



1717 North Loop 1604 East  
Suite 250  
San Antonio, TX 78232  
Tel (210) 403-9100  
(800) 932-3963  
Fax (210) 403-9799

**VIA OVERNIGHT DELIVERY**

February 15, 2001

Florida Public Service Commission  
Division of Records and Reporting  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

010247-TI

RE: Application for Authority to Provide Interexchange Telecommunication Service

To Whom It May Concern:

Enclosed please find an original and (6) copies of Application for Authority to Provide Interexchange Telecommunication Service submitted on behalf of nii communications, Ltd. (NII.)

Also enclosed please find a check in the amount of \$250 representing the requisite application fee.

Please date stamp the enclosed copy of this letter and return it to the undersigned as confirmation for your receipt. Please contact the undersigned in the event you have any questions or further requirements with respect to this Application. Your courtesies are greatly appreciated.

Sincerely,

Kenneth F. Melley, Jr.  
Vice President of Market Development

enclosures

DOCUMENT NUMBER-DATE

02284 FEB 19 2001

FPC-REC'D DIVISION REPORTING

Telecommunications That Make Sense...

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

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

**Application Form for Authority to Provide  
Interexchange Telecommunications Service  
Between Points 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 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**

**Note: No filing fee is required for an assignment or transfer of an existing certificate to another certificated company.**

- ◆ 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**

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

**Original certificate** (new company).

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

**Approval of assignment of existing certificate:**  
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 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:

Nil Communications, Ltd.

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

Nil Communications, LTD.

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

1717 N Loop West E

Suite 250

San Antonio, TX 78232

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

CT Corporation System  
1200 South Pine Island Road  
Plantation, FL 33324

6. Select type of business your company will be conducting  (check all that apply):

- Facilities-based carrier** - company owns and operates or plans to own and operate telecommunications switches and transmission facilities in Florida.
- Operator Service Provider** - company provides or plans to provide alternative operator services for IXCs; or toll operator services to call aggregator locations; or clearinghouse services to bill such calls.
- Reseller** - company has or plans to have one or more switches but primarily leases the transmission facilities of other carriers. Bills its own customer base for services used.
- Switchless Rebiller** - company has no switch or transmission facilities but may have a billing computer. Aggregates traffic to obtain bulk discounts from underlying carrier. Rebills end users at a rate above its discount but generally below the rate end users would pay for unaggregated traffic.
- Multi-Location Discount Aggregator** - company contracts with unaffiliated entities to obtain bulk/volume discounts under multi-location discount plans from certain underlying carriers, then offers resold service by enrolling unaffiliated customers.
- Prepaid Debit Card Provider** - any person or entity that purchases 800 access from an underlying carrier or unaffiliated entity for use with prepaid debit card service and/or encodes the cards with personal identification numbers.

7. Structure of organization;

- |  |   |
|--|---|
| <input type="checkbox"/> Individual          | <input type="checkbox"/> Corporation                    |
| <input type="checkbox"/> Foreign Corporation | <input checked="" type="checkbox"/> Foreign Partnership |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership            |
| <input type="checkbox"/> Other _____         |   |

8. If individual, provide:

Name: \_\_\_\_\_

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

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

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

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

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

Internet Website Address: \_\_\_\_\_

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

(a) **The Florida Secretary of State Corporate Registration number:**  
n/a

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

(a) **The Florida Secretary of State Corporate Registration number:**  
n/a

11. **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:** n/a

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

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

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

Name: see Attachment 1

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

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

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

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

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

Internet Website Address: \_\_\_\_\_

14. **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: Document Number 'B00000000278

15. Provide **F.E.I. Number** (if applicable): 16-0497293

16. Provide the following (if applicable):

(a) Will the name of your company appear on the bill for your services?  
 Yes  No

(b) If not, who will bill for your services?

Name: \_\_\_\_\_

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

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

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

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

(c) How is this information provided?

nii communications, ltd. direct bills its  
customers, and its name appears on each bill

17. Who will receive the bills for your service?

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Residential Customers | <input checked="" type="checkbox"/> Business Customers |
| <input type="checkbox"/> PATs providers                   | <input type="checkbox"/> PATs station end-users        |
| <input type="checkbox"/> Hotels & motels                  | <input type="checkbox"/> Hotel & motel guests          |

( ) Universities ( ) Universities dormitory residents  
( ) Other: (specify) \_\_\_\_\_

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

(a) The application:

Name: Kenneth F. Melley Jr.  
Title: Vice President of Market Development  
Address: 1717 N. Loop 1604 E. Ste 250  
City/State/Zip: San Antonio, TX 78232  
Telephone No.: (210) 403-9100 Fax No.: (210) 403-9799  
Internet E-Mail Address: ken.melley@niicommunications.com  
Internet Website Address: www.niicommunications.com

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

Name: Kenneth F. Melley Jr.  
Title: Vice President of Market Development  
Address: 1717 N. Loop 1604 E., Suite 250  
City/State/Zip: San Antonio, TX 78232  
Telephone No.: (210) 403-9100 Fax No.: (210) 403-9799  
Internet E-Mail Address: ken.melley@niicommunications.com  
Internet Website Address: www.niicommunications.com

(c) Complaints/Inquiries from customers:

Name: Kenneth F. Melley Jr.  
Title: Vice President of Market Development

Address: 1717 N. Loop 1604 E., Suite 250

City/State/Zip: San Antonio, TX 78232

Telephone No.: (210) 403-9100 Fax No.: (210) 403-9799

Internet E-Mail Address: Ken.melley@niccommunications.com

Internet Website Address: www.niccommunications.com

19. List the states in which the applicant:

(a) has operated as an interexchange telecommunications company.

Texas

(b) has applications pending to be certificated as an interexchange telecommunications company.

Oklahoma

(c) is certificated to operate as an interexchange telecommunications company.

Texas and California

(d) has been denied authority to operate as an interexchange telecommunications company and the circumstances involved.

None

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



None

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

None

20. 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. If so, please explain.

None

- (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.

Richard E. Burk (President / CEO / Chairman of the Board), Kenneth E. Melky, Jr. (Vice President of Market Development) and Larry James (Stockholder / Board of Directors) were all officers of USLD and left that company when it was acquired.

21. The applicant will provide the following interexchange carrier services  (check all that apply):

- a. \_\_\_\_\_ **MTS with distance sensitive per minute rates**

- Method of access is FGA
- Method of access is FGB
- Method of access is FGD
- Method of access is 800

b.  **MTS with route specific rates per minute**

- Method of access is FGA
- Method of access is FGB
- Method of access is FGD
- Method of access is 800

c.  **MTS with statewide flat rates per minute (i.e. not distance sensitive)**

- Method of access is FGA
- Method of access is FGB
- Method of access is FGD
- Method of access is 800

d.  **MTS for pay telephone service providers**

e.  **Block-of-time calling plan (Reach Out Florida, Ring America, etc.).**

f.  **800 service (toll free)**

g.  **WATS type service (bulk or volume discount)**

- Method of access is via dedicated facilities
- Method of access is via switched facilities

h.  **Private line services (Channel Services)  
(For ex. 1.544 mbs., DS-3, etc.)**

i.  **Travel service**

- Method of access is 950
- Method of access is 800

j.  **900 service**

k.  **Operator services**

- Available to presubscribed customers
- Available to non presubscribed customers (for example, to patrons of hotels, students in universities, patients in hospitals).
- Available to inmates

I. **Services included are:**

- Station assistance
- Person-to-person assistance
- Directory assistance
- Operator verify and interrupt
- Conference calling

22. Submit the proposed tariff under which the company plans to begin operation. Use the format required by Commission Rule 25-24.485 (example enclosed).

