

# SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

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405 LEXINGTON AVENUE  
NEW YORK, NY 10174

September 14, 2000

## VIA OVERNIGHT MAIL

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

DEPOSIT  
D 3 6 8

DATE  
SEP 18 2000

001424-TX

**Re: Application of Sphera Optical Networks N.A., Inc. d/b/a Sphera Networks for Authority to Provide Alternative Local Exchange Service in Florida**

Dear Ms. Bayo:

Enclosed for filing on behalf of Sphera Optical Networks N.A., Inc. d/b/a Sphera Networks ("Sphera") please find an original and six (6) copies of Sphera's application for authority to provide alternative local exchange service in Florida. Also enclosed is a check in the amount of \$250.00 to cover the application filing fee.

Please note that pursuant to Section 364.183 of the Florida Statutes, Sphera is requesting confidential treatment of its financial statements which are attached as Exhibit 1 to its certification application. Sphera is filing one original copy of its financial information and two (2) redacted copies. The financial information included in Exhibit 1 to Sphera's application, contains proprietary, commercially sensitive information that, if disseminated, could be used to the Applicant's detriment by competitors. Applicant therefore respectfully seeks to have this information protected as it constitutes sensitive and proprietary data.

Please date-stamp the enclosed extra copy of this filing and return in the self-addressed, stamped envelope provided. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,



Kathleen L. Greenan

Counsel for Sphera Optical Networks N.A., Inc.  
d/b/a Sphera Networks

Enclosures

cc: Aaron Kitlowski, Sphera Optical Networks N.A., Inc.

348413.1

This claim of confidentiality was filed by or on behalf of a "telco" for Confidential DN 11607-00. The document is in locked storage pending advice on handling. To access the material, your name must be on the CASR. If undocketed, your division director must obtain written EXD/Tech permission before you can access it.

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11606 SEP 15 8  
FPSC-RECORDS/REPORTING

**\*\* FLORIDA PUBLIC SERVICE COMMISSION \*\***

001424-TX

**DIVISION OF TELECOMMUNICATIONS**  
**BUREAU OF CERTIFICATION AND SERVICE EVALUATION**

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

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Instructions

- ◆ This form is used as an application for an original certificate and for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee (See Appendix A).
- ◆ Print or type all responses to each item requested in the application and appendices. If an item is not applicable, please explain why.
- ◆ Use a separate sheet for each answer which will not fit the allotted space.
- ◆ Once completed, submit the original and six (6) copies of this form along with a non-refundable application fee of **\$250.00** to:

**Florida Public Service Commission**  
**Division of Records and Reporting**  
**2540 Shumard Oak Blvd.**  
**Tallahassee, Florida 32399-0850**  
**(850) 413-6770**

- ◆ If you have questions about completing the form. contact:

**Florida Public Service Commission**  
**Division of Telecommunications**  
**Bureau of Certification and Service Evaluation**  
**2540 Shumard Oak Blvd.**  
**Tallahassee, Florida 32399-0850**  
**(850) 413-6600**

## APPLICATION

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

**Original certificate** (new company).

**Approval of transfer of existing certificate:** Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority.

**Approval of assignment of existing certificate:** Example, a certificated company purchases an existing company and desires to retain the certificate of authority of that company.

**Approval of transfer of control:** Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company:

Sphera Optical Networks N.A., Inc. ("Sphera" or "Applicant")

3. Name under which the applicant will do business (fictitious name, etc.):

Sphera Networks

4. Official mailing address (including street name & number, post office box, city, state, zip code):

200 Madison Avenue, Suite 502, New York, New York 10016

5. Florida address (including street name & number, post office box, city, state, zip code):

Sphera does not currently have an office in Florida. If Sphera does establish a Florida office in the future, Sphera will provide this information to the Commission, if the Commission so requests.

6. Structure of organization:

- Individual                       Corporation  
 Foreign Corporation       Foreign Partnership  
 General Partnership       Limited Partnership  
 Other \_\_\_\_\_

7. **If individual**, provide:

**Name:** Not Applicable

**Title:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_ **Fax No.:** \_\_\_\_\_

**Internet E-Mail Address:** \_\_\_\_\_

**Internet Web site Address:** \_\_\_\_\_

8. **If incorporated in Florida**, provide proof of authority to operate in Florida:

(a) **The Florida Secretary of State corporate registration number:**

Not Applicable

9. **If foreign corporation**, provide proof of authority to operate in Florida:

(a) **The Florida Secretary of State corporate registration number:**

F00000005012

10. **If using fictitious name-d/b/a**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida:

(a) **The Florida Secretary of State fictitious name registration number:**

G00252900061

11. **If a limited liability partnership**, provide proof of registration to operate in Florida:

(a) **The Florida Secretary of State registration number:**

Not Applicable

12. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.

