

PENDING PETITION MEMO

Date: 5/25/2007

TO : Office of Telecommunications
Office of General Counsel

FROM: CENTRAL OPERATIONS

UTILITY: MICROWAVE SATELLITE TECHNOLOGIES, INC.

SUBJECT: 07-C-0621

Petition of Microwave Satellite Technologies, Inc. for an Original
Certificate of Public Convenience and Necessity as a Common Carrier.



A Law and Consulting Firm ~ Founded 1931

610 Charlotte Street, Utica, NY 13501-2909 TEL 315-797-9850 FAX 315-797-1721

May 22, 2007

Jaclyn A. Brillling, Secretary
New York State
Department of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Re: Microwave Satellite Technologies, Inc. – Application for Certification as Common Carrier

Dear Secretary Brillling:

Enclosed please find the original and three copies of the complete Application of our client, Microwave Satellite Technologies, Inc., for certification as a common carrier with authority to provide facilities-based services, as well as to provide services as a reseller, of all forms of regulated telecommunications services in the State of New York. This Application also was submitted electronically.

On behalf of our client, we respectfully request that the Commission consider this Application on an expedited basis and accord Microwave Satellite Technologies, Inc. the same regulatory treatment applicable to other non-dominant carriers.

If you have any questions, please contact me or Amy Cirtwell at (315) 797-9850.

Respectfully yours,

Hage & Hage LLC

J.K. Hage III

JKH:amc
Enclosures

J.K. Hage III
Admitted in NY and AK
jk@hagelaw.com

Of Counsel to Lukas, Nace, Gutierrez & Sachs, Chartered, Washington, D.C.

Amy Cirtwell

From: Amy Cirtwell
Sent: Tuesday, May 22, 2007 4:34 PM
To: 'secretary@dps.state.ny.us'
Cc: J.K. Hage III
Subject: Application for Certification as Common Carrier
Attachments: MST_NYPSC No 1_Telephone.pdf; MST_NYPSC CPCN Application.pdf

Attached herewith please find the Application of Microwave Satellite Technologies, Inc. for certification as a common carrier with authority to provide facilities-based services, as well as to provide services as a reseller, of all forms of regulated telecommunications services in the State of New York. An original and three copies of the attached application will be provided by overnight courier. We respectfully request that the Commission consider this Application on an expedited basis and accord the Applicant the same regulatory treatment applicable to other non-dominant carriers.

If you have any questions, please do not hesitate to contact our firm.

Respectfully submitted,

Amy M. Cirtwell
Administrative Legal Assistant

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**NEW YORK STATE  
PUBLIC SERVICE COMMISSION**

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**APPLICATION FORM A**

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**MICROWAVE SATELLITE TECHNOLOGIES, INC.  
APPLICATION FOR CERTIFICATION AS A COMMON CARRIER**

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Date: May 7, 2007

*Submitted by:*

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*Counsel for:*

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Fax: (973) 304-6081  
[www.mst-online.com](http://www.mst-online.com)

**APPLICATION FOR CERTIFICATION AS A COMMON CARRIER**

1. Identification of applicant and principal business office:

Microwave Satellite Technologies, Inc.  
259-263 Goffle Road  
Hawthorne, NJ 07506  
Tel: (973) 304-6080  
Fax: (973) 304-6081  
Website: [www.mst-online.com](http://www.mst-online.com)

Executive Officers (all at above-provided address):

Frank T. Matarazzo, President / Chief Executive Officer  
Tel: (973) 304-6080  
Email: [fmatarazzo@mst-online.com](mailto:fmatarazzo@mst-online.com)

Keith V. Scarzafava, Chief Technology Officer / Director of Operations  
Tel: (973) 304-6080 x130  
Email: [kscarzafava@nuvisions.net](mailto:kscarzafava@nuvisions.net)

2. The Telecommunications Carrier Critical Information form is attached hereto as Exhibit A.
3. Microwave Satellite Technologies, Inc. is a New Jersey corporation, authorized to do business in the State of New York. Attached hereto as Exhibit B is a copy of Applicant's Good Standing Certificate of Authority to Transact Business in the State of New York.
4. Microwave Satellite Technologies, Inc. is a carrier class communications technology company that provides Quad-Play services, including video, voice over Internet protocol (VoIP), high-speed Internet and Wi-Fi services primarily to residential and business customers in multi-tenant units (MTUs) and multi-dwelling units (MDUs). Applicant seeks authority to provide facilities-based services, as well as to provide services as a reseller, of all forms of regulated telecommunications services in New York State, including local exchange services.

The approval of this application materially will advance the policy of the New York State Public Service Commission in promoting competition. As an alternate service provider, Microwave Satellite Technologies, Inc. will offer innovative, high quality new or enhanced services to residential and business customers at competitive prices throughout its service territory, thereby promoting consumer choice and spurring price competition -- all for the benefit of New York's telecommunications users.