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


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

**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.

**\*\* 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 its 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:**

<u></u>	<u>2-14-01</u>
Signature	Date
<u>Vice President of Market Development</u>	<u>(210) 403-9100</u>
Title	Telephone No.
Address: <u>1717 N. Loop 1604 E.</u>	<u>(210) 403-9799</u>
<u>Ste. 350</u>	Fax No.
<u>San Antonio, TX 78232</u>	

**ATTACHMENTS:**

- A - CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT
- B - CUSTOMER DEPOSITS AND ADVANCE PAYMENTS
- C - CURRENT FLORIDA INTRASTATE NETWORK
- D - AFFIDAVIT

N/A

**\*\* APPENDIX A \*\***

**CERTIFICATE TRANSFER, OR ASSIGNMENT STATEMENT**

I, (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:

( ) transfer

( ) assignment

of the above-mentioned certificate.

**UTILITY OFFICIAL:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

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

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

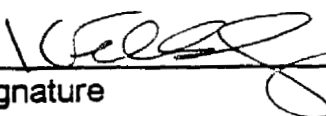


**CUSTOMER DEPOSITS AND ADVANCE PAYMENTS**

A statement of how the Commission can be assured of the security of the customer's deposits and advance payments may be provided in one of the following ways (applicant, please  $\checkmark$  check one):

- (  $\checkmark$  ) The applicant will not collect deposits nor will it collect payments for service more than one month in advance.
  
- ( ) The applicant intends to collect deposits and/or advance payments for more than one month's service and will file and maintain a surety bond with the Commission in an amount equal to the current balance of deposits and advance payments in excess of one month.  
(The bond must accompany the application.)

**UTILITY OFFICIAL:**

	<u>2-14-01</u>
Signature	Date
<u>VICE PRESIDENT OF MARKET DEVELOPMENT</u>	<u>(210) 403-9100</u>
Title	Telephone No.
Address: <u>1717 N. Loop 1604 East</u>	<u>(210) 494-5449</u>
<u>Suite 250</u>	Fax No.
<u>San Antonio TX 78258</u>	



**\*\* APPENDIX C \*\***

**CURRENT FLORIDA INTRASTATE SERVICES**

Applicant has ( ) or has not (  ) previously provided intrastate telecommunications in Florida.

If the answer is has, fully describe the following:

a) What services have been provided and when did these services begin?

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b) If the services are not currently offered, when were they discontinued?


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**UTILITY OFFICIAL:**

 2-14-01  
Signature Date

Vice President of Market Development (210) 403-9100  
Title Telephone No.

Address: 1717 N. Loop West E. (210) 403-9799  
Suite 250 Fax No.

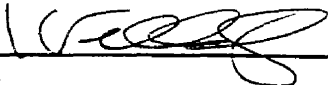
San Antonio, TX 78232

**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		Date	2-14-01
Title	Vice President of Market Development	Telephone No.	(210) 403-9100
Address:	1717 N. Loop 1604 E	Fax No.	(210) 403-9799
	Suite 250		
	San Antonio, TX 78232		

**EXHIBIT A**

**FINANCIAL QUALIFICATIONS OF NII**  
**COMMUNICATIONS, LTD.**

NII COMMUNICATIONS, LTD. (the "Company") has enough financial resources to adequately provide service. As the following information will show, the Company has approximately 2.7 million dollars available for use from MCG Corporation. This will be more than enough for the Company to provide and maintain the requested services. The Company will also be able to meet its ownership or lease obligations as they arise. In support of this, find attached hereto the audited financials of the Company for 1999 (the original name of the Company was network intelligence inc. which changed to nii communications, LTD. through a corporate restructuring in August), and the unaudited financials that are currently available for 2000.

**nii communications**  
**Balance Sheet**  
As of December 31, 2000

	<u>Dec 31, '00</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
990 · Compass Bank Dep. nii comm	106,201.41
991 · Compass Bank Disb. nii comm	5,375.09
992 · Compass Bank Dep nii Finance	948.77
<b>Total Checking/Savings</b>	<u>112,525.27</u>
<b>Other Current Assets</b>	
1008 · A/R - Other	3,340.07
1009 · A/R - Liquidated Damages	1,075.00
1010 · Accounts Receivable - Retail	
1011 · A/R - CC Pymnts - Retail	-104,852.77
1010 · Accounts Receivable - Retail - Other	2,062,673.86
<b>Total 1010 · Accounts Receivable - Retail</b>	<u>1,957,821.09</u>
1013 · Accounts Receivable - Access	149,240.10
1015 · Allowance for Doubtful Accounts	-57,995.66
1016 · Accounts Receivable-Web Develop	60,426.25
1017 · Accounts Receivable-DRO	10,458.81
1020 · Security Deposit Rent	8,508.17
1023 · Retainers	5,000.00
1025 · Promotional Merchandise	6,084.85
1205 · Accounts Receivable-Employees	5,050.00
1206 · Accounts Receivable-Directors	3,000.00
1300 · Prepaid Expenses	69,059.84
1407 · Customer Acquisition Costs	4,052.47
<b>Total Other Current Assets</b>	<u>2,225,120.99</u>
<b>Total Current Assets</b>	2,337,646.26
<b>Fixed Assets</b>	
1401 · Equipment	351,033.68
1402 · Furniture & Fixtures	105,325.04
1403 · Software	49,757.45
1404 · DSL Start-up Costs	8,000.00
1406 · Installation/Set Up Charges	380,143.07
1409 · Leasehold Improvements	63,573.30
1500 · Accumulated Depreciation	-141,028.87
<b>Total Fixed Assets</b>	<u>816,803.67</u>
<b>Other Assets</b>	
1055 · Notes Receivable-nii financial	1,901,305.12
1415 · Debt Issuance Costs	240,196.38
1416 · Accumulated Amortization	-47,506.54
1853 · Patents and Trademarks	5,707.58
<b>Total Other Assets</b>	<u>2,099,702.54</u>
<b>TOTAL ASSETS</b>	<u><u>5,254,152.47</u></u>

**nii communications**  
**Balance Sheet**  
As of December 31, 2000

UNAUDITED

Dec 31, '00**LIABILITIES & EQUITY****Liabilities****Current Liabilities****Accounts Payable**

2000 · Accounts Payable	1,217,773.62
<b>Total Accounts Payable</b>	<u>1,217,773.62</u>

**Credit Cards**

2005 · American Express	14,577.51
<b>Total Credit Cards</b>	<u>14,577.51</u>

**Other Current Liabilities**

2115 · Deposits on Phone Service	50.00
2120 · Unearned Revenue	628,006.44
2125 · Accrued Liabilities	233,542.51
2130 · Accrued Loan Interest	47,973.39
2203 · Municipal Fees Payable	91,626.54
2204 · County Sales Taxes Payable	268.77
2205 · City Sales Tax Payable	22,870.91
2210 · State Sales Tax Payable	58,395.95
2211 · Use Tax Payable	95.88
2212 · TXUSF Taxes Payable	28,402.72
2213 · TIF Payable	22,622.94
2214 · TX Utility Gross Receipts Tax	4,633.12
2215 · Federal Excise Tax Payable	47,086.03
2216 · 911 Payable	12,552.13
2221 · Other State/Local Telecom Pay	2,372.42
2222 · FCC Telecom Fees Payable	1,779.08
<b>Total Other Current Liabilities</b>	<u>1,202,278.83</u>

<b>Total Current Liabilities</b>	2,434,629.96
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**Long Term Liabilities**

2510 · Note Payable- MCG Credit Corp	1,800,000.00
<b>Total Long Term Liabilities</b>	<u>1,800,000.00</u>

<b>Total Liabilities</b>	4,234,629.96
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**Equity**

