#### PENDING PETITION MEMO

Date: 9/21/2007

TO : OT OGC

FROM: CENTRAL OPERATIONS

UTILITY: EVERYCALL COMMUNICATIONS, INC., D/B/A LOCAL USA, D/B/A ALL AMERICAN HOME PHONE

SUBJECT: 07-C-1125

Petition of Everycall Communications, Inc., d/b/a Local USA, d/b/a All American Home Phone for an Original Certificate of Public Convenience and Necessity to Operate as a Common Carrier Within New York Including Local Exchange Service.

# NOWALSKY, BRONSTON & GOTHARD

Leon L. Nowalsky Benjamin W. Bronston Edward P. Gothard A Professional Limited Liability Company Attorneys at Law 3500 North Causeway Boulevard Suite 1442 Metairie, Louisiana 70002 Telephone: (504) 832-1984 Facsimile: (504) 831-0892 EXEC 2007 Sephilip RANdams Ir.

September 21, 2007

Via Overnight Mail

Jaclyn A Brilling, Secretary New York Public Service Commission Three Empire State Plaza Albany, NY 12223-1350

> RE: Application of Everycall Communications, Inc. d/b/a Local USA, d/b/a All American Home Phone For A Certificate of Public Convenience And Necessity to Operate as a Common Carrier of Telephone Services Within New York Including Local Exchange Service

Dear Secretary Brilling:

Enclosed please find an original and three (3) copies of the Application of Everycall Communications, Inc. to operate as a Common Carrier of Telephone Services within the State of New York.

An additional copy of this letter has been enclosed to be date-stamped and returned in the envelope provided as evidence of the filing.

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

Sincerely,

La Anash

Leon Nowalsky / the

LLN/rph Enclosure

### BEFORE THE STATE OF NEW YORK PUBLIC UTILITIES COMMISSION

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IN RE: PETITION OF EVERYCALL
COMMUNICATIONS, INC.
D/B/A LOCAL USA, D/B/A ALL AMERICAN
HOME PHONE
FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO
OPERATE AS A COMMON CARRIER OF
TELEPHONE SERVICES WITHIN NEW YORK
INCLUDING LOCAL EXCHANGE SERVICE

Docket No.

### PETITION FOR A CERTIFICATE OF <u>PUBLIC CONVENIENCE AND NECESSITY</u>

Everycall Communications, Inc., d/b/a Local USA, d/b/a All American Home Phone, ("Applicant")

does, through undersigned counsel, hereby submit this petition for a certificate of public convenience and

necessity to operate as a Common Carrier of telephone services within the State of New York. In support

thereof, Applicant submits the following information:

### 1. Identification of Applicant and Principal Business Office

The Applicant's legal name is Everycall Communications, Inc., d/b/a Local USA, d/b/a All

American Home Phone The principal business address is:

4315 Bluebonnet Blvd., Suite A Baton Rouge, LA 70809 Ph. 225-293-3332 Fax 225-293-3335

The name, title, telephone and fax number for the President and other officers are:

Kyle Coats, President Everycall Communications, Inc. 4315 Bluebonnet Blvd., Suite A Baton Rouge, LA 70809 Ph. 225-293-3332 Fax 225-293-3335

#### 2. <u>Telecommunications Carrier Critical Information Form</u> has been attached as Exhibit A.

### 3. <u>Articles of Incorporation</u>:

Applicant is a corporation organized under the laws of the State of Louisiana on November 20, 1997. The Company's Articles of Incorporation and Certificate of Authority are attached as **Exhibit B**.

### 4. <u>General Description of Services to be Offered</u>:

Applicant will provide traditional long distance services, operator services, data services and prepaid local exchange services to residential and business customers. Applicant proposes to operate as a facilitiesbased local exchange carrier offering those services to the public for which it is authorized to sell pursuant to Verizon's Wholesale Advantage Plan and applicable interconnection agreements. Applicant will offer telecommunications services to primarily commercial customers twenty-four (24) hours per day, seven (7) days per week. Customers will be billed on a monthly basis.

### 5. Description of Equipment and Construction Schedule

The Company will not construct any facilities nor operate any switches, but will sell the network elements to the end-user pursuant to the Verizon Wholesale Advantage Plan arrangement and applicable interconnection agreements.

