent acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligation of my position as registered agent.

C T Corporation System


(Registered agent's signature) (Officer)

Georgia P. Brown, Asst. Secy.
(Type Name and Title of Officer)

F.N.E.D. SECRETARY OF STATE
90 MAR -3 AM 8:51

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

12. Names and addresses of officers and/or directors:

A. DIRECTORS

Chairman: _____

Address: _____

Vice Chairman: _____

Address: _____

Director: Richard B. Koloby

Address: 4575 Peachtree Dunwoody Road

Atlanta, Georgia 30342

Director: _____

Address: _____

B. OFFICERS

President: Richard B. Koloby

Address: 4575 Peachtree Dunwoody Road

Atlanta, Georgia 30342

Vice President: _____

Address: _____

Secretary: Richard B. Koloby

Address: 4575 Peachtree Dunwoody Road

Atlanta, Georgia 30342

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SECRETARY OF STATE
DIVISION
90 MAR -3 AM 8:51

Treasurer: Richard B. Koloby

Address: 4875 Peachtree Dunwoody Road

Atlanta, Georgia 30342

NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

3. 
(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of this application)

4. Richard B. Koloby, President
(Typed or printed name and capacity of person signing application)

FILED
SECRETARY OF STATE
90 MAR -3 AM 8:51

**Appendix to Florida
Application by Fgn. Corp. for Authorization to Transact Business in Florida**

**Purpose Clause of
Florida Digital Network, Inc.**

To engage in any lawful act or activity in which corporations may engage under the laws of the State of Florida, and to conduct its business, promote its purposes, and carry on its operations, both within and without the State of Florida.

**FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 MAR -3 AM 8:51**

State of Delaware

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "FLORIDA DIGITAL NETWORK, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-SEVENTH DAY OF FEBRUARY, A.D. 1998.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE NOT BEEN ASSESSED TO DATE.

FILED
SECRETARY OF STATE
98 MAR -3 AM 8:51



Edward J. Freel
Edward J. Freel, Secretary of State

2864922 8300

981077485

AUTHENTICATION:

8945383

DATE:

02-27-98

EXHIBIT 2

Financial Qualifications

Florida Digital Network, Inc. has access to the financing and capital necessary to provide and maintain the telecommunications operations specified in the Application. Florida Digital Network, Inc. is a Delaware corporation formed on February 27, 1998 and, as a start-up company, does not yet have financial statements. However, the Company recently raised \$25 million in equity financing, and currently has over \$5.8 million in the bank to fund its start-up operations. Attached hereto in demonstration of Florida Digital Network, Inc.'s financial qualifications is a copy of the Company's most recent bank statement. Also attached is a letter from First Union National Bank, confirming that Florida Digital Network, Inc. has substantial funding in its account. These documents show that Florida Digital has sufficient financial capability to provide local exchange service in the geographic area proposed to be served, the Florida Digital has sufficient financial capability to maintain the requested service, and that the applicant has sufficient financial capability to meet its lease or ownership obligations. The Company is well positioned and well qualified to meet the financing requirements necessary to enter the Florida local exchange market.

First Union National Bank

Private Client Group
GA9032
P.O. Box 740074
Atlanta, Georgia 30374-9900
404 225-4065
Fax 404 225-4135

**FIRST
UNION**

May 27, 1998

**Florida Digital Networks
4575 Peachtree Dunwoody Rd
Atlanta, GA 30342**

Re: Credit Reference

Please be advised that the above referenced company is being banked by First Union's Private Client Group. They have opened a depository relationship with our bank and have been substantially capitalized by several partners.

Any further questions or comments can be directed to me by calling 404-225-4094

Cordially,



**Kevin R. Myers
Vice President-Principal**

DEPHTI A013771 DMTAT8 DEP ACCT HISTORY TRANSACTIONS INQ BAHTD005 06/02/98

16:54

ORG: 005 SERV: DDA ACCT: 2080000769178

C/W: DATE:

SHORT NAME: FLORIDA DIGITAL

DAILY BAL: .00

DATE	SERIAL	T/C	AMOUNT	T/S	CAP	REC	SEQUENCE	DATE/DESC
05/21/98		620	4,800,000.00+	063	006	006	1022206010	CREDIT MEMO
		TSF FROM CAP						
		620	1,000,000.00+	063	006	006	1022406010	CREDIT MEMO
		TSF FROM CAP						

DAILY BAL: 5,800,000.00

05/29/98		141	7,870.45+	499	006	006	0000000001	INT PAYMENT
		INTEREST FROM 05/21/1998 THROUGH 05/29/1998						

DAILY BAL: 5,807,870.45

COMMAND:

F1=HELP F3=EXIT F7=BKWD F8=FWD

□

EXHIBIT 3

Managerial and Technical Capability

FLORIDA DIGITAL MANAGEMENT TEAM

Florida Digital Network (FDN) is commencing business with a very experienced management team, all of whom were involved with the very successful first generation CLEC, Metro Access Networks (MAN). The early years of developing the network and operational systems for MAN plus the valuable experience after the merger with Brooks Fiber Properties and the subsequent merger with WorldCom, has given this team a unique industry view. They are well versed in service delivery strategies, effective organizational techniques, and order flow provisioning systems. Similar to what was successfully accomplished by MAN in Texas, the FDN team will focus on the serving area and customer base within the State of Florida.