1110 · Retained Earnings	-776,787.33
Net Income	-1,840,867.16
3001 · Capital Stock	3,636,177.00
3002 · Additional Paid-in Capital	1,000.00
<b>Total Equity</b>	<u>1,019,522.51</u>

<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>5,254,152.47</u></u>
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**nii communications**  
**Profit and Loss**  
December 2000

UNAUDITED

	Dec '00
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
<b>4005 · Telecommunications Revenue</b>	
<b>4006 · Revenue</b>	
4010 · Local Service	664,675.19
4015 · Local Adjustments	-6,476.94
4020 · Long Distance	86,950.77
4025 · Long Distance Adjustments	-7,592.35
4026 · Access Revenue	146,670.67
4030 · ISP Revenue	893.80
4035 · Internet Service Adjustments	-430.19
<b>4050 · Web Site Revenue</b>	
4055 · Web Site Development	25,750.00
4060 · Web Site Hosting	80.00
4050 · Web Site Revenue - Other	1,000.00
<b>Total 4050 · Web Site Revenue</b>	26,830.00
<b>Total 4006 · Revenue</b>	911,520.95
<b>Total 4005 · Telecommunications Revenue</b>	911,520.95
<b>Total Income</b>	911,520.95
<b>Expense</b>	
<b>4100 · Cost of Goods Sold</b>	
4101 · Local	369,467.94
4102 · Long Distance	145,406.82
4103 · Internet	28,890.36
4104 · Web Hosting	2,239.92
4115 · Install, Repair, & Maint.	13,837.23
4120 · NECA Texas USF Fees	28,402.71
4121 · Texas TIF Taxes	8,976.84
4122 · Texas Municipal Fees	40,389.96
4123 · TX Gross Receipts Tax	1,110.93
4124 · Other State/Local Telecom Fees	365.20
4130 · FCC Common Carrier Fees	30.52
4131 · FCC Universal Svc Fund	1,478.72
4132 · FCC TRS Fund	19.04
4133 · FCC NANPA Fund	1.12
4134 · FCC LNP Fund	5.96
<b>Total 4100 · Cost of Goods Sold</b>	640,623.27
6100 · Advertising/Public Relations	335.00
6105 · Association Dues	3,289.46
6110 · Automobile Expense	5.32
6115 · Bad Debts	7,526.00
6120 · Bank/Misc. Service Charges	237.11
6130 · Cash Discounts	-238.63
6135 · Billing Services	66,437.77
6137 · Commissions	126,347.55
6139 · Sales Awards	34,000.00

nii communications  
**Profit and Loss**  
 December 2000

UNAUDITED

	<u>Dec '00</u>
6140 · Contributions	4,000.00
6142 · Credit Card Service Charges	614.29
6150 · Depreciation Expense	15,089.62
6160 · Dues and Subscriptions	450.43
6163 · Employee Appreciation	9,405.27
6165 · Employee Benefits	
6166 · Employee Telecomm Charges	1,374.09
6167 · Employee Exercise Program	212.49
Total 6165 · Employee Benefits	<u>1,586.58</u>
6170 · Equipment Rental	2,124.79
6180 · Insurance	
6195 · Property Gen. Liab/Workers Comp	475.00
6198 · D&O Liability Insurance	2,476.88
6199 · Key Man Life Insurance	983.83
Total 6180 · Insurance	<u>3,935.71</u>
6196 · Flight Insurance/Misc.	12.00
6200 · Interest Expense	
6220 · Loan Interest	30,366.92
6225 · Debt Issuance Costs	6,672.12
Total 6200 · Interest Expense	<u>37,039.04</u>
6244 · Office Equipment	473.00
6245 · Office Supplies	
6246 · Kitchen Supplies	317.96
6245 · Office Supplies - Other	6,189.44
Total 6245 · Office Supplies	<u>6,507.40</u>
6250 · Postage & Shipping	
6253 · Shipping	1,088.58
Total 6250 · Postage & Shipping	<u>1,088.58</u>
6257 · Subscriptions and Publications	152.64
6260 · Printing	2,211.70
6270 · Professional Fees	
6272 · Accounting Fees	35,000.00
6275 · Consulting Fees	596.04
6277 · Atty Fees - Regulatory	2,837.84
6280 · Attorney Fees - Corporate	5,371.76
Total 6270 · Professional Fees	<u>43,805.64</u>
6284 · Agency Recruiting/Training	5,843.55
6285 · Recruiting/Moving	4,204.74
6290 · Rent	15,146.58
6340 · Telephone	
6341 · Local Service	1,262.53
6342 · Long Distance	3,826.87
6343 · Internet Service	256.92
6344 · Cellular	1,324.80



**nii communications**  
**Profit and Loss**  
December 2000

UNAUDITED

	Dec '00
6345 · Teleconferencing	471.56
6346 · Answering Service	656.05
Total 6340 · Telephone	7,798.73
6349 · Business Meals & Entertainment	537.09
6350 · Travel & Ent	
6370 · Meals	50.32
6380 · Travel	6,363.78
Total 6350 · Travel & Ent	6,414.10
6390 · Utilities	
6400 · Gas and Electric	116.18
Total 6390 · Utilities	116.18
6451 · DSL Product Development Costs	10,327.14
6453 · New Market Organizational Costs	2,690.48
6560 · Payroll Expenses	
6561 · Contract Labor	775.00
6562 · Employee Services (Administaff)	187,586.49
6570 · Temporary Services	30,422.20
Total 6560 · Payroll Expenses	218,783.69
Total Expense	1,278,921.82
Net Ordinary Income	-367,400.87
Other Income/Expense	
Other Income	
7010 · Interest Income	15,960.94
7030 · Other Income	32,474.99
Total Other Income	48,435.93
Other Expense	
8015 · Amortization Expense	1,783.65
Total Other Expense	1,783.65
Net Other Income	46,652.28
Net Income	-320,748.59

**AFFIDAVIT**


STATE OF TEXAS )

COUNTY OF BEXAR )

I, Richard E. Burk; of lawful age deposes and says as follows:

I am President and Chief Executive Officer of NII COMMUNICATIONS, LTD., a limited partnership in San Antonio, Texas.

I, on behalf of NII COMMUNICATIONS, LTD., attest that the foregoing unaudited financials were prepared by me or at my direction and are true and accurate to the best of my knowledge and belief.

  
Richard E. Burk

Subscribed and sworn to before this 15 day of February, 2001.

**AFFIDAVIT**

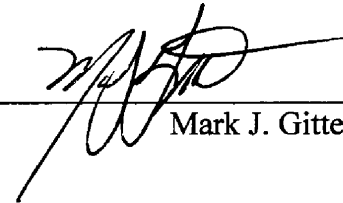
STATE OF TEXAS )

COUNTY OF BEXAR )

I, Mark J. Gitter; of lawful age deposes and says as follows:

I am Vice President and Chief Financial Officer of NII COMMUNICATIONS, LTD., a limited partnership in San Antonio, Texas.

I, on behalf of NII COMMUNICATIONS, LTD., attest that the foregoing unaudited financials were prepared by me or at my direction and are true and accurate to the best of my knowledge and belief.

  
\_\_\_\_\_  
Mark J. Gitter

Subscribed and sworn to before this 15<sup>th</sup> day of February, 2001.

