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KRISTEN L. BURSON

OF COUNSEL
VINCENT T. EARLY
THOMPSON BENNETT
JOHN T. PETERS, JR.
JOSEPH J. BURGIE
(1926 - 1992)

March 1, 2001

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

010281 - TX

Re: New Access Communications LLC

Dear Sir:

Enclosed herewith for filing with the Commission, please find an original and 6 (six) copies of the above captioned corporation's APPLICATION FOR AUTHORITY TO PROVIDE ALTERNATIVE LOCAL EXCHANGE SERVICE WITHIN THE STATE OF FLORIDA, along with a check in the amount of \$250.00 to cover filing fees relating to same.

Also enclosed is an exact duplicate of this filing. Please stamp the duplicate received and return same in the self-addressed stamped envelope attached thereto.

Please contact the undersigned if you have additional questions or concerns.

Very truly yours,

EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

Patrick D. Crocker
PDC/pas

DOCUMENT NUMBER-DATE

02828 MAR-2001

FPSC-RECORDS/REPORTING

**BEFORE THE
STATE OF FLORIDA
PUBLIC SERVICE COMMISSION**

Application of New Access Communications, LLC)
for Authority to Provide Alternative)
Local Exchange Service Statewide)

APPLICATION

Patrick D. Crocker
Early, Lennon, Crocker & Bartosiewicz, P.L.C.
900 Comerica Building
Kalamazoo, MI 49007

APPLICATION

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

Original certificate (new company).

Approval of transfer of existing certificate: Example, a 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 approved the new controlling entity.

2. **Name of Company:**

New Access Communications, LLC

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

New Access Communications, LLC

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

120 South 6th Street, Suite 950

Minneapolis, MN 55402

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

None

6. Structure of organization:

- Individual Corporation
 Foreign Corporation Foreign Partnership
 General Partnership Limited Partnership
 Other - Limited Liability Company

7. If individual, provide:

Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ **Fax No.:** _____

Internet E-Mail Address: _____

Internet Website Address: _____

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

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

_____ N/A _____

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

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

_____ See Exhibit A _____

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:

_____ N/A _____

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

(a) The Florida Secretary of State registration number:

N/A

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

Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Telephone No.: _____ Fax No.: _____

Internet E-Mail Address: _____

Internet Website 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: N/A

14. Provide **F.E.I. Number** (if applicable): 41-1974247

15. Indicate of any of the officers, director, 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 have been adjudged bankrupt, mentally incompetent, or guilty of any felony or crime.

(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.

No

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

(a) The application:

Name: Patrick D. Crocker

Title: Attorney

Address: 900 Comerica Building

City/State/Zip: Kalamazoo, MI 49007

Telephone No.: 616-381-8844 **Fax No.:** 616-349-8525

Internet E-Mail Address: pcrocker@earlylennon.com

Internet Website Address: www.telecomattorney.com

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

Name: Steven C. Clay

Title: President

Address: 120 South 6th Street, Suite 950

City/State/Zip: Minneapolis, MN 55402

Telephone No.: 612-321-9717 **Fax No.:** 612-321-9207

Internet E-Mail Address: sclay@newaccess.cc

Internet Website Address: www.newaccesscommunications.com

(c) Complaints/Inquiries from customers:

Name: Pam Rieck

Title: Director, Regulatory Affairs

Address: 120 South 6th Street, Suite 950

City/State/Zip: Minneapolis, MN 55402

Telephone No.: 612-321-9717 Fax No.: 612-321-9207

Internet E-Mail Address: prieck@newaccess.cc

Internet Website Address: www.newaccesscommunications.com

17. List the states in which the applicant:

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

Montana, Washington, Iowa, Oregon, and North Dakota

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

Minnesota

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

Montana, Colorado, Iowa, Washington, Oregon, Kentucky, and North Dakota

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

Applicant has not been denied authority to operate as an alternative local exchange company in any jurisdiction.

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

Applicant has had no regulatory penalties imposed for violations of telecommunications statutes.

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

Applicant has not been involved in any civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity.

3. 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 included 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.**

See Exhibit B.

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

See Exhibit C.