5. No plant or system will be constructed by Applicant. Microwave Satellite Technologies, Inc. may lease installed facilities from existing service providers.
6. Microwave Satellite Technologies, Inc. has never acquired a customer by switching it from another company without the customer's authorization. Applicant will obtain prior customer authorization for all carrier change orders in accordance with applicable federal and state regulations.
7. Microwave Satellite Technologies, Inc. has never been the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another.
8. Applicant's Federal Employer Identification Number is #22-2406131
9. At such time as Microwave Satellite Technologies, Inc. provides local exchange service, it will provide access to public safety/emergency telephone services, access to the statewide relay system and lifeline service in accordance with applicable rules and regulations. In addition, to the extent applicable to non-dominant carriers, Applicant will comply with the requirements enumerated on pages 30-31 of the Commission's Order in Case 94-C-0095, issued May 22, 1996, as follows:
  - (a) Attached hereto as Exhibit C is Applicant's proposed tariff - Microwave Satellite Technologies, Inc. P.S.C No. 1 – Telephone.
  - (b) Upon any future provision of competitive local exchange services, Applicant will, in accordance with applicable rules and regulations:
    - (i) provide, without undue discrimination or preference, service to any willing customer within Applicant's defined service territory;
    - (ii) provide E-911 services through a third-party emergency services provider, or through the applicable ILEC. When a customer dials 911, the information is sent via the emergency services provider to the appropriate public safety answering point (PSAP), at which point the customer will have contact with a 911 operator. If for any reason there is no customer information available, the emergency services provider will send the call to the appropriate PSAP based on the out-pulsed automatic number identification (ANI).
    - (iii) comply with the Telephone Fair Practices rules (16 NYCRR Part 609, *et. seq.*), unless and until the Commission exempts Applicant as a non-dominant carrier or waives these rules as such may apply to Applicant's competitive services;
    - (iv) comply with the Common Carrier rules (16 NYCRR Part 605) unless and until the Commission exempts Applicant as a non-dominant

carrier or waives these rules as such may apply to Applicant's competitive services;

- (v) comply with Commission Statement of Policy on Privacy in Telecommunications (Case 90-C-0075, issued March 22, 1991) unless and until the Commission exempts Applicant as a non-dominant carrier or waives these rules as such may apply to Applicant's competitive services;
  - (vi) comply with Commission Open Network Architecture (ONA) principles (Case 88-C-004, Opinion No. 89-28, issued September 11, 1989) unless and until the Commission exempts Applicant as a non-dominant carrier or waives these rules as such may apply to Applicant's competitive services;
  - (vii) provide reasonable interconnections for the joint provision of service to any certified carrier requesting such interconnection at such future time as Applicant has appropriate facilities in place for such interconnection;
  - (viii) comply with Commission service quality standards and infrastructure monitoring requirements (16 NYCRR, Parts 603 and 644.3) unless and until the Commission exempts Applicant as a non-dominant carrier or waives these rules as such may apply to Applicant's competitive services.
10. At such future time as Applicant may provide local exchange service (residential and/or business dialtone), Applicant will have "0-" emergency calls processed by the ILEC or other "0-" certified operator services provider.
11. Information relating to Applicant's intraLATA presubscription can be found in Section 4 of Applicant's proposed tariff - Microwave Satellite Technologies, Inc. P.S.C No. 1 – Telephone. As a reseller of local exchange service, Applicant will rely on the intraLATA presubscription implementation plans of its underlying carriers. At such future time as Applicant may provide facilities-based local exchange service, Applicant will file an intraLATA presubscription implementation plan with the Commission prior to initiating such facilities-based local exchange service.
12. Initially, Applicant does not plan to provide facilities-based local exchange services. At such future time as Applicant may provide facilities based local exchange services (residential and/or business dialtone), Applicant will comply with the Commission's Network Reliability Orders unless and until the Commission exempts Applicant as a non-dominant carrier or waives these rules as such may apply to Applicant's competitive services.

Microwave Satellite Technologies, Inc. hereby respectfully requests that the Commission consider this Application on an expedited basis and accord the Applicant the same regulatory treatment applicable to other non-dominant carriers, including exemption from the applicable requirements of 16 NYCRR Parts 21 and 642 *et. seq.* and §644.3.

Through its counsel, Applicant attests that this Application is correct to the best of its knowledge. Any inaccuracies or deficiencies promptly will be corrected. If this Application is granted, Microwave Satellite Technologies, Inc. will comply with all applicable Commission rules and regulations unless and until the Commission exempts Microwave Satellite Technologies, Inc. as a non-dominant carrier or waives these rules as such may apply to its competitive services.

By:   
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*Counsel for Microwave Satellite Technologies, Inc.*

Dated: May 7, 2007



## **Exhibit “B”**

### **Certificate of Good Standing – New York**

**State of New York**  
**Department of State** } ss:

I hereby certify, that MICROWAVE SATELLITE TECHNOLOGIES, INC. a NEW JERSEY corporation, filed an Application for Authority to do business in the State of New York on 04/06/1990. I further certify that so far as shown by the records of this Department, such corporation is still authorized to do business in the State of New York.

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*WITNESS my hand and the official seal  
of the Department of State at the City of  
Albany, this 17th day of May two  
thousand and seven.*



*Special Deputy Secretary of State*

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## **Exhibit “C”**

**New York P.S.C. No 1 – Telephone Tariff**