**AUDITED**

NETWORK INTELLIGENCE, INC., AND SUBSIDIARY

CONSOLIDATED BALANCE SHEET - - DECEMBER 31, 1999

ASSETS

CURRENT ASSETS:

Cash	\$ 103,065
Investments	150,000
Restricted investments	242,000
Accounts receivable, net of allowance for doubtful accounts of \$17,993	475,763
Other current assets	<u>8,808</u>
Total current assets	<u>979,636</u>

PROPERTY AND EQUIPMENT:

Equipment	88,513
Furniture and fixtures	33,572
Installation charges	63,651
Leasehold improvements	21,273
Software and other fixed assets	<u>6,708</u>
	213,717
Less- Accumulated depreciation and amortization	<u>(28,232)</u>
Total property and equipment	<u>185,485</u>

OTHER ASSETS:

Notes receivable	<u>50,000</u>
Total assets	<u>\$1,215,121</u>

LIABILITIES AND EQUITY

CURRENT LIABILITIES:

Accounts payable	\$ 276,138
Unearned revenue	86,614
Accrued liabilities	156,077
Notes payable, related party	<u>235,000</u>
Total current liabilities	<u>753,829</u>

EQUITY:

Capital stock, no par value, authorized 3,000,000 shares, issued and outstanding 1,456,037 shares	1,238,079
Accumulated deficit	<u>(776,787)</u>
	<u>461,292</u>
Total liabilities and equity	<u>\$1,215,121</u>

The accompanying notes are an integral part of these financial statements.

**AUDITED**

NETWORK INTELLIGENCE, INC., AND SUBSIDIARY

CONSOLIDATED STATEMENT OF OPERATIONS

FOR THE YEAR ENDED DECEMBER 31, 1999

REVENUE	\$ 564,151
COSTS AND EXPENSES:	
Cost of services	315,773
Selling, general and administrative expenses	<u>1,126,755</u>
Total costs and expenses	<u>1,442,528</u>
OPERATING LOSS	(878,377)
OTHER INCOME (EXPENSE):	
Interest expense	(16,555)
Interest income	2,650
Other income	<u>152,158</u>
NET LOSS	<u>\$ (740,124)</u>

The accompanying notes are an integral part of these financial statements.

**AUDITED**

NETWORK INTELLIGENCE, INC., AND SUBSIDIARY

CONSOLIDATED STATEMENT OF CAPITAL STOCK

AND OTHER STOCKHOLDERS' EQUITY

FOR THE YEAR ENDED DECEMBER 31, 1999

	<u>Capital Stock</u>	<u>Accumulated Deficit</u>	<u>Total</u>
BALANCE, December 31, 1998	\$ 1,000	\$ (36,663)	\$ (35,663)
Net loss	-	(740,124)	(740,124)
Sale of capital stock	<u>1,237,079</u>	<u>-</u>	<u>1,237,079</u>
BALANCE, December 31, 1999	<u>\$1,238,079</u>	<u>\$(776,787)</u>	<u>\$ 461,292</u>

The accompanying notes are an integral part of these financial statements.

**AUDITED**

NETWORK INTELLIGENCE, INC.. AND SUBSIDIARY

CONSOLIDATED STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED DECEMBER 31, 1999

CASH FLOWS FROM OPERATING ACTIVITIES:

Net loss	\$ (740,124)
Adjustments to reconcile net loss to net cash used in operating activities-	
Depreciation and amortization expense	21,645
Increase in accounts receivable, net	(475,763)
Increase in other current assets	(8,808)
Increase in accounts payable	276,138
Increase in unearned revenue	86,614
Increase in accrued liabilities	<u>156,077</u>
Net cash used in operating activities	<u>(684,221)</u>

CASH FLOWS FROM INVESTING ACTIVITIES:

Capital additions	(199,752)
Issuance of notes receivable	(50,000)
Purchases of investments	(150,000)
Purchases of restricted investments	<u>(242,000)</u>
Net cash used in investing activities	<u>(641,752)</u>

CASH FLOWS FROM FINANCING ACTIVITIES:

Proceeds from sale of capital stock	1,181,037
Proceeds from notes payable, related party	<u>235,000</u>
Net cash provided by financing activities	<u>1,416,037</u>

NET INCREASE IN CASH	90,064
CASH, beginning of period	<u>13,001</u>
CASH, end of period	<u>\$ 103,065</u>

The accompanying notes are an integral part of these financial statements.

NETWORK INTELLIGENCE, INC., AND SUBSIDIARY

**AUDITED**

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 1999

1. GENERAL:

Network Intelligence, Inc., a competitive local exchange carrier (CLEC), was incorporated in 1996 as a Texas Subchapter S Corporation for the purpose of offering an integrated set of telecommunications products and services including local exchange, domestic and international long distance, enhanced voice, data and a full suite of Internet services. Network Intelligence, Inc., and its subsidiary are collectively referred to herein as the "Company."

The Company utilizes an agency sales system to market its services. The Company recruits agents in local markets to sell the Company's services by providing exclusive territory to an independent sales agency. The Company seeks agents with a history of success in sales, a solid reputation in the local community and a desire to go into business for themselves. Agents are responsible for setting up and funding their entire operation, from renting office space to hiring sales people. The Company provides the necessary training and support for agents and their employees and assists the agents in obtaining up-front financing in the absence of other sources. As of December 31, 1999, the Company had agents in San Antonio, Lubbock, Abilene and Amarillo.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Consolidation

The accompanying consolidated financial statements include the accounts of Network Intelligence, Inc., and its wholly owned subsidiary. All significant intercompany balances and transactions have been eliminated.

Statement of Cash Flows

For purposes of reporting cash flows, the Company includes as cash and cash equivalents, cash, marketable securities and commercial paper with original maturities of three months or less at the date of purchase.

Noncash investing and financing activities for the year ended December 31, 1999, included the issuance of \$56,042 of capital stock in exchange for the forgiveness of a note payable to certain officers of the Company.

Investments

At December 31, 1999, investments consisted of mutual funds carried at the lower of cost or market.

Restricted Investments

At December 31, 1999, restricted investments consisted of certificates of deposit held as collateral for loans made by a bank to certain agents of the Company. The Company is a guarantor of the loans. The certificates of deposit are carried at cost and earn interest at various rates ranging from 4.21 percent to 5.36 percent. Subsequent to December 31, 1999, the Company redeemed the certificates of deposits and utilized the proceeds to repay the guaranteed loans to the bank. New notes were executed with the agents through the Company's wholly owned subsidiary, Network Intelligence Financial, Inc.



Accounts Receivable

**AUDITED**

Accounts receivable consist of end-user receivables and a receivable from Southwestern Bell Telephone Company in the amount of \$150,000 for nonattainment of certain contract provisions as of December 31, 1999.

Property and Equipment

Fixed assets are stated at cost and are depreciated and amortized once placed in service using the straight-line method. Repair and maintenance costs are expensed as incurred. Depreciable lives of property and equipment at December 31, 1999, were as follows:

Equipment	3 - 7 years
Furniture and fixtures	5 years
Installation charges	5 years
Leasehold improvements	5 years
Software and other fixed assets	3 - 5 years

Accrued Liabilities

Accrued liabilities consisted of the following at December 31, 1999:

Executive salaries payable	\$ 69,000
Sales taxes and excise taxes payable	38,373
Accrued accounting and professional fees	22,450
Accrued software implementation fees	15,844
Other	<u>10,410</u>
	<u>\$ 156,077</u>

Revenue Recognition

Revenue is recognized in the month in which the service is provided.

Income Taxes

The Company has elected Subchapter S status for income tax purposes. Federal taxation of income earned by an S Corporation occurs at the shareholder level rather than at the corporate level. Therefore, no provision for income taxes has been included in these financial statements.

Comprehensive Income

In June 1997, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 130 (SFAS 130), "Reporting Comprehensive Income." SFAS 130 established reporting and disclosure requirements for comprehensive income and its components within the financial statements. The Company had no comprehensive income components as of December 31, 1999; therefore, comprehensive loss is the same as net loss for the period.