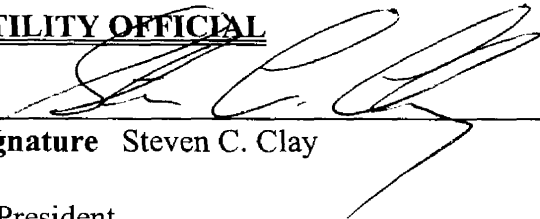
- C. Technical capability: give resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.**

See Exhibit C.

**** APPLICANT ACKNOWLEDGMENT OF 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

	<u>2-22-2001</u>
Signature Steven C. Clay	Date
President	612-321-9717
Title	Telephone No.
Address: <u>120 South 6th Street, Suite 950</u>	<u>612-321-9207</u>
<u>Minneapolis, MN 55402</u>	Fax No.

ATTACHMENTS:

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

CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT

Not applicable

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) _____
_____ | 2) _____
_____ |
| 3) _____
_____ | 4) _____
_____ |

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

- | | |
|-------------------|-------------------|
| 1) _____
_____ | 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) _____	_____
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:

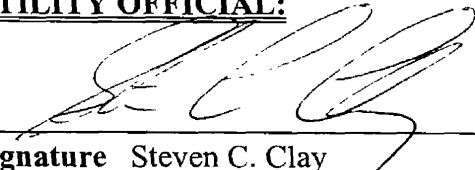
	<u>2-22-2001</u>
Signature Steven C. Clay	Date
<u>President</u>	<u>612-321-9717</u>
Title	Telephone No.
Address: <u>120 South 6th Street, Suite 950</u>	Fax No.
<u>Minneapolis, MN 55402</u>	
<u> </u>	

EXHIBIT A

Certificate of Authority to Transact Business



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

September 7, 2000

CT CORPORATION SYSTEM
LAURA EARNEST

Qualification documents for NEW ACCESS COMMUNICATIONS LLC were filed on September 7, 2000, and assigned document number M00000001817. Please refer to this number whenever corresponding with this office.

Your limited liability company is now qualified and authorized to transact business in Florida as of the file date. In accordance with section 608.406(2), F.S., the name of this limited liability company is filed with the Department of State for public notice only and is granted without regard to any other name recorded with the Division of Corporations.

A limited liability company annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file date. A Federal Employer Identification (FEI) number will be required before this report can be filed. If you do not already have an FEI number, please apply NOW with the Internal Revenue by calling 1-800-829-3676 and requesting form SS-4.

Please be aware if the limited liability company address changes, it is the responsibility of the corporation to notify this office.

Should you have any questions regarding this matter, please telephone (850) 487-6051, the Registration and Qualification Section.

Trevor Brumbley
Document Specialist
Division of Corporations

Letter Number: 800A00047480

EXHIBIT B

Financial Capability

1. Applicant has sufficient financial capability to provide the requested service in the geographic areas proposed to be served. Applicant's operating revenue will provide Applicant with sufficient financial resources to provide service in the proposed areas. On February 1, 2001, the company realized a \$1 million equity investment from Merchants Capital Partners, L.P., a New York-based venture capital firm.
2. Applicant has sufficient financial capability to maintain the requested service in the geographic areas proposed to be served. Applicant's operating revenue will provide Applicant with sufficient financial resources to maintain service in the proposed areas. On February 1, 2001, the company realized a \$1 million equity investment from Merchants Capital Partners, L.P., a New York-based venture capital firm.
3. Applicant will operate as a resold provider. Applicant has sufficient financial capability to meet lease or ownership obligations in the geographic areas proposed to be served. Applicant's operating revenue will provide Applicant with sufficient financial resources to meet lease or ownership obligations in the proposed areas. On February 1, 2001, the company realized a \$1 million equity investment from Merchants Capital Partners, L.P., a New York-based venture capital firm.