### 6. <u>Unauthorized Switching of Customers</u>

The Company has never acquired a customer by switching it from another company without the customer's authorization. The Company will only install equipment and establish service after receipt of a signed Service Agreement from prospective customers.

### 7. <u>Complaints and/or Investigations</u>.

The Company has never been the subject of a complaint or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another.

### 8. <u>Federal Employer Identification Number</u>

The Company's Federal Employer Identification Number is 72-1403495.

#### 9. Other Relevant Information:

As a provider of telecommunications services, Applicant will provide service through leased facilities made available through telecommunications common carriers in New York. The Company is not currently authorized to provide service in any states.

The Applicant's contact for ongoing regulatory matters is:

Kyle Coats, President Everycall Communications, Inc. 4315 Bluebonnet Blvd., Suite A Baton Rouge, LA 70809 Ph. 225-293-3332 Fax 225-293-3335 coats@everycall.com

#### 10. Access to public safety/emergency telephone services, relay systems, and lifeline service.

The Company will offer local exchange services and will: (i) provide, without undue discrimination or preference, service to any customer requesting service within its service territory; (ii) provide access to public safety/emergency telephone services (911, E-911, 0-), support the statewide relay system, and offer, or otherwise support, Lifeline services via interconnection with the ILEC; (iii) comply with the Telephone Fair Practices rules; (iv) comply with the Common Carrier rules (16 NYCRR Part 605); (v) comply with the Statement of Policy on Privacy in Telecommunications (Case 90-C-0075, issued March 22, 1991); (vi) comply with the Open Network Architecture (ONA) principles (Case 88-C-004, Opinion No. 89-28, issued September 11, 1989); (vii) provide reasonable interconnections for the joint provision of service to any certified carrier requesting such interconnection; and (viii) comply with the service quality standards and infrastructure monitoring requirements (16 NYCRR, Parts 603 and 644.3)..

### 11. <u>"0-" Emergency Calls</u>

The Company will have "0-" emergency calls processed by the ILEC or other certified operator services provider.

### 12. IntraLATA Presubscription Plan

The Company's IntraLATA Presubscription Plan is attached hereto as Exhibit C.

#### 13. Compliance with Commission's Network Reliability Orders.

Pursuant to New York PSC. Case No. 03-C-0922, issued July 28, 2004, and the additional Order issued on June 15, 2004 addressing Telephone Network Reliability, the Company will comply with the regulations set forth in the above orders pertaining to Telecommunications Service Priority and Critical Facilities Administration Service.

### 14. <u>Tariff</u>:

The Company has attached as **Exhibit D** its interexchange long distance and local resale tariffs with a ninety day effective date. The Company requests approval of this tariff with the approval of its application.

### 15. <u>Conclusion</u>:

In view of the foregoing, Applicant respectfully submits that the public convenience and necessity would be served by the grant of its petition for certification to operate as a facilities-based local exchange and long distance reseller of telephone services within the State of New York.

Date: <u>9-20-07</u>

Respectfully Submitted:

Leon Nowalsky /1-

Leon Nowalsky, Bronston & Gothard, APLLC 3500 N. Causeway Blvd. Suite 1442 Metairie, Louisiana 70002 Ph. (504) 832-1984 Fax (504) 831-0892 Email: <u>Inowalsky@nbglaw.com</u>

# EXHIBIT A

**Telecommunications Carrier Critical Information Form** 

## NEW YORK STATE PUBLIC SERVICE COMMISSION TELECOMMUNICATIONS COMPANY CRITICAL INFORMATION FORM (TCCI)

### What is the TCCI form?

The TCCI form is used to update basic company information in the Department's Telecommunications Company Critical Information Database that is maintained by the Office of Telecommunications. Company information is utilized in a number of Department applications and may be used in emergency situations to quickly correspond with companies.