Use of Estimates in Financial Statements

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Actual results could differ from those estimates.

3. NOTES RECEIVABLE:

**AUDITED**

At December 31, 1999, notes receivable, related party, consisted of loans by the Company to the Company's agents in San Antonio and Amarillo. The notes, which are due in 2001, earn interest at 6.6 percent per annum and are secured by certain tangible and intangible assets used by the agents in their respective cities to conduct business on behalf of the Company.

4. NOTES PAYABLE, RELATED PARTY:

At December 31, 1999, notes payable, related party, consisted of the following:

Note payable, due March 2000, interest at prime	\$ 100,000
Note payable, due January 2000, interest at prime, secured by the Company's unrestricted investments	<u>135,000</u>
	<u>\$ 235,000</u>

5. COMMITMENTS AND CONTINGENCIES:

The Company has entered into operating lease agreements for equipment and office space which expire in 2002 and 2004, respectively. Future minimum lease obligations related to the Company's operating leases as of December 31, 1999, are as follows:

2000	\$ 125,308
2001	136,128
2002	135,735
2003	134,556
2004	100,917

Total rent expense for the year ended December 31, 1999, was \$46,719.

In addition to the above operating leases, the Company has a computer services and license agreement with CHA Systems, Inc., the Company's billing service, which expires in February 2002. The Company is charged for billings processed under the agreement on a per unit basis subject to a minimum monthly fee of \$10,000 for subscriber and carrier access billings combined.

6. STOCK OPTION PLAN:

In 1999, the Company established a stock option plan. The exercise price of each option granted may equal or exceed the market price of the Company's stock on the date of grant. Options granted under the plan during 1999 vest over periods up to three years and expire three years from the date of vesting.

During 1999, the Company granted options to purchase up to 510,000 shares of common stock at \$1.00 per share and up to 26,000 shares of common stock at \$3.00 per share. During 1999, 121,037 options were exercised at a price of \$1.00 per share. As of December 31, 1999, there were 414,963 options outstanding and 315,628 were exercisable.

In October 1995, the Financial Accounting Standards Board issued SFAS No. 123, "Accounting for Stock-Based Compensation." This statement encourages but does not require companies to measure and recognize in their financial statements a compensation cost for stock-based employee compensation plans based on the "fair value" method of accounting set forth in the statement. The Company has chosen to account for its stock

option plans using the "intrinsic value" method of accounting set forth in Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees." Accordingly, compensation cost for stock options is measured as the excess, if any, of the market price of the Company's capital stock at the date of grant over the amount the employee must pay to acquire the stock. Therefore, no compensation cost was reported in 1999 for granted options as the exercise price was greater than or equal to the market price on the date of grant. However, had compensation expense been determined consistent with SFAS No. 123, the Company's net loss for the year ended December 31, 1999, would have been increased to the following pro forma amounts:

Net loss-	
As reported	\$(740,124)
Pro forma	(814,630)

The fair value of each option grant was estimated on the grant date using the Black-Scholes option pricing model assuming no volatility, no dividends, a risk-free interest rate of 5.52 percent to 6.41 percent and an expected life of the options equal to their respective maximum term.

7. SUBSEQUENT EVENTS:

In March 2000, the Company completed a private placement of 500,000 shares of capital stock. Proceeds from the sale of the capital stock totaled \$2,000,000.

Also in March 2000, the Company closed an investment/credit facility with MCG Finance Corporation (MCG). A total of 100,000 shares of the Company's capital stock was sold to MCG for total proceeds of \$400,000. In addition, a \$4.5 million line of credit was established with MCG. Borrowings under the line of credit are subject to the maintenance of certain financial and other covenants.

**EXHIBIT B**

**MANAGERIAL AND TECHNICAL QUALIFICATIONS OF**  
**NII COMMUNICATIONS, LTD.**

## **Richard E. Burk, President & CEO**

Richard E. Burk has over 25 years experience in the telecommunications industry, in sales, marketing, operations and executive management positions. From 1994 through April 1998, Mr. Burk was president of Texaltel, (Texas Association of Long Distance Telephone Companies) an industry group whose primary role is representing the industry at the Public Utilities Commission and the Texas Legislature on policy and regulatory issues. Mr. Burk currently serves on the Board of Directors of Comptel (the National Association of Competitive Telecommunications providers), representing over 340 telecommunication companies of all sizes, from industry giants such as MCI WorldCom, to companies as small as nii communications.

From June 1996 to July 1998, Mr. Burk was Vice President of Strategic Planning of USLD Communications, one of the 10 largest publicly held long distance companies in the United States. At USLD Mr. Burk chaired the strategic planning committee that established the critical strategies for USLD's success. He was responsible for all new product development in the marketing area and the deployment of local exchange service on a national level. During his tenure at USLD, that company entered into the local exchange business in 22 states, providing service to small, medium and large businesses as well as to the privately owned pay telephone industry. Within 18 months of inception, the local exchange business started at USLD was generating over a million dollars a month in revenue and was one of the more successful local exchange strategies in the United States.

From January to June 1996, Mr. Burk operated nii communications as a telecommunications consulting firm. His clients included American Telco, (now Logix), Dial US Corp. in Missouri (now part of McCloud) and USLD (now part of Qwest). He was instrumental in developing marketing strategies that allowed each of these companies to enter the local exchange business.

From October 1990 to January 1996, Mr. Burk was Vice President of Operations for American Telco Inc. His responsibilities included managing that company's long distance network and information systems including software development, as well as overseeing the Company's regulatory affairs and marketing functions. During his tenure, American Telco Inc. grew from a \$16 million long distance company operating primarily in Houston, Texas to a \$40 million local and long distance company operating throughout the state of Texas.

From April 1984 to October 1990, Mr. Burk was President of Value Line Longview, Inc., a start up competitive long distance company. Annual sales at Value Line Longview grew from \$250,000 to over 10 million under Mr. Burk's leadership, and Value Line Longview is currently one of the most active competitive long distance and local exchange companies in Texas.

Prior to 1984, Mr. Burk worked for eight years for Southwestern Bell Telephone and AT&T in their marketing department and also served a number of major end users as a telecommunications consultant.

## **Ellen M. Frattini, Senior Vice President and General Manager**

Ms. Frattini has been with nii communications since February 1, 1999 and is responsible for the day to day operations of customer service, provisioning, human resources and purchasing. She is also charged with interfacing with underlying network providers and providers of billing and operational support systems, overseeing support systems for the agency program, and overall P&L responsibility for the business.

From July 1997 to January 1999 Ms. Frattini was Senior Director of Local & Operator services for USLD Corp. At USLD, she oversaw the deployment of local service throughout the United States, and later managed the ongoing operation of USLD's local exchange business, providing services to small and medium sized businesses as well as to the private pay telephone industry.

From December 1988 to July 1997, Ms. Frattini was a Branch Chief working for the U.S. Government in connection with the Defense Department and the United States Air Force in San Antonio, Texas. Her responsibilities included overseeing the communications and computer operations division within the Defense Megacenter in San Antonio, Texas. From 1993 to 1995 she planned, organized and directed the consolidation of 16 United States Air Force Bases computer processing centers into the Defense Megacenter. Prior to her government position, Ms. Frattini served as Vice President of the computer division of Americorp Enterprises, Inc. in San Antonio, Texas where she was responsible for the computer division, establishing training, telephone support and conducting all of the responsibilities relative to the computer information systems of that enterprise.

Ms. Frattini has a Bachelor of Business Administration Degree and a Master of Business Administration Degree from Our Lady of the Lake University in San Antonio, Texas. She is an active member of the Delta Mu Delta National Business Honor Society.