New Access Financial Statements

BALANCE SHEET	June	July	August	September	October
ASSETS					
Cash	167,990	143,442	235,089	262,082	169,183
Accounts Receivable	-	-	3,169	24,089	55,941
Unearned liability	-	-	18,952	2,166	-
Allowance for Bad Debt	-	-	-	(854)	(2,288)
Total Current Assets	167,990	143,442	257,209	287,483	222,836
Property and Equipment	9,388	12,514	18,204	22,885	35,956
Accumulated Depreciation	(196)	(456)	(836)	(1,312)	(2,047)
Net Fixed Assets	9,192	12,057	17,369	21,572	33,909
Deposits	-	-	-	10,000	27,600
TOTAL ASSETS	177,182	155,500	274,578	319,056	284,345
LIABILITIES					
Accounts Payable	9,590	31,129	63,298	159,908	295,972
Due to IFS	1,160	4,760	10,600	18,477	23,489
Due to Access Anywhere	-	16,053	22,689	7,060	-
Due to ChoiceTel Inc.	-	-	45	726	(6,659)
Due to NewTel Europe	-	4,375	8,750	13,125	17,500
New Access Federal Taxes	-	-	-	433	1,713
New Access State Taxes	-	-	-	1,256	4,955
New Access Local Taxes	-	-	-	-	62
Accrued Expenses	-	-	-	1,700	19,314
Short Term Debt	90,000	90,000	90,000	90,000	90,000
Total Current Liabilities	100,750	146,317	195,382	292,684	446,346
EQUITY					
Member's Contribution	78,000	78,000	294,282	423,132	502,114
Net Income/ (Loss)	(1,567)	(68,818)	(215,085)	(396,760)	(664,115)
Total Capital	76,433	9,182	79,197	26,372	(162,001)
TOTAL LIABILITIES & EQUITY	177,182	155,500	274,578	319,056	284,345
	-	-	(0)	(0)	-

New Access Financial Statements

INCOME STATEMENT	June	July	August	September	October	TOTAL
Local-MN	-	-	3,713	22,525	32,977	59,216
Local-MT	-	-	-	69	15,154	15,222
LD-MN	-	-	36	2,130	7,032	9,198
LD-MT	-	-	-	-	1,549	1,549
TOTAL REVENUE	-	-	3,749	24,724	56,712	85,185
Local Wholesale-MN	-	-	5,008	21,342	31,726	58,077
Local Wholesale-MT	-	-	-	17	15,922	15,940
LD Wholesale-MN	-	-	28	1,421	4,622	6,071
LD Wholesale-MT	-	-	-	-	1,034	1,034
TOTAL COST OF SALES	-	-	5,036	22,781	53,305	81,122
GROSS MARGIN	-	-	(1,288)	1,944	3,407	4,063
			-34%	8%	6%	5%
Switching charges-MN	-	-	4,366	3,321	3,045	10,732
Switching charges-MT	-	-	-	885	21,591	22,477
Fee for MN CLEC usage	-	-	45	681	(6,305)	(5,579)
Marketing expense	-	10,714	62,727	86,907	140,596	300,944
Bad debt expense	-	-	-	854	1,434	2,288
Salary expense	1,160	24,173	51,985	49,112	55,539	181,969
Verification/internal mktg expense	-	1,423	3,028	10,868	10,252	25,570
Office expense	204	6,374	8,759	17,302	19,459	52,098
Rent expense	-	-	-	4,077	4,084	8,161
Telephone expense	8	1,676	2,468	3,037	6,908	14,097
Travel / M & E	-	205	4,340	785	3,733	9,064
Licensing fees	-	4,825	1,410	655	6,050	12,940
Depreciation expense	196	261	379	477	735	2,047
Legal and Professional expense	-	15,425	3,299	2,482	1,466	22,671
OPERATING EXPENSES	1,567	65,075	142,805	181,443	268,587	659,478
Other (Income)/Expense:						
Interest expense	-	2,175	2,175	2,175	2,175	8,700
NET INCOME / (LOSS)	(1,567)	(67,250)	(146,268)	(181,675)	(267,355)	(664,115)
Y-T-D NET INCOME / (LOSS)	(1,567)	(68,818)	(215,085)	(396,760)	(664,115)	(664,115)

Footnote to Financial Statements: On February 1, 2001, the company realized a \$1 million equity investment from Merchants Capital Partners, L.P., a New York-based venture capital firm.

EXHIBIT C

Management Resumes

MANAGEMENT TEAM

NEW ACCESS COMMUNICATIONS LLC has assembled a strong senior management team with experience in the telecommunications market. Each individual brings a successful background, an entrepreneurial drive and a unique perspective based on experience in a variety of industries. Following are summaries of the backgrounds of key individuals.