### Who Should File this Form?

- All telecommunications providers regulated by the New York Public Service Commission are required to complete a TCCI form.
- A company that is applying for certification as a telecommunications carrier in New York State.
- A company that has changed its name and filed an Adoption Supplement with the New York Public Service Commission.
- A company that has changes to a previously filed TCCI.
- A company seeking Commission approval for a merger and/or acquisition. Note: All companies involved in the merger should complete a new or revised TCCI Form if they will continue to do business in New York. If a company will no longer be doing business in New York they should withdraw their TCCI form by contacting Judy Sylvester (518) 473-8074.

## Instructions:

If you are filing this form electronically, please complete and press the **Submit** button. Do not mail additional copies of the form.

\*Please be advised: We recommend using Microsoft Internet Explorer 5 or greater.

Users who are not using Microsoft Internet Explorer 5.0 may find that some or all of the features on this page will not function properly.

If you are filing this form via regular mail, complete the form and mail three copies of the TCCI form to the address below. Do not include this page of Instructions with the form.

All new telephone companies seeking certification must file a TCCI form via regular mail only along with a copy of their Application for Certification and tariff.

### Mailing address:

### Jaclyn A. Brilling, Secretary New York State Department of Public Service

## Three Empire State Plaza Albany, NY 12223-1350

If you have any questions regarding the completion of this form, contact Judy Sylvester (518) 473-8074.

# Please Note: If there are subsequent changes to your company's information, submit a revised TCCI form immediately.

Please check *only one* of the six following boxes below and follow any applicable instructions for the box chosen.

# This company is certified by the New York Public Service Commission and is submitting a NEW TCCI form because:

This company is seeking certification in New York State Mail three copies of the completed TCCI form and the application for certification and tariff to the mailing address above.

This company is certified by the New York Public Service Commission but has not submitted a TCCI form.

Please Note: This company will be listed on our website as Inactive with the Department until a properly completed TCCI form is received.

 $\Box$  This company has filed an Adoption Supplement changing its name. Please indicate the former company name under "Formerly Known As" below.

This company has recently been certified by the New York Public Service Commission as a result of a merger or acquisition approved by the Commission and a transfer of a Certificate of Public Convenience and Necessity.

Name of the company(ies) that has ceased operations

# This company is certified by the New York Public Service Commission and is submitting a REVISED TCCI form because:

Updating with new company information.

 $\Box$  Updating company information as a result of a merger/acquisition that has been approved by the Commission.

## ALL OF THE FOLLOWING FIELDS MUST BE FILLED OUT OR THIS FORM WILL BE

	ED INCOMPLETE. IS NOT APPLICABLE	, INDICATE "NA".		
	Everycall Communications	· · · · · · · · · · · · · · · · · · ·		
Doing Business As, if applicable	Local USA, All American H	lome Phone		
Formerly Known As, if applicable)				
If Providing	Cable Service:			
Region where providing service:	N/A			. <u> </u>
System:	N/A			<u></u>
State in which Certificate Incorporati filed:				
Company Website:	www.everycall.com			
Company Corporate Address:	4315 Bluebonnet Blvd., Sui	te A		
Line 2 (P.O. Box)				
Line 3 (Floor, Etc)				, vre
	City Baton Rouge	State:	Zip:	
Attention:	Kyle Coats, President	• • • • • • • • • • • • • • • • • • •	· · ·	

# Company

President:	First Name:		Last Name:
	Kyle		Coats
Telephone Number:	(225) 293-3332	<u></u>	
Fax Number:	(225) 293-3335		
E-mail address:	coats@everycall.com		
Mailing address:	4315 Bluebonnet Blvd.,Suit	e Ā	
Line 2 (P.O. Box)			<u></u>
Line 3 (Floor, Etc)			
	City	State:	Zip:
	Baton Rouge	LA	70809
Attention: Regulatory Contact:	Kyle Coats First Name:		Last Name:
Contact.	Kyle		Coats
Title:	President		- <u></u> <u></u>
Telephone Number:	(225) 293-3332		
Fax Number:	(225) 293-3335		
E-mail address:	coats@everycall.com		
Mailing address:	4315 Bluebonnet Blvd.,Su	ite A	
Line 2 (P.O. Box)			1995
Line 3 (Floor, Etc)	[	<sup>_</sup>	
	City	State:	Zip:
	Baton Rouge	LA	70809