## **Kelly G. Castor, Senior Vice President of Sales and Agency Development**

Kelly Castor has twenty years experience in sales, sales management, general management and executive management in a wide variety of industries, reengineering programs and management development programs. As a management consultant, Mr. Castor has worked with both large and small companies including GTE, WorldCom, Integrity Publishing, and Great West Casualty.

As Vice-President of Sales with C.P.R.I., a turnkey solutions provider of sales and marketing programs for Fortune 500 companies, Kelly was responsible for overseeing the acquisition and fulfillment of a variety of sales programs for companies such as Ameritech and GTE. As Regional Manager for American Telco, a regional inter-exchange carrier in Texas, his area of responsibility grew from the Austin, Texas sales office to nearly half of the Company's total annual revenue.

As President of Castor Enterprises, a Management Consulting firm, Kelly developed and implemented a variety of results-oriented management training, process development and communications programs. He is an experienced public speaker, having addressed a wide variety of audiences ranging from telecommunications executives, to insurance executives, to civic groups.

## **Kenneth F. Melley, Jr., Vice President of Market Development**

Ken Melley has over 11 years experience in the telecommunications industry. He began his career as a Pricing Analyst for Contel, an incumbent local telephone company, in their Northeast Regional Offices in Virginia. Ken joined U.S. Long Distance in 1990 as Director of Regulatory Affairs and was promoted to Vice President in 1995. Ken's responsibilities included oversight of the company's regulatory compliance and authorizations as the company expanded across the United States first as an operator service provider then as a facilities-based long distance carrier. Ken also directed the company's policy advocacy on a state and national level, and he played a significant role in the industry's lobbying efforts towards introducing competition into the local telecommunications market. After the Telecommunication Act of 1996 was passed, he obtained local certification on behalf of the company in twenty-two states and participated in negotiating local interconnection agreements with Southwestern Bell, Pacific Bell, NYNEX and Bell South. Ken fulfilled these responsibilities until 1998 after U.S. Long Distance was acquired by LCI International. During his tenure with USLD, the company grew from \$12 million annual revenues to over \$250 million, at the time ranking it as one of the ten largest long distance providers in the nation.

In 1998 Ken became Vice President of Regulatory Affairs for WorldxChange Communications, an international facilities-based wholesale and retail telecommunications provider. Ken was responsible for compliance monitoring, state and federal reporting requirements, product and program review and approval, sales contract implementation and enforcement, and a variety of operational duties.

Ken has served as a Board Member of several industry organizations including TEXALTEL ('94-'98,'00), CalTel ('96-'98), ACTA ('98-'99) and CompTel ('99-'00).



**Lenda A. Burk Vice President and Corporate Secretary**

Lenda Burk is the Co-founder of nii communications and was responsible for all administrative and accounting functions in the corporation during the start up phase of the company's growth. Today she is responsible for the corporate records and investor communications and continues to contribute in many significant ways. Lenda brings more than 25 years of accounting, administrative, and managerial experience to the company.

## **Mark J. Gitter, Vice President & Chief Financial Officer**

Mark Gitter comes to nii communications as a Certified Public Accountant with over eighteen years of experience in finance and accounting. Mark has held senior financial management positions with a wide range of responsibilities including over six years of managing the financial concerns of start-up ventures. Two of these years have been in the telecom industry. Most recently Mark served as CFO for a startup facilities-based CLEC (Competitive Local Exchange Carrier) offering bundled telecommunications services in resort communities on the western slope of Colorado. While there, Mark served as a key executive team member responsible for start-up and formation of the company including valuation analysis, legal and regulatory matters, strategic business plan development, financial modeling, financial reporting, corporate tax matters, accounting system development, compensation plan development, staffing plans, corporate policies and investor relations. He was also responsible for debt and equity capitalization efforts including investor presentations. Mark also served as the Corporate Treasurer on the firm's Board of Directors.

Prior to this Mark served for ten years with Hines (formally Hines Interests Limited Partnership) headquartered in Houston, Texas. Hines is a multi-billion dollar privately held investment developer and manager of major office and retail real estate projects within the Americas, Mexico, Europe, and the Far East. Mark aided in the startup and expansion of two subsidiary corporations while working under the Hines umbrella. He served as the Senior Controller and Compliance Officer for Hines GS Properties, Inc. Prior to this position he was the Senior Vice President and Chief Financial Officer of VTM Elevator Company (also an affiliate of Hines.) While in this position he was instrumental in successfully negotiating the sale of the company to Otis Elevator Company.

Mark began his career with Arthur Andersen & Co. in Houston, Texas. He holds a Bachelor of Arts in Accounting from the University of Wisconsin - Oshkosh and has been a Certified Public Accountant since 1984. He is a member of AICPA, TSCPA and APA.

**EXHIBIT C**

**CERTIFICATE OF FOREIGN LIMITED PARTNERSHIP**  
**OF NII COMMUNICATIONS, LTD.**

# State of Florida



Department of State

I certify from the records of this office that NII COMMUNICATIONS, LTD. is a Texas limited partnership registered to transact business in the state of Florida on September 15, 2000.

The document number of this limited partnership is B00000000278.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capital, this the  
Fifteenth day of September, 2000



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State

**CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
nii communications, Ltd.**

**FILED**  
In the Office of the  
Secretary of State of Texas  
**JUN 26 2000**  
Corporations Section

**THIS CERTIFICATE OF LIMITED PARTNERSHIP is executed pursuant to the Texas Revised Limited Partnership Act:**

1. The name of the limited partnership is **nii communications, Ltd.**
2. The address of the registered office of the limited partnership is:

**1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

3. The name and address of the registered agent of the limited partnership for service of process required to be maintained under Section 1.06 of the Texas Revised Limited Partnership Act is:

**Richard E. Burk  
1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

4. The address of the principal office in the United States of the limited partnership where records are to be kept or made available under Section 1.07 of the Texas Revised Limited Partnership Act is:

**1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

5. The name, the mailing address and the street address of the business or residence of the general partner of the limited partnership is as follows:

**nii communications gp, LLC  
1717 North Loop 1604 East, Suite 250  
San Antonio, Texas 78232**

IN WITNESS WHEREOF, this Certificate of Limited Partnership has been executed as of  
the 16 day of June, 2000.

nii communications, Ltd.  
a Texas limited partnership

By: nii communications gp, LLC  
its general partner

By:   
Richard E. Burk, President



The State of Texas

Secretary of State

JUNE 27, 2000

CAPITOL SERVICES, INC.  
800 BRAZOS  
AUSTIN TX 78701

RE:  
MII COMMUNICATIONS, LTD.

FILING NUMBER: 00136106-10

IT HAS BEEN OUR PLEASURE TO APPROVE AND PLACE ON RECORD YOUR  
CERTIFICATE OF LIMITED PARTNERSHIP.

THE APPROPRIATE EVIDENCE IS ATTACHED FOR YOUR FILES AND THE  
ORIGINAL HAS BEEN FILED IN THIS OFFICE.

PAYMENT OF THE FILING FEE IS ACKNOWLEDGED BY THIS LETTER.

IF WE CAN BE OF FURTHER SERVICE AT ANY TIME, PLEASE LET US KNOW.



A handwritten signature in black ink, appearing to be "S. D.", located at the bottom right of the page.

**EXHIBIT D**

**PROPOSED TARIFF**



**TITLE SHEET**

**FLORIDA TELECOMMUNICATIONS TARIFF**

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services provided by nii communications, Ltd., with principal offices at 1717 N. Loop 1604 East San Antonio, TX 78232. This tariff applies for services furnished within the state of Florida. This tariff is on file with the Florida Public Service Commission, and copies may be inspected, during normal business hours, at the Company's principal place of business.