**Name:** Not Applicable

**Title:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_

**Fax No.:** \_\_\_\_\_

**Internet E-Mail Address:** \_\_\_\_\_

**Internet Web site Address:** \_\_\_\_\_

13. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable.

(a) **The Florida registration number:** Not Applicable

14. Provide **F.E.I. Number** (if applicable): 13-4124982

15. Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. Provide explanation.

None of Sphera's officers, directors, or ten largest stockholders of Sphera have previously been adjudged bankrupt, mentally incompetent or found guilty of any felony or of any crime, nor will any such actions result from pending proceedings.

(b) an officer, director, partner or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

None of the officers, directors, or ten largest stockholders of Applicant are an officer, director, partner, or majority stockholder in any other Florida certificated telephone company.

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

**Name:** Kathleen L. Greenan, Swidler Berlin Shereff Friedman, LLP

**Title:** Counsel

**Address:** 3000 K St., N.W., Suite 300

**City/State/Zip:** Washington, D.C. 20007-5116

**Telephone No.:** (202) 424-7500 **Fax No.:** (202) 424-7645

**Internet E-Mail Address:** klgreenan@swidlaw.com

**Internet Web site Address:** http://www.swidlaw.com

(b) Official point of contact for the ongoing operations of the company:

**Name:** Aaron Kitlowski

**Title:** Assistant General Counsel

**Address:** 200 Madison Avenue, Suite 502

**City/State/Zip:** New York, New York 10016

**Telephone No.:** (212) 683-1011 **Fax No.:** (212) 683-6966

**Internet E-Mail Address:** akitlowski@mopticalnets.com

**Internet Web site Address:** Not Applicable

(c) Complaints/Inquiries from customers:

Name: Aaron Kitlowski

Title: Assistant General Counsel

Address: 200 Madison Avenue, Suite 502

City/State/Zip: New York, New York 10016

Telephone No.: (212) 683-1011 Fax No.: (212) 683-6966

Internet E-Mail Address: akitlowski@mopticalnets.com

Internet Web site Address: Not Applicable

17. List the states in which the applicant:

(a) has operated as an alternative local exchange company.

Sphera operates as an alternate local exchange company in New York.

(b) has applications pending to be certificated as an alternative local exchange company.

Sphera currently has a pending application for authority to provide intrastate interexchange and local exchange telecommunications services in the State of New Jersey and intends to apply for similar authority in additional states nationwide.

(c) is certificated to operate as an alternative local exchange company.

Sphera is certificated as an alternative local exchange company in New York.

- (d) has been denied authority to operate as an alternative local exchange company and the circumstances involved.

Sphera has not been denied authority to offer service in any state.

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- (e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

No regulatory agency has imposed any penalties on Sphera for any violations of telecommunications statutes.

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- (f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

Sphera has not been involved in civil court proceedings with an IXC, LEC, or other telecommunications entity.

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18. Submit the following:

A. Financial capability.

The application **should contain** the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall so be stated.

The unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

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

**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.



Further, the following (which includes supporting documentation) should be provided:

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

Please see Exhibit A.

- B. Managerial capability: give resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.

Please see Exhibit B.


- C. Technical capability: give resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.

Please see Exhibit B.

**\*\* APPLICANT ACKNOWLEDGMENT STATEMENT \*\***

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra and interstate business.
3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra and interstate revenues.
4. **APPLICATION FEE:** I understand that a non-refundable application fee of \$250.00 must be submitted with the application.

**UTILITY OFFICIAL**

 _____ Signature	<u>9/12/00</u> _____ Date
<u>General Counsel</u> _____ Title	<u>(212) 683-1011</u> _____ Telephone No.
<u>Address: 200 Madison Avenue, Suite 502</u> _____ <u>New York, New York 10016</u> _____	<u>(212) 683-6966</u> _____ Fax No.

**ATTACHMENTS:**

- A - CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT
- B - INTRASTATE NETWORK
- C - AFFIDAVIT

**CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT**

1, (Name) \_\_\_\_\_,

(Title) \_\_\_\_\_ of (Name of Company)

and current holder of Florida Public Service Commission Certificate Number # \_\_\_\_\_

\_\_\_\_\_, have reviewed this application and join in the petitioner's request for a:

( ) sale

( ) transfer

( ) assignment

of the above-mentioned certificate.

**UTILITY OFFICIAL:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone No.

Address: \_\_\_\_\_

\_\_\_\_\_  
Fax No.

\_\_\_\_\_  
\_\_\_\_\_

**INTRASTATE NETWORK (if available)**

Chapter 25-24.825 (5), Florida Administrative Code, requires the company to make available to staff the alternative local exchange service areas only upon request.