Attention:	Kyle Co	ats				
	-					
Regulatory Consumer	First <b>N</b>	Name:			Last Name:	
Complaint Contact:	Kyle				Coats	
Telephone Number:	(225) 2	93-3332				
Fax Number:	(225) 2	93-3335				
E-mail address:	coats@	everycall.com				
Mailing address:	4315 B	luebonnet Blvd, Sui	ite A			
Line 2 (P.O. Box)	<u> </u>					
Line 3 (Floor, Etc)	<b>—</b> —					
	City		State:		Zip:	
		Rouge	LA	the second s	70809	
Attention:	Kyle C	pats				
Business Of Contact,	fice	First Name:			Last Nar	ne:
Representat Agent (for billing/asses purposes):		Kyle			Coats	
	phone mber:	(225) 293-3332				
Fax Nu	mber:	(225) 293-3335				
E-mail ad	ldress:	coats@everycall.c				
Mailing ad	ldress:	4315 Bluebonnet	Blvd., S			
Line 2 (P.C	). Box)			U44541		
Line 3 (Floc	or, Etc)	••••••••••••••••••••••••••••••••••••••				
		<u>City</u>		State:	Zip:	
		Baton Rouge	_	LA	70809	*

Attention:	Kulo Cento
a transministra	ryle Coals

In compliance with the requirement of the Order Concerning Stray Voltage Requirements (dated July 3, 2006), by checking the box below, I hereby attest that our company's installation, operation and maintenance of facilities are in accordance with the National Electrical Safety Code and the National Electrical Code.

• I agree with the above statement

← I am a non-facilities based company

← I am filing a separate letter attesting to the above with the Director of the Office of Telecommunications.

Company Officer's	First Name:	Last Name:		
Name:	Kyle	Coats		
Title:	President		-	
Form Preparer's	First Name:	Last Name:		
Name:	Becky	Heggelund		
Telephone Number (Area code + Number	)			
E-mai address				

Please submit this form by clicking on the SUBMIT button below. Click Here To Print Completed TCCI Form

# SUBMIT

\*Please be advised: We recommend using Microsoft Internet Explorer 5 or greater.

Users who are not using Microsoft Internet Explorer 5.0 may find that some or all of the features on this page will not function properly.

# **EXHIBIT B**

Articles of Incorporation and Certificate of Authority



# Fox McKeithen

SECRETARY OF STATE

As Secretary of State, of the State of Louisiana, I do hereby Certify that

EVERYCALL COMMUNICATIONS, INC.

A LOUISIANA corporation domiciled at BATON ROUGE,

Filed charter and qualified to do business in this State on November 20, 1997,

I further certify that the records of this Office indicate the corporation has paid all fees due the Secretary of State, and so far as the Office of the Secretary of State is concerned is in good standing and is authorized to do business in this State.

I further certify that this Certificate is not intended to reflect the financial condition of this corporation since this information is not available from the records of this Office.

In testimony whereof, I have hereunto set my hund and caused the Seal of my Office to be affixed at the City of Baton Rouge on,

July 18, 2003 345776250 ARA.

Secretary of State





# Fox McKeithen secretary of state

As Secretary of State, of the State of Louisiana, I do hereby Certify that

the annexed and following is a True and Correct copy of the Articles of Incorporation, Initial Report, Notice of Change and 2002 Annual Report of

EVERYCALL COMMUNICATIONS, INC.

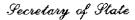
A LOUISIANA corporation domiciled at BATON ROUGE,

As shown by comparison with documents filed and recorded in this Office.

In testimony whereof, I have hereunto set my hand and caused the Seal of my Office to be affixed at the City of Baton Rouge on,

July 18, 2003

ABA 34577625D





ARTICLES OF INCORPORATION OF EVERYCALL COMMUNICATIONS, INC. PARISHOF EAST BATON ROUGE

STATE OF LOUISIANA

# ARTICLE 1

The name of the corporation is EVERYCALL COMMUNICATIONS, INC.

### ARTICLE 2 PURPOSE

The Corporation's purpose is to engage in any lawful activity for which corporations may be formed under the Business Corporation Law of Louisiana.

### ARTICLE 3 COMMON STOCK

The Corporation has authority to issue one thousand (1000) shares of common stock with a par value of \$0.10 per share.