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Issued: February 15,2001

Effective: February 16, 2001

Kenneth F. Melley, Jr., Vice President  
nii communications, Ltd.  
1717 N. Loop 1604 East, Suite 250  
San Antonio, TX 78232  
(210) 403-9100

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**CHECK SHEET**

The sheets listed below, which are inclusive of this tariff, are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date of the bottom of this page.

SHEET	REVISION
1	Original
2	Original
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	Original
11	Original
12	Original
13	Original
14	Original
15	Original
16	Original
17	Original
18	Original

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Issued: February 15,2001

Effective: February 16, 2001

Kenneth F. Melley, Jr., Vice President  
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1717 N. Loop 1604 East, Suite 250  
San Antonio, TX 78232  
(210) 403-9100

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Section 4 - Rates ..... 16

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Issued: February 15,2001

Effective: February 16, 2001

Kenneth F. Melley, Jr., Vice President  
nii communications, Ltd.  
1717 N. Loop 1604 East, Suite 250  
San Antonio, TX 78232  
(210) 403-9100

**SYMBOLS SHEET**

- D - Delete Or Discontinue
- I - Change Resulting In An Increase to A Customer's Bill
- M - Moved From Another Tariff Location
- N - New
- R - Change Resulting In A Reduction To A Customer's Bill
- T - Change in Text Or Regulation, But No Change In Rate Or Charge

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Issued: February 15,2001

Effective: February 16, 2001

Kenneth F. Melley, Jr., Vice President  
nii communications, Ltd.  
1717 N. Loop 1604 East, Suite 250  
San Antonio, TX 78232  
(210) 403-9100

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**TARIFF FORMAT SHEETS**

- A. Sheet Numbering - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the FPSC. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc, one FPSC follows in their tariff approval process, the most current sheet number on file with the Commission is not always the tariff page in effect. Consult the Check Sheet for the sheet currently in effect.
- C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2.1.
  - 2.1.1.
  - 2.1.1.A.
  - 2.1.1.A.1.
  - 2.1.1.A.1. (a).
  - 2.1.1.A.1. (a) .I.
  - 2.1.1 .A. 1. (a) .I. (i) .
  - 2.1.1 .A. 1. (a) .I. (i) . (1) .
- D. Check Sheets - When a tariff filing is made with the FPSC, an updated check sheet accompanies the tariff filing. The check sheet lists the sheets contained in the tariff, with a cross-reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. An asterisk designates all revisions made in a given filing (\*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the FPSC.

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**SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS**

Access Line - An arrangement that connects the customer's location to the Company's network switching center.

Authorization Code - A numerical code, one or more of which are available to a customer to enable him/her to access the carrier, and which are used by the carrier both to prevent unauthorized access to its facilities and to identify the customer for billing purposes.

Company or Carrier - nii communications, Ltd.

Customer - the person, firm, corporation or other entity which orders service and is responsible for payment of charges due and compliance with the Company's tariff regulations.

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SECTION 2 - RULES AND REGULATIONS

2.1 Undertaking of the Company

The Company's services and facilities are furnished for communications originating at specified points within the state of Florida under terms of this Tariff.

The Company installs, operates, and maintains the communications services provided herein in accordance with the terms and conditions seen forth under this tariff. It may act as the customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the customer, to allow connection of a customer's location to the Company's network. The customer shall be responsible for all charges due for such service arrangement.

The Company's services and facilities are provided on a monthly basis unless ordered on a long-term basis, and are available twenty-four hours per day, seven days per week.

2.2 Limitations

2.2.1 Service is offered subject to the availability of facilities and provisions of this tariff.

2.2.2 The Company reserves the right to discontinue furnishing service, or limit the use of service necessitated by conditions beyond its control: or when the customer is using service in violation of the law or the provisions of this tariff.

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SECTION 2 - RULES AND REGULATIONS continued

2.2 Limitations (Cont.)

- 2.2.3 All facilities provided under this tariff are directly controlled by the Company and the customer may not transfer or assign the use of service or facilities, except with the express written consent of the Company. Such transfer or assignment shall only apply where there is no interruption of the use or location of the service or facilities.
- 2.2.4 Prior written permission from the Company is required before any assignment or transfer. All regulations and conditions contained in this tariff shall apply to all such permitted assignees or transferees, as well as all conditions for service.
- 2.2.5 Customers reselling or rebilling services must have a Certificate of Public Convenience and Necessity as an interexchange carrier for the Florida Public Service Commission.

2.3 Liabilities of the Company

- 2.3.1 The Company's liability arising out of mistakes, interruptions, omissions, delays, errors, or defects in the transmission occurring in the course of furnishing service or facilities, and not caused by the negligence of its employees or its agents, in no event shall exceed an amount equivalent to the proportionate charge to the customer for the period during which the aforementioned faults in transmission occur, unless ordered by the Commission.
- 2.3.2 The Company shall be indemnified and held harmless by the customer against:
- (A) Claims for libel, slander, or infringement of copyright arising out of the material, data, information, or other content transmitted over the Company's facilities.
  - (B) All other claims arising out of any act or omission of the customer in connection with any service or facility provided by the Company.

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SECTION 2 - RULES AND REGULATIONS continued2.4 Interruption of Service

2.4.1 Credit allowance for the interruption of service which is not due to The Company's testing or adjusting, negligence or the customer, or to the failure of channels or equipment provided by the customer, are subject to the general liability provisions set forth in 2.3.1 herein. It shall be the customer's obligation to notify the Company immediately of any service interruption for which a credit allowance is desired. Before giving such notice, the customer shall ascertain that the trouble is not being caused by any action or omission by the customer within his control, if any, furnished by the customer and connected to the Company's facilities. No refund or credit will be made for the time that the Company stands ready to repair the service and the subscriber does not provide access to the Company for such restoration work.

2.4.2 No credit shall be allowed for an interruption of a continuous duration of less than twenty-four hours after the subscriber notifies the Company.

2.4.3 The customer shall be credited for an interruption of more than twenty-four hours as follows:

Credit Formula:

Credit = A/B x C

"A" - outage time in hours

"B" - total hours in month

"C" - total monthly charge for affected facility

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SECTION 2 - RULES AND REGULATIONS continued

2.5 Disconnection of Service by Carrier

The company (carrier), upon 5 working days written notice to the customer, may discontinue service or cancel an application for service without incurring any liability for any of the following reasons:

- 2.5.1 Non-payment of any sum due to carrier for regulated service for more than thirty days beyond the date of rendition of the bill for such service.
- 2.5.2 A violation of any regulation governing the service under this tariff.
- 2.5.3 A violation of any law, rule, or regulation of any government authority having jurisdiction over such service.
- 2.5.4 The company has given the customer notice and has allowed a reasonable time to comply with any rule, or remedy, and deficiency as stated in Rule 25-4.113, F.A.C., Refusal or Discontinuance of Service by Company.
- 2.5.5 Service may be disconnected without notice for tampering with company equipment, for interfering with service to other customers, or for fraud.

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SECTION 2 - RULES AND REGULATIONS continued

2.6 Deposits

The Company does not require a deposit from the customer.

2.7 Advance Payments

For customers whom the Company feels an advance payment is necessary, the Company reserves the right to collect an amount not to exceed one (1) month's estimated charges as an advance payment for service. This will be applied against the next month's charges and if necessary a new advance payment will be collected for the next month.

2.8 Taxes

All state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates.

2.9 Billing of Calls

All charges due by the subscriber are payable at any agency duly authorized to receive such payments. Any objection to billed charges should be promptly reported to the Company. Adjustments to customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate.