**1. POP:** Addresses where located. and indicate if owned or leased.

- |   |          |
|---|----------|
| 1) <u>Information not yet available</u> | 2) _____ |
| _____                                   | _____    |
| 3) _____                                | 4) _____ |
| _____                                   | _____    |

**2. SWITCHES:** Address where located, by type of switch, and indicate if owned or leased.

- |   |          |
|---|----------|
| 1) <u>Information not yet available</u> | 2) _____ |
| _____                                   | _____    |
| _____                                   | _____    |
| 3) _____                                | 4) _____ |
| _____                                   | _____    |

**3. TRANSMISSION FACILITIES:** POP-to-POP facilities by type of facilities (microwave, fiber, copper, satellite, etc.) and indicate if owned or leased.

- | <u>POP-to-POP</u>                       | <u>OWNERSHIP</u> |
|---|------------------|
| 1) <u>Information not yet available</u> | _____            |
| 2) _____                                | _____            |
| 3) _____                                | _____            |
| 4) _____                                | _____            |

**AFFIDAVIT**

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide alternative local exchange company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

**UTILITY OFFICIAL:**

  
Signature

9/12/00  
Date

General Counsel, Vice President Strategic Planning  
Title

(212) 683-1011  
Telephone No.

Address: 200 Madison Avenue, Suite 502

(212) 683-6966  
Fax No.

New York, New York 10016

**EXHIBITS**

Exhibit A

Financial Qualifications

Exhibit B

Managerial and Technical Qualifications

**Exhibit B**

**Managerial and Technical Qualifications**

**Harold Grossnickle**  
**Chairman and Chief Executive Officer**

Mr. Grossnickle's 30-year career in the telecommunications industry began with AT&T Long Lines. His responsibilities have been in network operations, network engineering, product development/management and sales. He has held executive and senior executive positions, including Vice President of an AT&T strategic business unit and President of a Global Crossing strategic business unit. While at Global Crossing, Mr. Grossnickle established a worldwide operations and maintenance organization - Global Crossing Network Center, Ltd. ("GCNC") - to support the subsea and terrestrial networks comprising Global Crossing's end-to-end network. GCNC included a Customer Care and Billing Operations organization headquartered in Bermuda, a global Network Operations Center located in London, regionally deployed Operations Centers supporting terrestrial networks, and various on-site work forces throughout the world. Six hundred people work for GCNC and its U.K. subsidiary, Global Crossing Network Center (UK), Ltd.

Mr. Grossnickle earned a Bachelor of Science degree in Industrial Engineering at Iowa State University and a Masters of Business Administration degree at the University of Missouri.

**Peter Tierney**  
**Chief Operating Officer**

Mr. Tierney's career in telecommunications began with Cable & Wireless as a sales representative in 1984. In 1985 he moved to the Western Union Telegraph Company where he became Eastern Region Manager in the Advanced Transmission Systems group with responsibility for the sale, installation and operation of customized solutions for large carriers. In 1990 his division was sold to MCI Telecommunications Corporation where Mr. Tierney was responsible for the installation and operation of fiber networks for CLECs, IXCs and corporate customers.

Mr. Tierney joined Time Warner in 1995 to help start its CLEC unit, Time Warner Telecom. While there, he developed the corporate sales and marketing unit and the video broadcast network which serves broadcasters and cable channels in New York. He left Time Warner in 1998 and started his own consulting firm, Chronos Communications, Inc. serving the needs of emerging CLECs, cable TV operators and broadcasters. In 1999, Mr. Tierney founded Sphera to address the growing demand for broadband metropolitan area capacity generated by the Internet and new telecommunications carriers.

Mr. Tierney received a Bachelor of Science in marketing from Arizona State University.

**Robert Snyder**  
**Vice President - Operations**

Mr. Snyder joined Sphera in May 2000 as Vice President of Operations. With twenty years of operations, customer service, marketing, business development and sales experience in telecommunications, professional services and software, Mr. Snyder has developed expertise in both U.S. and international markets. Prior to joining Sphera, Mr.



Snyder was with AT&T Labs as a Director - Global Sales & Operations responsible for the distribution and customer implementation of a new software product. Responsibilities also included the identification of target markets, the initiation of direct sales at the executive level, and the negotiation and subsequent implementation of contracts. Prior to AT&T Labs, Mr. Snyder was involved with WorldPartners, an AT&T joint venture with KDD and Singapore Telecom, where he was responsible for recruiting other international carriers membership, successfully selling memberships to carriers in the Asia/Pacific, Europe, Africa and South America. Prior to WorldPartners, Mr. Snyder spearheaded the successful entry of AT&T into the network management services business.