### ARTICLE 4 INCORPORATORS

The name and address of the incorporator is:

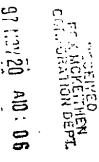
John Brydels, Jr. 263 Third Streat Suite 203 Baton Rouge, Louisiana 70801

### ARTICLE 5 PRE-EMPTIVE RIGHTS

Shareholders shall have pre-emptive rights.

### ARTICLE 6 DIRECTORS

The number of directors shall be such number, not less than three (3) nor more than eight (8) as may be designated in the by-laws and if not designated, as may from time to time be elected by the shareholders, except that when all of the outstanding shares are held of



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record by fawer than three (3) shareholders, then there need be only as many directors as there are shareholders, but this shall not prevent a greater number of directors as aforesaid. Any director absent from a meeting of the Board or any committee thereof, may be represented by any other director who may cast the absent director's vote according to his or her written instruction, general or special.

### ARTICLE 7

### SPECIAL MEETINGS

Special meetings of shareholders may be called by the president or by a majority of the Board of Directors.

### ARTICLE 8 ISSUANCE OF STOCK

Without any necessity of action by the shareholders, previously authorized, but unissued shares of stock of the corporation may be issued from time to time by the Board of Directors, and any and all shares so issued and paid for, shall be deemed fully paid stock and not liable to any further assessment or call and the holder of such shares shall not be liable for any further payment thereon.

### ARTICLE 9 CUMULATIVE VOTING

In the election of directors, each shareholder of record shall have the right to multiply the number of votes to which he or she is entitled by the number of directors to be elected, and to cast all such votes for one candidate, or distribute them among any two or more candidates.

### ARTICLE 10 SHAREHOLDER CONSENT

Whenever the affirmative vote of shareholders is required to authorize or constitute corporate action, the consent in writing to such action signed only by shareholders holding that proportion of the total voting power on the question which is required by law or by these Articles of Incorporation, whichever requirement is higher, shall be sufficient for the purpose without necessity for a meeting of shareholders.

### ARTICLE 11 RESTRICTION ON SALE OF STOCK

in case a stockholder desires to sell his shares of stock, he must offer them for sale to the remaining shareholders, it being the intention to give them a preference in the purchase of such shares, and any attempted sale in violation of this provision is null and void.

### ARTICLE 12 LIMITATIONS ON LIABILITY

The Incorporator, officers and directors of this corporation claim the benefits of limitation of liability to the fullest extent allowed by law as fully and completely as though said provisions were recited herein in full.

THUS DONE AND SIGNED this 10th day of November, 1997.

Brydels, Jr.

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, personally came and appeared:

John Brydels, Jr.

to me known to be the person who executed the foregoing Articles Of Incorporation, and who being duly swom, did acknowledge and declare, in the presence of the two witnesses whose names are subscribed hereto, that he executed said instrument as his free act and deed for the purposes described therein.

IN WITNESS WHEREOF, the said appearer and witnesses and I have hereunto affixed our hands on the 10th day of November, 1997, in Baton Rouge, Louisiana.

Witnesses:

NOTARY PUBLIC

### INITIAL REPORT OF EVERYCALL COMMUNICATIONS, INC.

### ARTICLE 1

The corporation's registered office is located at and its post office address is.

263 Third Street Suite 208 Baton Rouge, Louisiana 70801

### **ARTICLE 2**

The registered agent is:

### John Brydels, Jr. 263 Third Street Suite 208 Baton Rouge, Louisiana 70801

### ARTICLE 3

The first directors are :

John Brydels, Jr. 263 Third Street Suite 208 Baton Rouge, Louisiana 70801 Jon C. Seger 263 Third Street Suite 208 Baton Rouge, Louisiana 70801

### ARTICLE 4

4

The first officers are:

John Brydels, Jr. President/Treasurer 263 Third Street Suite 208 Baton Rouge, Louisiana 70801 Jon C. Seger Vice President/Secretary 263 Third Street Suite 208 Baton Rouge, Louisiana 70801

Brydels, Jr.