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SECTION 3 - DESCRIPTION OF SERVICE3.1 Timing of Calls3.1.1 When Billing Charges Begin and End For Phone Calls

The customer's long distance usage charge is based on the actual usage of the Company's network. Usage begins when the called party picks up the receiver, (i.e. when 2-way communication, often referred to, as "conversation time" is possible.). When the called party picks up is determined by hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. When software answer supervision is employed, up to 60 seconds of ringing is allowed before it is billed as usage of the network. A call is terminated when the calling or called party hangs up.

3.1.2 Billing Increments

The minimum call duration for billing purposes is six seconds for a connected call and calls beyond six seconds are billed in six-second increments.

3.1.3 Per Call Billing Charges

Billing will be rounded up to the nearest penny for each call.

3.1.4 Uncompleted Calls

There shall be no charges for uncompleted calls.

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SECTION 3 - DESCRIPTION OF SERVICE continued3.2 Calculation of Distance

Usage charges for all mileage sensitive products are based on the airline distance between rate centers associated with the originating and terminating points of the call.

The airline mileage between rate centers is determined by applying the formula below to the vertical and horizontal coordinates associated with the rate centers involved. The Company uses the rate centers that are produced by Bell Communications Research in the NPA-NXX V & H Coordinates Tape and Bell's NECA Tariff No. 4.

**FORMULA:**

$$\text{The square root of: } \frac{(V1 - V2)^2 + (H1 - H2)^2}{10}$$

3.3 Minimum Call Completion Rate

A customer can expect a call completion rate {number of calls completed number of calls attempted} of not less than 90% during peak use periods for all FGD services "1+" dialing).

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SECTION 3 - DESCRIPTION OF SERVICE continued3.4 Service Offerings3.4.1 nii communications, Ltd., Long Distance Service

nii communications, Ltd., Long Distance Service is offered to residential and business customers. The service permits direct dialed outbound calling at a single per minute rate. Service is provided from presubscribed, dedicated or shared use access lines. Calls are billed in six-second increments, with a six-second minimum. No monthly recurring charges or minimum monthly billing requirements apply.

3.4.2 nii communications, Ltd., 800/888 (Inbound) Long Distance Service

nii communications, Ltd., 800/888 (Inbound) Long Distance Service is offered to residential and business customers. The service permits inbound 800/888 calling at a single per minute rate. Service is provided from presubscribed, dedicated or shared use access lines. Calls are billed in six-second increments, with a six-second minimum call duration. No monthly recurring charges apply.

3.4.3 nii communications, Ltd., Travel Card Service

nii communications, Ltd., Travel Card Service is a travel card service offered to residential and business customers who subscribe to the nii communications, Ltd., Long Distance Service calling plan. Customers using the Carrier's travel card service access the service by dialing a 1-800 number followed by an account identification number and the number being called. This service permits subscribers utilizing the Carrier's travel card to make calls at a single per minute rate. Calls are billed in six-second increments, with a six-second minimum. There are no nonrecurring or monthly recurring charges. There is a \$0.30 surcharge for all automated travel card calls and a \$1.50 surcharge for all operator assisted travel card calls.

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SECTION 3 - DESCRIPTION OF SERVICE continued3.4 Service Offerings (Cont'd)3.4.4 Operator Services

The Company's operator services are provided to residential and business customers who presubscribe to this service for intrastate calling. Operator services include the completion of collect, station-to-station, person-to-person, third party billing and credit card calls with the assistance of a Carrier operator. Each completed operator assisted call consists of two charge elements (except as otherwise indicated herein): (i) a fixed operator charge, which will be dependent on the type of billing selected (e.g., calling card, collect or other) and/or the completion restriction selected [e.g., station-to-station or person-to-person]; and (ii) a measured usage charge dependent upon the duration, distance and/or time of day of the call.

3.4.4.A Operator Dialed Surcharge

This surcharge applies to Operator Station and Person-to-Person rated calls when the customer has the capability of dialing all the digits necessary to complete a call, but elects to dial only the appropriate operator code and requests the operator to dial the called station. The surcharge does not apply to:

- 1) Calls where a customer cannot otherwise dial the call due to defective equipment or trouble on the nii communications, Ltd. network; and
- 2) Calls in which a Company operator places a call for a calling party who is identified as being handicapped and unable to dial the call because of his/her handicap.

The Operator Dialed Surcharge applies in addition to any other applicable operator charges.

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SECTION 4 - RATES

4.1 nii communications, Ltd., Long Distance Service

Rate per minute - \$0.12  
Plan is billed six-second increments, with a six-second minimum.

4.2 nii communications, Ltd., 800/888 (Inbound) Long Distance Service

Rate per minute - \$0.12.  
Plan is billed in six-second increments, with a six-second minimum.

4.3 nii communications, Ltd., Calling Card Service

Rate per minute - \$0.25.  
Plan is billed six-second increments, with a six-second minimum.

4.4 Operator Services (For presubscribed customers)

4.4.1 Usage Rates: The appropriate rate found under 4.1 or 4.3 shall apply.

4.4.2 Operator Charges:

Collect Station-to-Station \$1.00  
Collect Person-to-Person \$3.25  
Person-to-Person \$3.25  
Station-to-Station \$1.00  
Customer Dialed Calling Card\$1.00  
Operator Dialed Calling Card\$1.75  
Operator Dialed Surcharge\$0.75

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SECTION 4 - RATES continued4.5 Determining Applicable Rate in Effect

For the initial minute, the rate applicable at the start of chargeable time at the calling station applies. For additional minutes, the rate applicable is that rate which is in effect at the calling station when the additional minute(s) begin. That is, if chargeable time begins during the Day Period, the Day Rate applies to the initial minute and to any additional minutes that the call continues during the rate period. If the call continues into a different rate period, the appropriate rates from that period apply to any additional minutes occurring in that rate period. If an additional minute is split between two rate periods, the rate period applicable at the start of the minute applies to the entire minute.

4.6 Payment of Calls4.6.1 Late Payment Charges

A late payment Charge of \$0.00 month will be assessed on all unpaid balances more than thirty days old.

4.6.2 Return Check Charges

A return check charge of \$25.00 will be assessed for checks returned for insufficient funds if the face value does not exceed \$50.00, \$30.00 if the face value does exceed \$50.00 but does not exceed \$300.00, \$40.00 if the face value exceeds \$300.00 or 5% of the value of the check, which ever is greater.

4.7 Restoration of Service

A reconnection fee of \$25.00 per line and \$20.00 per each additional line per each occurrence is charged when service is re-established for customers who had been disconnected for non-payment.

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SECTION 4 - RATES continued4.8 Special Promotions

The company will, from time to time, offer special promotions to its customers waiving certain charges. These promotions will be approved by the FPSC with specific starting and ending dates, and be made part of this tariff.

4.9 Special Rates For The Handicapped4.9.1. Directory Assistance

There shall be no charge for up to fifty calls per billing cycle from lines or trunks serving individuals with disabilities. The Company shall charge the prevailing tariff rates for every call in excess of 50 within a billing cycle.

4.9.2. Hearing and Speech Impaired Persons

Intrastate toll message rates for TDD users shall be evening rates for daytime calls and night rates for evening and night calls.

4.9.3 Telecommunications Relay Service

For intrastate toll calls received from the relay service, the Company will when billing relay calls discount relay service calls by 50 percent off of the otherwise applicable rate for a voice non-relay call except that where either the calling or called party indicates that either party is both hearing and visually impaired, the call shall be discounted 60 percent off of the otherwise applicable rate for a voice non-relay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge.

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## **ATTACHMENT 1**

The following list represents the partners in nii communications, Ltd.

### **Managing Partner**

nii communications, inc.  
1717 N. Loop 1604 East  
Suite 250  
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tel. (210) 403-9100  
fax (210) 403-9799

### **General Partner**

nii communications gp, LLC  
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