Richard B. Kolsby - Director & Secretary/Treasurer

Mr. Kolsby is a pioneer in the CLEC industry with 16 years entrepreneurial experience in starting three successful companies during that period. His first was Intermedia Communications of Florida (ICI), which he cofounded in 1987. It was the first public CLEC and has grown to become a major regional carrier serving the eastern U.S. Mr. Kolsby then went on to found Metrex Corporation which he sold to MFS in 1992. As part of MFS, Metrex became the predominant CLEC serving Atlanta, Georgia. After Metrex, Mr. Kolsby founded Metro Access Networks (MAN) with Century Telephone Enterprises as his partner. This company became the premier CLEC in Texas serving Dallas, Fort Worth, Austin, Houston and San Antonio. It was sold to Brooks Fiber in early 1997 and subsequently became part of WorldCom. Prior to becoming an entrepreneur in the CLEC industry, Mr. Kolsby worked in various engineering and planning management roles over a 16 year period at United Telephone of Florida. He holds a BS and an MBA from Rollins College.

Michael Gallagher - Director & President/CEO

Mr. Gallagher is also a CLEC pioneer and has extensive experience as a CLEC and IXC industry executive and most recently served as Regional Vice President for Brooks Fiber Communications (WorldCom), where he has overall responsibility for all operations, engineering, finance and sales in Texas. Mr. Gallagher came to Brooks from the merger of Metro Access Networks (MAN), where he was the president and a co-founder of the Texas regional CLEC. At MAN, Mr. Gallagher developed all business strategies, designed network architecture and secured contracts with the companies original customer base. Prior to MAN, Mr. Gallagher worked for Williams Telecommunications Group (Tiltel) in sales management and Intermedia Communications (ICI) in sales. He holds a BS in Mathematics and Physics from Rollins College.

James Dabramo - VP Sales and Marketing

Mr. Dabramo was most recently VP of Sales for Brooks Fiber, Texas region, where he was responsible for all sales of CLEC services. He oversaw a sales force in Dallas, Fort Worth, Austin, San Antonio, Houston and Waco and has successfully pioneered new marketing strategies for competitive local exchange services. Mr. Dabramo was a key player in the start-up of MAN, Brooks Fiber's predecessor, securing many key customer contracts. Prior to joining MAN, he worked for Bell Atlantic and Wiltel in National Account sales.

Ryan Hand - VP Operations and Engineering

Mr. Hand most recently served as VP of Operations for Brooks Fiber, Texas Region, where he was responsible for all operations, engineering and service delivery for all special access and CLEC products. This encompassed six cities, over 500 route miles of fiber optic cables, four DMS-500 central office switching systems, and several hundred customers. He personally oversaw the installation and turn-up of the Houston network and operations. Prior to working for MAN, Mr. Hand worked for Teleport Communications for 2 years and NORTEL for 11 years.

Susan Rodriguez - VP MIS and Information Technology

Ms. Rodriguez is an industry pioneer, starting her CLEC career with Intermedia Communications in Florida. More recently, she was a Regional Vice President for GST on the west coast. Prior to that she was VP of MIS for Metro Access Networks in Texas, where she was also a founding member of the management team. Prior to MAN, she worked for Intermedia Communications in sales, sales management and regulatory.

**SWIDLER
&
BERLIN**
CHARTERED

KATHERINE A. ROLPH
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7788

DEPOSIT

DATE

D 8 0 7

JUL 0 9 1998

July 8, 1998

VIA OVERNIGHT DELIVERY

Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak, Blvd.
Tallahassee, Florida 32399-0870

Re: Application of Florida Digital Network, Inc. for Authority to
Provide Alternative Local Exchange Service in Florida

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Should you have any questions concerning this filing, please do not hesitate to contact me.

SWIDLER & BERLIN
CHARTERED
3000 K STREET, N.W., SUITE 300
WASHINGTON, D.C. 20007

FIRST UNION NATIONAL BANK
WASHINGTON, D.C.

0066951

15-122/540

NO 066951

*****250.00 DOLLARS AND 00/100 CENTS*****

DATE

AMOUNT

PAY
TO THE
ORDER
OF
FLORIDA PUBLIC SERVICE COMMISSION

JUL 08 1998

15-122-250.00
GENERAL ACCOUNT
TWO SIGNATURES REQUIRED ABOVE \$10,000