### AFF/DAVIT OF ACCEPTANCE OF APPOINTMENT BY DESIGNATED REGISTERED AGENT ACT 769 OF 1987

To the State Corporation Department State of Louisiana

STATE OF LOUISIANA

PARISH OF JEFFERSON

On this 10th day of November, 1997, before me Notary Public in and for the State and

Parish aforesaid, personally came and appeared;

John Brydels, Jr.

who is known to me, and who, being duly sworn, acknowledged to me that he does hereby

accept appointment as the Registered Agent of EVERYCALL COMMUNICATIONS, INC.,

which is a Louisiana Corporation authorized to transact business in the State of Louisiana.

pursuant to the provisions of Title 12, Chapters 1, 2 and 3.

SWORN TO AND SUBSCRIBED BEFORE ME ON THE DAY, MONTH AND YEAR FIRST SET FORTH ABOVE.

NOTARY PUBLIC

N. Y. S. DEPARTMENT OF STATE DIVISION OF CORPORATIONS AND STATE RECORDS

#### FILING RECEIPT

# ENTITY NAME: EVERYCALL COMMUNICATIONS, INC.

DOCUMENT TYPE: APPLICATION FOR AUTHORITY (FOREIGN BUS) COUNTY: ALBA

FILED:06/27/2007 DURATION: PERPETUAL CASH#:070627000244 FILM #:070627000232

FILER:	EXIST DATE
CAROLINE PAYS	06/27/2007
3500 NORTH CAUSEWAY BLVD STE 1442	

METAIRIE, LA 70002

ADDRESS FOR PROCESS:

CORPORATION SERVICE COMPANY 80 STATE STREET ALBANY, NY 12207-2543

REGISTERED AGENT:

SERVICE C	OMPANY: ** NO SERVIC	E COMPANY **	SERVICE CO	DE: 00
FEES	225.00		PAYMENTS	225.00
FILING	225.00		CASH	0.00
TAX	0.00		CHECK	225.00
CERT	0.00		CHARGE	0.00
COPIES	0.00		DRAWDOWN	0.00
HANDLING	0.00		OPAL	0.00
			REFUND	0.00

DOS-1025 (04/2007)

N. Y. S. DEPARTMENT OF STATE DIVISION OF CORPORATIONS ALBANY, NY 12231-0001 FILING RECEIPT \_\_\_\_\_\* ENTITY NAME : EVERYCALL COMMUNICATIONS, INC. DOCUMENT TYPE : ASSUMED NAME CERTIFICATE FILER: FILED: 08/30/2007 \_ \_ \_ \_ \_ \_ CASH#: 184240 FILM#: 20070830059 CAROLINE PAYS 3500 N. CAUSEWAY BLVD STE 1442 METAIRIE LA 70002

PRINCIPAL LOCATION

4315 BLUBONNET BLVD SUITE A BATON ROUGE

CCMMENT:

ASSUMED NAME

LA 70809

ALL AMERICAN HOME PHONE

SERVICE CC	MPANY :	+++ NO SERVICE	COMPANY +++		CODE: BOX :
FEES	125.00			PAYMENTS:	125.00
FILING : COUNTY : COPIES : MISC : HANDLE :	25.00 100.00 .00 .00			CASH : CHECK : C CARD :	125.00
				REFUND :	
=== <b>=</b> =====	=================	DO3HD104		DOS	-281 (04/2007)

N. Y. S. DEPARTMENT OF STATE DIVISION OF CORPORATIONS ALBANY, NY 12231-0001 FILING RECEIPT ENTITY NAME : EVERYCALL COMMUNICATIONS, INC. DOCUMENT TYPE : ASSUMED NAME CERTIFICATE FILER: FILED: 09/04/2007 \_ \_ \_ \_ \_ \_ \_ CASH#: 184356 FILM#: 20070904041 CAPOLINE PAYS SUITE 1442 3500 NORTH CAUSEWAY BLVD. METAIRIE LA 70002 PRINCIPAL LOCATION SUITE A 4315 BLUEBONNET BLVD. BATON ROUGE LA 70809 COMMENT: ASSUMED NAME LOCAL USA LINE WELLEGE UNDER DE LEGERE GEGERE GEGER SERVICE COMPANY : +++ NO SERVICE COMPANY +++ CODE : BOX : PAYMENTS: 125.00 FEES 125.00 \_ \_ \_ ~ ------FILING : 25.00 COUNTY : 100.00 CASH : CHECK : 125.00 .00 C CARD : COPIES : .00 MISC : HANDLE : .00 REFUND : \_ \_ \_ \_ \_ \_