Mr. Snyder holds a Bachelor of Science from Lehigh University and a Masters of Science from Texas A&M.

**Rich Van Leeuwen**  
***Chief Technology Officer and Vice President Engineering***

Mr. Van Leeuwen has 30 years of experience in the telecommunications industry. During his career he has held a number of technical and management positions in the areas of network planning and design, service, development, operations support system software development and network operations planning and implementation. Prior to joining Sphera, Mr. Van Leeuwen held the position of Director TNIN Planning and Development at Global Crossing. In this capacity Mr. Van Leeuwen designed and implemented an integrated service and network management operations support system for Global Crossing's multi-supplier global transport network. Mr. Van Leeuwen spent the majority of his career at AT&T and Bell Laboratories. Prior to Global Crossing, Mr. Van Leeuwen was responsible for the development and deployment of the network operations support systems for AT&T local services. Mr. Van Leeuwen was also responsible for the technology planning and development of AT&T's packet services. Mr. Van Leeuwen led the service development team for the initial development and implementation of AT&T's frame relay service. Mr. Van Leeuwen began his carrier as a software developer at Bell Laboratories. He was responsible for the development and implementation of AT&T's bulk data file transfer system. This system was the standard file transfer system between UNIX and IBM processing environments within the Bell system.

Mr. Van Leeuwen holds a Master of Science degree in Operations Research from Columbia University and has completed post-graduate studies in Computer Science at Rutgers University.

**Louise Bell**  
***Chief Financial Officer and Vice President Administration & HR***

Ms. Bell, a former investment banker, joined Sphera in April 2000. Prior to joining the company, Ms. Bell had been a Managing Director in the Leveraged Finance Group of CIBC World Markets Corp. and was Head of Project Finance. Ms. Bell has specialized in international financing transactions with a particular emphasis on project finance for telecommunication companies. She was responsible for structuring the financing for the Atlantic Crossing, Pacific Crossing and Mid-Atlantic Crossing undersea cable systems for Global Crossing and more recently has been involved in arranging financing for numerous start-up CLECs. Ms. Bell's career in investment banking spans 15 years, six

of which were spent in the London project finance market with CIBC world Markets Corp. as well as the Long-Term Credit Bank of Japan.

**Scott T. Ryan**

***General Counsel and Vice President Strategic Planning***

Mr. Ryan joined the Company in March 2000. Prior to starting at Sphera, Mr. Ryan was an associate at Simpson Thatcher & Bartlett where he specialized in legal transactions relating to the fiber optic industry. Mr. Ryan worked closely with Global Crossing executives in the build-out of Global Crossing's worldwide systems, and in structuring the Company's corporate and financial structure. He has negotiated and closed numerous deals involving the construction, operation, administration, maintenance and financing of fiber optic cable networks around the world. Mr. Ryan has also negotiated corporate mergers and acquisitions.

Mr. Ryan received his J.D. and M.A. from Duke University. He was graduated from DePauw University magna cum laude and Phi Beta Kappa.

**Susan Kicska**

***Vice President Sales***

Ms. Kicska has over 14 years of telecommunications sales and marketing experience. Susan started her career with Cable & Wireless North America in 1986 as a sales representative. Ms. Kicska comes to Sphera from Time Warner Telecom where she was Senior Carrier Sales Manager. She was the top producing carrier sales manager at Time Warner telecom. Throughout her career, Ms. Kicska has worked closely with the founding teams of several start-up telecommunications companies where she developed specific target markets and implemented sales strategies. Susan joined the Company in October 1999.

Ms. Kicska was graduated with a degree in Communications and Marketing from the University of Villanova.



# SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

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Please date-stamp the enclosed extra copy of this filing and return in the self-addressed, stamped envelope provided. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER & HAS A MICROPRINTED BORDER

<b>SWIDLER BERLIN SHEREFF FRIEDMAN, LLP</b> 3000 K STREET, N.W. SUITE 300 WASHINGTON, DC 20007	<b>CHECK DATE</b> 09/13/00	<b>CHECK NO. D 124650</b>
Citibank DC Operating 1775 Pennsylvania Avenue, NW Suite 440 Washington, DC 20006	<b>CHECK AMOUNT</b> 250.00*****	
TWO HUNDRED FIFTY AND 00/100 Dollars	<b>TWO SIGNATURES REQUIRED ON CHECK OVER \$10,000.00</b>	
<b>PAY TO THE ORDER OF</b>	<b>Florida Public Service Commission</b>	<b>OPERATING ACCOUNT</b>
<b>DOCUMENT NUMBER-DATE</b>		
<b>11606 SEP 15 00</b>		

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES A WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈ 124650 ⑈