Steven Clay, Carrier Services President

Mr. Clay spent the previous five years as founder and chief executive of a specialized law practice providing legal services primarily to the telecommunications industry. His law practice focused on certification and tariff issues at the state and local level, regulatory and tax issues, and consumer protection issues. Mr. Clay's client list included privately-held and public companies including long distance resellers, CLECs, Internet Service Providers, debit card providers and other telecommunications entities. Prior to attending law school, Mr. Clay worked in the marketing department of a software company which provided sophisticated accounting, billing and time management software to the legal industry. He is experienced in regulatory compliance issues, intellectual property issues, contracts and other areas of transactional law. Mr. Clay received a B.A. in Organizational Management from Gustavus Adolphus College and a J.D. *cum laude* from the University of Minnesota Law School, where he was an Associate Managing Editor of the Minnesota Law Review. His law review Note, Starstruck: The Overextension of Celebrity Publicity Rights in State and Federal Courts, was published in Volume 79 of the Minnesota Law Review (79 Minn. L. Rev. 485 (1994)). Mr. Clay co-founded New Access in June, 2000.

David Buss, Vice President

Mr. Buss spent the previous twelve years with Sencore Electronics, a large electronics firm based in Sioux Falls. He has great experience in technical sales, and has proven success in managing, training and motivating large sales forces for consistently profitable results. Mr. Buss received a B.S. Degree in Business Administration from National American University in Sioux Falls. Mr. Buss co-founded New Access in June, 2000.

Gregory Wilmes, Chief Operating Officer

Mr. Wilmes served as the general manager of NewTel Comunicaciones España, S.L, a long distance reseller based in Madrid, Spain, from January 1999 through May 2000. He was engaged in the private practice of law at his own firm in the Twin Cities, practicing primarily in the securities arbitration and appellate advocacy areas, from 1996 to 1998. Mr. Wilmes was a founding partner in the law firm of Briol & Wilmes, and practiced primarily in the commercial litigation and securities arbitration areas from 1988 to 1996. Mr. Wilmes received a B.S. degree from Mankato State University in Political Science (1977, *summa cum laude*), and a Juris Doctorate from the William Mitchell College of Law (1981, *magna cum laude*). Mr. Wilmes co-founded New Access in June, 2000.

Wayne Barthel, Chief Financial Officer

Mr. Barthel is a graduate of St. John's University in Collegeville, Minnesota, where he majored in accounting. Upon graduation, Mr. Barthel spent nine years with Ernst & Young in the audit and consulting staff. He spent approximately 40% of his time working with clients in the banking industry and served on the Minneapolis Banking Industry Committee. Mr. Barthel's responsibilities included reviewing the adequacy of loan loss reserves and compliance with various regulatory requirements. Mr. Barthel has served as Chief Financial Officer for businesses

in the health care and telecommunications industries, and also managed his own consulting firm specializing in financing and restructuring services to businesses in a variety of industries. Mr. Barthel is licensed as a certified public accountant in the state of Minnesota and is a member of the American Institute of Certified Public Accountants and the Minnesota Society of Certified Public Accountants. Mr. Barthel has spent the previous year as Chief Financial Officer and Vice President of Finance for Internet Financial Services LLC.

Technical Competence

As a non-facilities based reseller, New Access relies upon its underlying carriers for all technical matters relating to the transmission of telecommunications messages. Underlying carriers, primarily the Regional Bell Operating Companies, provide all network elements utilized by New Access in the provision of service. The RBOCs also handle all elements in the provision of emergency and 911 service.

New Access maintains its own in-house billing system and customer service department. New Access has assembled an impressive and highly qualified team of managers and staff level personnel serving in its customer service and information technology departments. Kristi Hicks, Customer Service Director, spent the previous three years as customer service director for a long distance service provider. Rick Gittins, IT Director, is an experienced computer programmer whose previous employment was as a computer consultant. Both Ms. Hicks and Mr. Gittins have been with New Access nearly since the Company's inception. New Access employs several customer service representatives who previously worked for Qwest or other local exchange or long distance carriers. New Access's IT Department also contains several software engineers who are experienced in designing and implementing complicated databases for telecommunications carriers.