# EXHIBIT C

IntraLATA Presubscription Plan

### NEW YORK INTRALATA TOLL PRESUBSCRIPTION PLAN

### 1. General

IntraLATA toll presubscription is a procedure whereby an end user or Pay Telephone Service Provider may select and designate an IntraLATA Toll Provider ("ITP" or "Company") to access IntraLATA toll calls without dialing an access code. The end user or Pay Telephone Service Provider may designate an ITP for IntraLATA toll, a different carrier for InterLATA toll, or the same carrier for both. This ITP is referred to as the end user or Pay Telephone Service Provider preferred IntraLATA toll provider.

Each carrier will have one or more access codes assigned to it for various types of service. When an end user of Pay Telephone Service Provider selects a carrier as its preferred IntraLATA toll provider, only one access code of that carrier may be incorporated into the switching system of the Telephone Company permitting access to that carrier by the end user of Pay Telephone Service Provider without dialing an access code. Should the same end user or Pay Telephone Service Provider wish to use other services of the same carrier, it will be necessary for the end user or Pay Telephone Service Provider wish to use other service soft the necessary access code(s) to reach that carrier's other service(s).

An ITP must use Feature Group D ("FGD") Switched Access Service to qualify as an IntraLATA toll provider. All ITPs must submit a Letter of Intent ("LOI") to the Telephone Company at least five (5) days prior to the IntraLATA toll-presubscription-conversion date or, if later, forty-five (45) days prior to the date on which the carrier proposed to begin participating in IntraLATA toll presubscription.

Selection of an ITP by an end user or Pay Telephone Service Provider is subject to the terms and conditions in B.

- 2. Presubscription Charge Application
  - 2.1 Initial Free Presubscription Choice for New Users

New end users who subscribe to service will be asked to select a primary ITP when they place an order for Telephone Company Exchange Service. If a customer cannot decide upon an IntraLATA toll carrier at the time, the customer will have thirty (30) days following completion of the service request to make an IntraLATA PIC choice without charge. In the interim, the customer will be assigned a "No-PIC" and will have to dial an access code to make IntraLATA toll calls. The free selection period available to new end users or Pay Telephone Service Providers is the period within thirty (30) days of installation of the new service.

Initial free selection available to new end user or Pay Telephone Service Providers are:

Designating an IPT as their primary carrier, thereby requiring no access code to access that ITP's service. Other carriers are accessed by dialing 101-XXXX or other required codes.

Choosing no carrier as a primary carrier, thus requiring 101-XXXX code dialing to access all ITPs. This choice can be made by directly contacting the Telephone Company.

Following a new end user's or Pay Telephone Service Provider's free selections, any change made more than thirty (30) (days after presubscription is implemented is subject to a nonrecurring charge, as set forth in the Company's tariff.

2.2 Charge for IntraLATA Toll Presubscription

After expiration of the initial free presubscription choice period for new customers, as specified above, the end user or IPT will be assessed an IntraLATA Toll presubscription charge as specified in the Company's tariffs.

2.3 Cancellation of IntraLATA Toll Presubscription by an ITP

If an ITP elects to discontinue Feature Group D service after implementation of the IntraLATA toll presubscription option, the ITP is obligated to contact, in writing, all end users or Pay Telephone Service Providers who have selected the canceling ITP as their preferred IntraLATA toll provider. The ITP must inform the end users or Pay Telephone Service Providers that it is canceling its Feature Group D service, request that the end user select a new ITP and state that the canceling ITP will pay the PIC change charge. The ITP must provide written notification to the Telephone Company that this activity has taken place.

- 3. End User/Pay Telephone Service Provider Charge Discrepancy ("Anti-Slamming Measure")
  - 3.1 When a discrepancy is determined regarding an end user's designation of a preferred IntraLATA toll carrier, the following applies depending upon the situation described:

A signed letter of authorization takes precedence over any order other than subsequent, direct customer contact with the Telephone Company.

When two or more orders are received for an end user line generated by telemarketing, the date field on the mechanized record used to transmit PIC change information will be used as the PIC authorization date. The order with the latest application date determines customer choice.

3.2 Verification of Orders for Telemarketing

No ITP shall submit to the Telephone Company a PIC change order generated by outbound telemarketing unless, and until, the order has first been conformed in accordance with the following procedures:

3.2.1 The ITP has obtained the customer's written authorization to submit the order that explains what occurs when a PIC is changed and confirms:

3.2.1.A The customer's billing name and address and each telephone number to be covered by the PIC change order;

3.2.1.B The decision to change the PIC to the ITP; and

- 3.2.1.C The customer's understanding of the PIC change fee; or
- 3.2.2 The ITP has obtained the customer's electronic authorization, placed from the telephone number(s) on which the PIC is to be changed, to submit the order that confirms the information described in 3.2.1.A preceding to confirm the authorization; or
- 3.2.3 An appropriately qualified and independent third party operating in a location physically separate from the outbound telemarketing representative has obtained the customer's oral authorization to submit the PIC change order that confirms and includes appropriate verification date (e.g., the customer's date of birth or social security number).
- 3.2.4 The Company will follow the Federal Communications Commission and the New York Public Service Commission (if issued) regulations regarding slamming. The Company will not impose a penalty or charge for unauthorized IntraLATA toll provider changes.
- 4. PIC Switchback Options
  - 4.1 Customer denies requesting change of ITP.

When the Telephone Company is contacted by an end user who denies requesting a change in ITP primary PIC, the claim will be investigated and the end user will be credited the charge assessed for the disputed change in carrier, and will be switched back to the previous ITP at no charge, as warranted.

The ITP is in no way relieved of the FCC requirements for:

- 4.1.1 Verifying all PIC orders obtained by outbound telemarketing prior to submitting those orders, or
- 4.1.2 Instituting steps to obtain verification of orders submitted to the Company.

In addition, the end user has the option of initiating a complaint to the FCC or the Public Service Commission concerning Unauthorized changes in carrier. The complaint may be issued in writing to the New York Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350.

4.2 Customer requests Switchback to Previous ITP PIC.

When the Telephone Company is notified by a customer that it would like to be switched back to the previous PIC, and the end user is not denying the authenticity of the most recent change to the current PIC, the Telephone Company will change the customers ITP back to the previous PIC and will bill the end user a PIC charge as specified in the Company's tariff.

4.3 IntraLATA Preferred Carrier Freeze Selection

The Company will offer a preferred carrier freeze option to all customers on a nondiscriminatory basis regardless of the customer's carrier selection at no charge to the end user. The preferred carrier freeze option prevents a change in the end-user's IntraLATA toll provider unless the end users request a change in carrier.

End users may request a preferred carrier freeze on their IntraLATA toll service as a means of protection from unauthorized IntraLATA PIC changes. The Company will only accept preferred carriers freezes either orally or in writing from end users. The preferred carrier freeze will be offered on a per line basis.

The Federal Communications Commission and the New York Public Service Commission accepted the use of three-way calls to remove PIC freezes when the customer's IntraLATA toll presubscription choice has been frozen. Carriers must still follow the verification procedures for PIC changes of the Federal Communications Commission (e.g., independent 3<sup>rd</sup> party verification, written letter of agency from customer, electronic authorization) and the New York Public Service Commission (if issued). The carriers will impose and/or lift preferred carrier freeze request in accordance with Chapter 1 of Title 47 of the Code of Federal Regulation, Section 64.1190.

4.4 Marketing of PIC Freeze Option

The Company will not market the PIC freeze option to customers within a ninety (90)day period after implementation, i.e., ninety (90) days following the Effective Date of this tariff. However, the freeze option is available during that period on customer request.

4.5 Informational Notice to Customers

The Company will provide written notification to customers of their IntraLATA presubscription options and rights within thirty (30) days of subscribing for service. Notification will not contain information on PIC-freeze service.

# **EXHIBIT D**

Interexchange and Local Exchange Services Tariffs